


Memorandum



Date: April 20, 2020
To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

CPC
Agenda Item No. 3N

From: Carlos A. Gimenez
Mayor 

Subject: Recommendation for Approval of a Designated Purchase under Contract No.
RFP-01261: Security Guard Services for Special Assessment Districts

Recommendation

It is recommended that the Board of County Commissioners (Board) approve this recommendation of award of Designated Purchase *Contract No. RFP-01261, Security Guard Services for Special Assessment Districts*, as contracts RFP-01261A, RFP-01261B, and RFP-01261C, to G4S Secure Solutions (USA), Inc. (G4S), Kent Security Services, Inc. (Kent), and Universal Protection Service, LLC dba Allied Universal Services, LLC (Allied Universal), respectively, for a term of four years for the Parks, Recreation and Open Spaces Department (PROS). Approval of a designated purchase is being requested, pursuant to Section 2-8.1(b)(3) of the Miami-Dade County Code. Under these contracts, PROS will be able to continue to provide security guard services without interruption to residents in 18 Special Assessment Districts. The current contracts, RFP-716 and RFP-717, *Security Guards Services for Special Taxing Districts*, were awarded by the Board on November 15, 2011, through Resolutions R-959-11 and R-960-11, respectively, each for a two-year term, with three, two-year option to renew terms.

Background

On January 19, 1988, the Board through Resolution No. R-7-88, authorized waiver of formal bid procedures in connection with security guard services for existing and future Special Taxing Districts (now referred to as Special Assessment Districts). It also authorized the use of an alternate selection procedure to procure these services and allowed participation from Special Assessment Districts' Homeowners Associations (HOAs). The County collects non ad-valorem assessments from the Special Assessment Districts to pay the contracted security guard firms.

The County issued a competitive Request for Proposals to obtain proposals from vendors with experience and capacity to provide security guard services. Sixteen vendors responded to the solicitation of which 11 are local. Over 4,983 vendors were notified via email and by BidSync, of which 117 viewed the solicitation, and 18 downloaded the solicitation. Award is being recommended to the three top-ranked proposers after taking into consideration the feedback provided by all HOAs.

Upon completion of the competitive evaluation process, an initial list of the top six ranked proposers (Kent, Allied Universal, G4S, Feick Security Corporation, American Guard Services, Inc., and Regions Security Services, Inc.), along with the proposed prices, were forwarded to the HOAs requesting that each HOA confirm the level of service required for the respective Special Assessment District after considering the cost implications. All HOAs submitted their preferences selecting their top three ranked firms from the top six ranked proposers. The top-ranked firm by the HOAs, Kent, was recommended by 12 of the 18 Special Assessment Districts; and the second and third-ranked firms were recommended for three districts each. Two of the three proposers have local addresses.

The County Attorney's Office deemed Kent to be non-responsive after it was discovered that Kent modified the price form of the solicitation (see Attachment 1). However, pursuant to Section 2-8.1(b)(3) of the County Code, a designated purchase can be awarded if it is in the best interest of the County. Furthermore, the price

offered by Kent was the lowest amongst the three recommended firms, and 12 of the 18 Special Assessment Districts chose Kent to provide security services in their districts.

This item is being presented for Board approval as a designated purchase for two reasons. First, because the solicitation included higher educational requirements for the Level 2 security guards as compared to the requirements in the current contracts. The HOAs expressed concerns regarding these requirements, as they would eliminate the opportunity for the current security guards from several Special Assessment Districts to continue their employment. In order to allow the guards the opportunity to remain employed, as applicable, and upon consultation with the County Attorney's Office, it was determined that the educational requirements be changed to match the requirements in the current contracts. Second, although Kent was deemed non-responsive, it is the preferred vendor of 12 of the HOAs and is providing the lowest price. It is thus also in the County's best interest to obtain the lowest price for the services and to allow the HOAs to receive the benefit of the lower price. Accordingly, this item is being presented as a designated purchase in order to utilize this solicitation under these changed requirements and meet the timetable requirements to ensure continuous security guard services for the Special Assessment Districts.

For the aforementioned reasons, in accordance with Section 2-8.1(b)(3) of the Code of Miami-Dade County, purchasing these services via a formal sealed proposal is not practicable. Going forward, the Internal Services Department will work with the County Attorney's Office to propose amendments to Resolution No. R-7-88 to refine the security guard vendor selection process within the Special Assessment Districts.

Scope

The impact of this item is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact for the four-year term is \$25,033,848. Should the County choose to exercise the one, four-year option to renew term, the cumulative value of the contract will be \$50,067,696. The funding source for the contracts is derived from the residents of the Special Assessment Districts. The current contracts have an existing cumulative value of \$67,115,600, for a term of eight years and six months, and will expire on May 31, 2020.

Department	Allocation	Funding Source	Contract Manager
Parks, Recreation and Open Spaces	\$25,033,848	Proprietary Funds/ Special Taxing Assessments	Suzanne Torano
Total	\$25,033,848		

Track Record/Monitor

Dr. Lydia Osborne of the Internal Services Department is the Strategic Procurement Division Director.

Delegated Authority

If this item is approved, the County Mayor or County Mayor's designee will have the authority to exercise the provisions of the contracts that include cancellation and extension provisions, during the initial term, pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38. The one, four-year option to renew term will be presented to the Board for approval under a separate agenda item.

Vendors Recommended for Award

Vendor	Principal Address	Local Address	Number of Employee Residents	Principal	Awarded Special Assessment Districts
			1) Miami-Dade 2) Percentage*		
G4S Secure Solutions (USA), Inc.	1395 University Boulevard Jupiter, FL	None	810	John Kenning	Belle Meade Island Biscayne Beach Star Island
			2.04%		
Vendor	Principal Address	Local Address	Number of Employee Residents	Principal	Awarded Special Assessment Districts
Kent Security Services, Inc.**	14600 Biscayne Boulevard N. Miami Beach, FL	Same	510	Gil Neuman	Belle Meade Coventry Enchanted Lake Entrada Four Way Lodge Estates Gables by the Sea Highland Gardens Highland Lakes Morningside North Dade Country Club/Andover Oak Forest Sabal Palm
			60%		
Universal Protection Service, LLC dba Allied Universal Security Services, LLC	1551 N. Tustin Avenue Number 650 Santa Ana CA	7300 Corporate Center Drive, Suite 600 Miami, FL	3,696	Steven S Jones	Allison Island Keystone Point North Bay Island
			2.3%		

*Provided pursuant to resolution No. R-1011-15. Percentage of employee residents is the percentage of vendors' employees who reside in Miami-Dade County as compared to a vendor's total workforce.

Vendors Not Recommended for Award

Vendor	Local Address	Reason for Not Recommending
American Guard Services, Inc.	Yes	Evaluation Scores/Ranking
Feick Security Corporation	Yes	
FPI Security Services	No	
Regions Security Services, Inc.	Yes	
Security Management Innovations	Yes	
SFM Services, Inc.	Yes	
Vista Security Services Internal	Yes	
Abuid J Security School, Inc.	Yes	Deemed non-responsive by the County Attorney's Office (see Attachment 2)
Centurion Security Group, LLC	Yes	
Marksman Security Corporation	No	
Monarch Global Security Management	Yes	
Security Alliance, LLC	Yes	
U.S. Security	No	

Due Diligence


Pursuant to Resolution No. R-187-12, due diligence was conducted in accordance with the Internal Services Department's Procurement Guidelines to determine vendor responsibility, including verifying corporate status and that there are no performance and compliance issues. The lists that were referenced included convicted vendors, debarred vendors, delinquent contractors, suspended vendors, and federal excluded parties. There are no adverse findings relating to Contractors' responsibility.

Pursuant to Resolution No. R-140-15, prior to re-procurement, a full review of the scope of services was conducted to ensure the replacement contract reflects the County's current needs. The review included conducting market research, posting a draft solicitation for industry comment, and holding meetings and drafting sessions with the user department. The current contracts are being consolidated in this contract for efficiencies. The scope of services was restructured in the new solicitation to ensure adequate levels of safety for the Special Assessment Districts.

Applicable Ordinances and Contract Measures

- The two percent User Access Program provision applies.
- The Small Business Enterprise Selection Factor applies.
- The Local Preference ordinance was applied, but did not affect the outcome.
- The Living Wage will apply, effective October 2020.

Attachment



Michael Spring
 Senior Advisor

Memorandum



Date: October 30, 2019

To: Lydia Osborne
Strategic Procurement Division Director
Internal Services Department

From: Angela F. Benjamin
Assistant County Attorney

Subject: Responsiveness of Kent Security Services, Inc. on RFQ No. 01261, Security Guard Services for Special Assessment Districts (the "Solicitation")

You have asked this office if a proposal received in response to the Solicitation from Kent Security Services, Inc. ("Kent") is responsive. This responsiveness opinion is separate from, and in addition, to this office's August 20, 2019 revised responsiveness opinion that responded to Fredrick Taylor's July 26, 2019 request. We rely on the information provided in your October 28, 2019 memorandum, the Solicitation documents, and Kent's proposal. I am advised that the estimated value of the contract exceeds \$1 million, and as such provide a formal responsiveness opinion.

In addition to matters previously discussed with you regarding the process of homeowner associations' involvement in the Solicitation and potential sunshine law issues, after reviewing the relevant documents and for the reasons detailed below, we conclude that Kent's proposal is non-responsive.

FACTS

The Solicitation is seeking the provision of security guard services at specified Special Assessment Districts ("SADs"). The Solicitation requires that each proposer submit a single proposal identifying which SADs it is proposing to provide security guard services, and proposing a single hourly rate for each type of security guard position regardless of which SAD or SADs the proposer has identified. The Price Proposal Schedule (Form B-1) includes seven "notes" relating to the price form. The notes deal with various topics relating to pricing, and mostly serve to instruct the proposer as to the solicitation generally (e.g., "[a]ny proposal that is conditioned may be deemed non-responsive") and as to filling out Form B-1 more specifically (e.g., "[p]roposer may propose on any or all levels of security guards and may be awarded multiple levels").

Section 1.10 of the Solicitation itself addresses the County's Living Wage Ordinance (§ 2-8.9 of the Miami-Dade County Code of Ordinances). Specifically, § 1.10 provides that the Living Wage Ordinance will apply to any contract awarded pursuant to the Solicitation. "By submitting a proposal, a Proposer agrees to comply with the provisions of Section 2-8.9 of the Code of Miami-Dade County, and to acknowledge awareness of the penalties of non-compliance." *Id.* In addition, the Solicitation provides as follows:

Prices proposed by Proposers shall remain fixed and firm during the term of a contract issued as a result of this Solicitation. The initial contract price resultant from this RFP shall prevail until the First Living Wage adjustment is considered. The County may

consider an adjustment only to applicable hourly billable positions, in accordance with the Living Wage Ordinance effective October 1st of each year. The Living Wage adjustment under this contract shall not be considered until October 2020.

Solicitation, § 1.10A (emphasis added).

Proposals in response to the Solicitation were submitted in July 2019. As part of its proposal, Kent submitted Form B-1 with alterations. Kent deleted the entirety of the County's notes from the bottom of the form and replaced it with one note: "* The prices presented in the tables above are subject to changes in the living wage regulation."

DISCUSSION

The purpose of the competitive bidding process is to, among other things, "secure fair competition upon equal terms to all bidders . . . and to afford an equal advantage to all desiring to do business with the county, by affording an opportunity for an exact comparison of bids." *Harry Pepper & Assocs., Inc. v. City of Cape Coral*, 352 So. 2d 1190, 1192 (Fla. 2d DCA 1977). A bid that contains a material non-conformity from the Solicitation must be rejected as non-responsive. See *ViON Corp. v. United States*, 122 Fed. Cl. 559, 575 (Fed. Cl. 2015) ("where a proposal fails to conform to a material term of the solicitation, the proposal is unacceptable and may not be the basis of an award. '[A]n agency's determination that a proposal is acceptable may be deemed arbitrary and capricious if the proposal did not provide what was called for in the solicitation.'") (internal citations omitted). Only when a variance is immaterial or "minor" is a bidder permitted to withdraw the variance. *Harry Pepper*, 352 So. 2d at 1129 ("a bidder cannot be permitted to change his bid after the bids have been opened, except to cure minor irregularities"). Proposers who propose impermissible exceptions to solicitations do so at the risk of those exceptions being deemed material to the proposer and having their proposal rejected as non-responsive.

Florida courts use a two part test to determine if a specific noncompliance in a proposal constitutes a substantial and thus non-waivable issue: (1) whether the effect of the waiver would be to deprive the County of the assurance that the contract would be entered into, performed, and guaranteed according to its specific requirements; and (2) whether it would adversely effect competitive bidding by placing the proposer in a position of advantage over other proposers. See *Robinson Elec. Co. v. Dade Cnty.*, 417 So. 2d 1032, 1034 (Fla. 3d DCA 1982) (internal citations omitted). For the price portion of a proposal, if the irregularity has a clear and demonstrable affect on the amount of the price proposed, it is a material deviation that cannot be waived. See *Harry Pepper*, 352 So. 2d at 1193 ("The test for measuring whether a deviation in a bid is sufficiently material to destroy its competitive nature is whether the variation affects the amount of the bid by giving the bidder an advantage or benefit not enjoyed by other bidders"). When irregularities are tangential to the actual proposal, they may not be considered material if they do not adversely impact the interests of the County. See *Tropabest Foods, Inc. v. State, Dept. of Gen. Servs.*, 493 So. 2d 50, 52 (Fla. 5th DCA 1986) (citing the Florida Administrative Code's provision that a minor irregularity is one which "does not affect the price of the bid, or give the bidder an advantage or benefit not enjoyed by other bidders or does not adversely impact the interests of the agency").

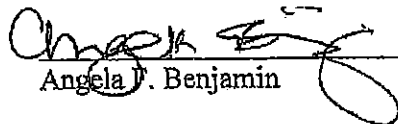
Under the County's Living Wage Ordinance, a service contractor (including a contractor paid from County funds) providing covered services (including security services) must pay all its employees the then-current living wage rate, as is adjusted each fiscal year (effective October 1st). § 2-8.9(A)(1), Miami-Dade County Code of Ordinances. Thus, if a proposer is awarded a contract under the Solicitation, that

proposer must pay each of its employees at least the amount reflected in the then-current County living wage. In addition, each proposer must consider that cost when determining the proposed hourly billing rate for each employee that it inserts into any proposal it submits to the County for the work.

Here, although responses to the Solicitation were submitted in July 2019, the Solicitation requires that any possible adjustment to the contract amount to account for adjustments in the County's living wage requirements "shall not be considered until October 2020." § 1.10A, Solicitation. Therefore, under the Solicitation, if a proposer submits a proposal in July 2019 where it proposes that the County pay the proposer \$20 an hour for a particular employee (possibly because the living wage for that employee under the County's ordinance is \$18 an hour), and in October 2019, the living wage is adjusted to pay that particular employee \$19 an hour, the proposer (if awarded the contract) would not be able to seek an increase in its contract amount to cover this increased cost until October 2020 (a year after the increase). Thus, any proposer submitting its proposal in July 2019 would want to consider this risk, and factor it into its calculation, before submitting its proposal.

Here, by placing its note at the bottom of Form B-1 stating that, "[t]he prices presented in the tables above are subject to changes in the living wage regulation," Kent has conditioned its pricing structure in direct contravention to the Solicitation's requirement that the County's living wage requirement shall "not be considered until October 2020." Through this note, Kent is essentially reserving the right to adjust its price based on any adjustment made to the living wage in 2019.¹ Kent essentially eliminates the need to factor in the potential adjustment for October 2019 in its pricing, and takes an impermissible exception to the required and material pricing structure called for by the Solicitation.

Kent has thus not only taken exception to the pricing terms of the Solicitation, which are material, but also has placed itself at a competitive advantage over other proposers who potentially proposed higher hourly rates for its employees to account for the potential increase of the living wage rate in October 2019. Accordingly, Kent's proposal is non-responsive.²


Angela J. Benjamin

¹ It is irrelevant to this analysis whether, or how, the living wage was adjusted in 2019. The mere reservation of this right places Kent at a competitive advantage over other proposers and renders its bid non-responsive.

² Because Kent's conditional pricing renders its proposal non-responsive, we do not offer an opinion as to whether the deletion of the notes on the bottom of Form B-1 separately renders the proposal non-responsive.

Memorandum



Date: August 1, 2019

To: Fred Taylor
Procurement Contracting Officer
Internal Services Department

From: Angela F. Benjamin
Assistant County Attorney

Subject: Responsiveness of Various Bidders for RFP-01261, Security Guard Services for Special Assessment Districts (the "Solicitation")

You have asked this office if proposals submitted by various vendors in response to the Solicitation are responsive. We rely on the information provided in your memorandum, dated July 26, 2019, and the Solicitation documents. I am advised that the estimated value of the contract exceeds \$1 million, and as such provide a formal responsiveness opinion.

FACTS

The Solicitation is seeking the provision of security guard services at specified Special Assessment Districts ("SADs"). The Solicitation requires that each proposer submit a single proposal identifying which SADs it is proposing to provide security guard services, and proposing a single hourly rate for each type of security guard position regardless of which SAD or SADs the proposer has identified.

You are requesting a responsiveness opinion on the following eight (8) vendors: (1) Abuid J. Security School, Inc. ("Abuid"); (2) Centurion Security Group LLC ("Centurion"); (3) Kent Security Services, Inc. ("Kent"); (4) Monarch Global Security ("Monarch"); (5) G4S Secure Security (USA), Inc. ("G4S"); (6) US Alliance Management dba US Security ("US Alliance"); (7) Marksman Security Corporation ("Marksman"); and (8) Security Alliance LLC ("Security Alliance").

Each of the 8 vendors is analyzed below.

DISCUSSION

Abuid

Abuid failed to provide a bid bond with its proposal and failed to submit the information requested as part of its proposal.¹

Section 1.11 of the Solicitation provides that, "[e]ach Proposer must submit a bid bond with their proposal in the amount of \$5,000. A Proposal without the \$5,000 bid security shall be considered non-responsive. . . . A copy of the certified check, cashier's check, [or] irrevocable letter of credit or surety bond must be uploaded to BidSync with the Proposal, with the original mailed to:" the County's Internal

¹ Although the omission of parts of a proposal could independently form the basis of a finding of not responsive, no such analysis is necessary as the bid bond issue is dispositive.

Services Department ("ISD").

Abuid's failure to provide a bid bond or other form of acceptable bid security renders its proposal non-responsive and it should therefore be rejected because it deprives the County of the assurance that the contract would be entered into if the bid is accepted. *See Robinson Elec. Co., Inc. v. Dade Cnty.*, 417 So. 2d 1032, 1032 (Fla. 3d DCA 1982). Abuid may not cure this defect by subsequently submitting a bond or other bid security. The RFP required that the bid security be submitted with the proposal. As the failure to submit the bid bond is not waivable, so too is the requirement that it be submitted with the proposal.

This opinion is consistent with previous opinions of this office. In addition, this opinion is consistent with conclusions reached by other state and federal procurement authorities. *See, e.g.*, Opinion No. 2003-196, Office of the Attorney Gen. of the State of Ala. (July 22, 2003) (holding that bid security submitted only minutes after bid submittal and bid opening is a non-waivable defect); *see also Matter of: Elevator Servs. & Sales, Inc.*, B- 193519 (Comp. Gen.), 79-1 CPD P 102, 1979 WL 12921 (Comp. Gen. Feb. 13, 1979) (failure to provide bid bond where solicitation requires one renders bid nonresponsive).

Centurion

Centurion failed to submit Attachment 3 Proposal Schedule to its proposal. Attachment 3 is the form that the proposer must fill out to identify the SAD(s) for which Centurion is proposing to provide security guard services.

Section 3.1 of the Solicitation provides that,

Proposer should complete and return the entire Proposal submission package. Proposers should carefully follow the format and instructions outlined therein. All documents and information must be fully completed and signed as required and submitted in the manner described. . . . The Proposal . . . shall clearly indicate which SAD location(s) the Proposer is proposing on.

Section 4.1 further provides that, "a responsive Proposal is one which follows the requirements of this Solicitation, includes all documentation, is submitted in the format outlined in this Solicitation, is of timely submission, and has the appropriate signatures as required on each document." Section 6.0 identifies the Proposal Submission Package, and includes Form B-1 and 3 attachments, labeled Attachment 1 Proposer Information, Attachment 2 Performance Bond, and Attachment 3- Proposal Schedule.

In addition, Attachment 3- Proposal Schedule, which is the form that the proposer must fill out to identify which of the SADs it is proposing to provide the services for, provides that, "[f]ailure to submit this form may deem your proposal nonresponsive."

The purpose of the competitive bidding process is, among other things, "to secure fair competition upon equal terms to all bidders . . . and to afford an equal advantage to all desiring to do business with the county, by affording an opportunity for an exact comparison of bids." *Harry Pepper & Assocs., Inc. v. City of Cape Coral*, 352 So. 2d 1190, 1192 (Fla. 2d DCA 1977) (citing *Wester v. Belote*, 138 So. 721, 723-24 (Fla. 1931)). Responses to a solicitation must be capable of assuring that County that, if accepted, the proposal will result in a contract that can be performed in accordance with the requirements of the

Solicitation. See e.g., *Glatstein v. City of Miami*, 399 So. 2d 1005, 1007-1008 (Fla. 3d DCA 1981) (relying on *Wester* for the proposition that solicitations must include “reasonably definite plans or specifications, as a basis on which bids may be received.”). This standard is embedded within the County’s definition of “responsiveness” as set forth in Implementing Order 2-13.

Centurion’s failure to submit the Attachment 3 Proposal Schedule renders its proposal non-responsive. Without this Schedule, the County cannot determine for which SADs Centurion is proposing to offer security guard services. Thus, the proposal was not sufficient to provide the County with assurances that “the proposal will result in a contract that can be performed in accordance with the requirements of the solicitation.” *Glatstein*, 399 So. 2d at 1007-1008. Centurion’s failure to submit Attachment 3 also deprives the County of the opportunity to compare Centurion’s proposal with other proposals. See *Harry Pepper*, 352 So. 2d at 1192. Indeed, Centurion’s failure to submit the required documentation makes it impossible for the County to evaluate the services that Centurion proposes to provide. For these reasons, Centurion’s proposal is non-responsive.

Kent

Kent provided a Bid Bond in the form of a cashier’s check with a remitter name of Florida Parking Systems, Inc.

Section 1.11 of the Solicitation provides that, “[e]ach Proposer must submit a bid bond with their proposal in the amount of \$5,000. A Proposal without the \$5,000 bid security shall be considered non-responsive. . . . A copy of the certified check, cashier’s check, [or] irrevocable letter of credit or surety bond must be uploaded to BidSync with the Proposal, with the original mailed to:” ISD.

Although the remitter name is not the name of the vendor, the cashier’s check is properly made out to Miami-Dade County, and the ability to cash the check and obtain the security if there is an issue is not impacted by the remitter name being Florida Parking Systems, Inc. Therefore, this does not render Kent’s bid non-responsive.

Monarch

Your memorandum identified two issues with Monarch’s proposal. First, Monarch marked most of its proposal as confidential while still signing the waiver of confidentiality. Second, Monarch submitted multiple price schedules with their proposal.

As for the first issue, Section 1.3 of the Solicitation provides, in relevant part, that “[b]y submitting a Proposal, each Proposer agrees that all such materials may be considered to be public records. . . . If the Proposal contains a claim that all or a portion of the Proposal submitted contains confidential, proprietary or trade secret information, the Proposer, by submitting the Proposal, knowingly and expressly waives all claims made that the Proposal, or any part thereof no matter how indicated, is confidential, proprietary or a trade secret and authorizes the County to release such information to the public for any reason.”

Monarch signed the confidentiality waiver. Accordingly, notwithstanding Monarch’s marking its proposal as confidential, you may consider such marking as waived pursuant to the executed waiver. As such, this marking by itself does not deem Monarch’s proposal non-responsive.

As for the second issue, Monarch's proposal is proposing different hourly rates for security guard services at different SADs in contravention to the Solicitation's requirements.

Form B-1 of the Solicitation provides that, [t]he hourly rate provided *shall be for all SAD locations* selected by the Proposer." (emphasis added). In addition, Attachment 3- Proposal Schedule, which is the form that the proposer must fill out to identify which of the SADs it is proposing to provide the services for, provides that, "[t]he hourly rate provided in form B-1 shall be the rate the Proposer is proposing to provide services for each and any of the SAD locations it has checked the box below."

As explained previously, the purpose of the competitive bidding process is, among other things, "to secure fair competition upon equal terms to all bidders . . . and to afford an equal advantage to all desiring to do business with the county, by affording an opportunity for an exact comparison of bids." *Harry Pepper*, 352 So. 2d at 1192. Here, if the County were to accept Monarch's varying priced proposal, it would place Monarch at a competitive advantage over other proposers who followed the requirements of the Solicitation and were not able to vary its pricing for each SAD. For this reason, Monarch's bid must be deemed non-responsive.

G4S

G4S submitted a Class 'AB' private investigative and security agency branch office license instead of a Class 'B' security agency license or 'BB' security agency branch office license as required by the Solicitation. Section 2.5 of the Solicitation provides, in relevant part, that, each proposer must demonstrate that it meets the minimum qualification requirements, and that if a proposer does not meet the requirements or fails to provide supporting documentation to show it meets the minimum requirements, that proposer's proposal may be deemed non-responsive. The minimum qualification requirement listed in Section 2.5 is that the Proposer "[h]old a valid class 'B', Security agency License, or class 'BB' Security Agency Branch Office License, issued by the state of Florida, Division of Licensing."

Section 493.6301, Florida Statutes provides that,

[a]ny person, firm, company, partnership, or corporation which engages in business as a security agency shall have a class 'B' license. . . . Each branch office of a Class 'B' agency shall have a Class 'BB' license. *Where a person, firm, company, partnership, or corporation holds both a Class 'A' and Class 'B' license, each branch office shall have a Class 'AB' license.*

On its website, the Florida Department of Agriculture (the department charged with issuing and regulating these licenses) repeats the language from the Florida Statutes and states that, "[i]f a person, firm, company, partnership, or corporation holds both a Class 'A' and Class 'B' license, each additional or branch office must have a Class 'AB' license."

Here, G4S holds a Class "AB" license and therefore also holds a Class "B" license. In addition, G4S has submitted documentation showing that it holds that license. G4S's proposal is responsive.

US Alliance

US Alliance submitted its proposal and the bid bond by physically delivering a envelope to the

County, and failed to submit the bid bond, a copy of the bid bond, or the proposal through BidSync. The only portions of the proposal that US Alliance delivered through BidSync were affidavits. The physical envelope with the proposal and the bid bond was delivered to the County before the close of the Solicitation. Upon receipt of the envelope, and assuming that the envelope was the bid bond only, you verbally advised US Alliance that a copy of the bid bond along with the proposal needed to be submitted through BidSync. US Alliance never submitted either the proposal or a copy of its bid bond through BidSync.

The policy of Miami-Dade County is to procure goods and services through electronic means. Section 2-8.1(j) of the County Code authorizes the Mayor to “purchase electronic commerce and on-line procurement of goods and services through the use of electronic means” which includes the advertisement and receipt of competitive sealed bids and proposals submitted through electronic means. In further of that policy, in 2013 the County awarded a contract for the purchase of an electronic bid management system, BidSync. The vendor and the County adapted the system to meet the County’s competitive solicitation policies, procedures, and practices. BidSync, as an electronic medium for responses, provides significant protections to the integrity and transparency of the process. For example, BidSync provides a uniform system for the advertisement, receipt, and processing of bids and proposals. Bids and proposals received electronically before the opening date remain securely locked in the system until the opening date and time and no person is able to view any portion of a response until the opening date and time. In addition, no person is allowed to remove any document filed in BidSync, preserving the documents for public records purposes. BidSync also keeps track of addenda issued and no bidder or proposer can submit a response without first electronically verifying receipt and consideration of addenda issued which modify the terms and conditions of the solicitation. As such, moving to an electronic solicitation system affords the competitive solicitation process greater security, transparency, and consistency. It makes County operations more efficient and less costly.

The Solicitation specifically provides that,

“[e]lectronic proposal responses to this RFP are to be submitted through a secure mailbox at BidSync until the date and time as indicated in this document. It is the sole responsibility of the Proposer to ensure its proposal reaches BidSync before the Solicitation closing date and time. . . . All proposals received and time stamped through the County’s third party partner, BidSync, prior to the proposed submittal deadline shall be accepted as timely submitted.”

In addition, Section 1.11 of the Solicitation provides that, “[e]ach Proposer must submit a bid bond with their proposal in the amount of \$5,000. A Proposal without the \$5,000 bid security shall be considered non-responsive. . . . A copy of the certified check, cashier’s check, [or] irrevocable letter of credit or surety bond must be uploaded to BidSync with the Proposal, with the original mailed to:” ISD.

Although the Solicitation explains that BidSync is the exclusive means for proposers to transmit their responses to the County, US Alliance’s proposal was submitted in part through BidSync and in part through hand delivery.

Because of the protections of the process and the efficiencies for the County afforded by BidSync, the County’s exercise of its discretion to consider all non-BidSync submittals non-responsive is reasonable. Two reasons support this conclusion. First, the submittal of bids and proposals electronically

through BidSync serves a compelling governmental interest. Second, the failure to submit a bid or proposal through BidSync is a material non-waivable deviation from the terms of this Solicitation. The County's commitment to the BidSync system as the exclusive means of submission relieves the County of the burden of drawing lines defining the circumstances under which the County will or will not consider non-BidSync material. A steadfast commitment to the use of BidSync provides certainty to participants and eliminates the possibility of rulings that may vary from solicitation to solicitation, which is the end of a fair procurement system. See *Robinson Elec. Co.*, 417 So. 2d at 1032 (finding a non-waivable irregularity is of such a nature that its waiver "would adversely affect competitive bidding by placing a bidder in a position of advantage over other bidders or by otherwise undermining the necessary common standard of competition."); *James Hinson Elec. Contracting Co., Inc. v. Dept. of Transp.*, Case No. 13-0685BID, 2013 WL 3242970, at *9 (Fla. Div. Admin. Hrg.'s June 21, 2013) ("The absence of regulations, policies or even guidelines to govern the decision whether to postpone a bid deadline or reject all bids under circumstances like this, is problematic. Important decisions should not be made 'on the personal whim of a bureaucrat.'") (internal citations omitted).

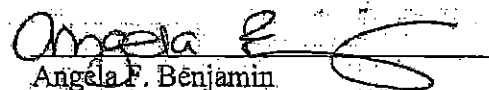
This opinion is in line with precedent from the federal government, which now also relies heavily on electronic bid submittals. The Comptroller General has repeatedly held that electronic submittal requirements are reasonable and should be enforced, upholding the agency's determination that electronic submittals would promote efficiency and economy. See *Matter of Indus. Commonwealth Specialties, Inc.*, B-277833 (Comp. Gen.), 1997 WL 730285, at *2 (Comp. Gen. Nov. 25, 1997); *Matter of Arcy Mfg. Co., Inc.*, B-261566 (Comp. Gen.), 1995 WL 479664, at *3 (Comp. Gen. Aug. 14, 1995). In addition, the federal courts have held that "[p]roposals submitted by means forbidden by a solicitation's terms must be rejected, because they are nonresponsive." *A&D Fire Prot., Inc. v. U.S.*, 72 Fed Cl. 126, 138 (Fed. Cir. 2006). Because US Alliance submitted a portion of its proposal by means forbidden by the Solicitation, and the County has a compelling government interest in requiring the use of BidSync by vendors in submitting their proposals, US Alliance's bid is nonresponsive.

Marksman and Security Alliance

Marksman and Security Alliance submitted a copy of the bid bonds through BidSync, but has failed to submit a physical copy of the Bid Bonds to date.

Section 1.11 of the Solicitation provides that, "[e]ach Proposer must submit a bid bond with their proposal in the amount of \$5,000. A Proposal without the \$5,000 bid security shall be considered non-responsive. . . . A copy of the certified check, cashier's check, [or] irrevocable letter of credit or surety bond must be uploaded to BidSync with the Proposal, with the original mailed to:" ISD.

Copies of bid bonds, when an original is not submitted, "generally do not satisfy the requirement for a bid guarantee" because there is no way for the County to ensure that the bid bond has not been altered without the surety's consent. See e.g., *Integrated Bus. Solutions, Inc.*, B-292,232, 2003 CPD ¶ 122, 2003 WL 21659403 (Comp. Gen. July 9, 2003) (upholding rejection of a proposal sent by facsimile because facsimile transmission was not permitted by the solicitation). Consequently, both Marksman's and Security Alliance's proposals are non-responsive.

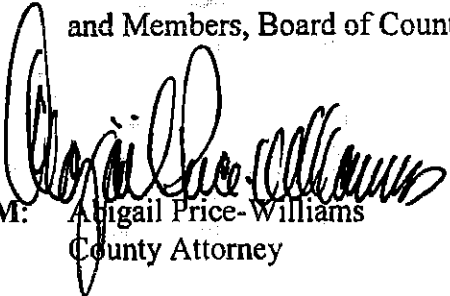

Angela F. Benjamin



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: May 5, 2020

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present , 2/3 membership , 3/5's , unanimous , CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) , CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) , or CDMP 9 vote requirement per 2-116.1(4)(c)(2)) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38. Copies of the contract documents are on file with and available upon request from the Internal Services Department, Strategic Procurement Division.

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

- | | |
|--------------------------------|----------------------|
| Audrey M. Edmonson, Chairwoman | |
| Rebeca Sosa, Vice Chairwoman | |
| Esteban L. Bovo, Jr. | Daniella Levine Cava |
| Jose "Pepe" Diaz | Sally A. Heyman |
| Eileen Higgins | Barbara J. Jordan |
| Joe A. Martinez | Jean Monestime |
| Dennis C. Moss | Sen. Javier D. Souto |
| Xavier L. Suarez | |

The Chairperson thereupon declared the resolution duly passed and adopted this 5th day of May, 2020 This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

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

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Angela F. Benjamin

Security Guard Services for Special Taxing Districts
Contract No. RFP-01261

Special Assessment District Assignments
Belle Meade Island Biscayne Beach Star Island

THIS AGREEMENT made and entered into as of this _____ day of _____ by and between G4S Secure Solutions (USA) Inc., a corporation organized and existing under the laws of the State of Florida, having its principal office at 7235 Corporate Center Drive, Suite A, Miami, Florida 33128 (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") (collectively, the "Parties"),

WITNESSETH:

WHEREAS, the Contractor has offered to provide security guard services, on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Proposals (RFP) No. 01261 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

WHEREAS, the Contractor has submitted a written proposal dated July 19, 2019, hereinafter referred to as the "Contractor's Proposal" which is incorporated herein by reference; and,

WHEREAS, the County desires to procure from the Contractor such security guard services for the County, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the Parties 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 (Article 1 through 45), the Scope of Services (Appendix A), all other appendices and attachments hereto, all amendments issued hereto, RFP No. 01261 and all associated addenda, and the Contractor's Proposal.

- c) The words "Contract Manager" to mean Miami-Dade County's Director, Internal Services Department, or the duly authorized representative designated to manage the Contract.
- d) The word "Contractor" to mean G4S Secure Solutions (USA) Inc. and its permitted successors.
- 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 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 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 Project Manager.
- h) The words "Extra Work" or "Additional Work" to mean additions or deletions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the County.
- i) The words "Project Manager" to mean the County Mayor or a duly authorized representative designated to manage the Project.
- j) The words "Proposal" to mean an offer to provide good or services in response to a Request for Proposal.
- k) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.
- l) 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.
- m) 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.

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) Articles 1 through 45 of this Agreement, 2) the Scope of Services (Appendix A), 3) the Miami-Dade County's RFP No.01261 and any associated addenda and attachments thereof, and 4) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

- a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.

- b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.
- c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.
- d) The titles, headings, captions and arrangements used in this Agreement 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 and includes 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 or their 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 Work and 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 Work and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of and to the satisfaction of the Project Manager.
- e) The Contractor acknowledges that the County shall make 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 and shall continue through the last day of the forty-eighth (48th) month. The County, at its sole discretion, may renew this Contract once for four (4) years. The County may also 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 e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

(1) to the County

a) to the Project Manager:

Miami-Dade County
Parks, Recreation and Open Spaces Department
Attention: Division Chief
Phone: (305) 375-2702
E-mail: (305) 375-3338

and,

b)

to the Contract Manager:

Miami-Dade County
Internal Services Department, Strategic Procurement Division
Attention: Chief Procurement Officer
111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974
Phone: (305) 375-4900
E-mail: Namita.Uppal@miamidade.gov

(2) To the Contractor

Carlos Barbosa, Vice President, Southeast Region
G4S Secure Solutions (USA) Inc.
1395 University Blvd.,
Jupiter, FL 33458
Phone: (561) 691-6642
E-mail: carlos.Barbosa@usa.g4s.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. PERFORMANCE BOND

Contractor shall provide a Performance Bond in the amount of 10% of the total agreed upon yearly (52 week) total price for ISD. Performance Bond shall be delivered to the County within fifteen (15) calendar days after the effective date of the resolution awarding this Contract, if any. Performance Bond may be prepared on the applicable bond form(s) provided herein as Attachment 2. It may be in the form of a Surety Bond written through a local surety bond agency,

rated as to Management and Strength. In lieu of a bond, an irrevocable letter of credit or a cash bond in the form of a certified cashier's check made out to the Board of County Commissioners will be acceptable. No other forms shall be accepted. If the Contractor fails to deliver the Performance Bond within this specified time, including granted extensions, the County shall declare the Contractor in default of the contractual terms and conditions, and the Contractor shall surrender its offer guaranty/Proposal bond, and the County shall not accept any Proposal from the Contractor for a twelve (12) month period following such default.

Contractor shall execute and deliver prior to the issuance of a Notice-to-Proceed, a Performance Bond in the amount of 10% of the total agreed contract price. If the Contractor fails to deliver the initial Performance Bond within the specified time, including granted extensions, the County shall declare the Contractor in default of the contractual terms and conditions, and the Contractor shall surrender its proposal guarantee.

ARTICLE 8. 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 as stipulated in Appendix B, 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.

The County shall not be liable for any out-of-pocket expenses, including employee lodging, transportation, per diem, and all miscellaneous cost and fees.

ARTICLE 9. PRICING

Prices shall remain firm and fixed for the term of the Contract, including any option or extension periods; however, the Contractor may offer incentive discounts to the County at any time during the Contract term, including any renewal or extension thereof. The initial negotiated prices shall prevail until the first Living Wage adjustment is considered.

The County may consider a request from the Contractor for a price adjustment only to applicable hourly, billable positions, at such time that there is an increase in the Living Wage, in accordance with the Living Wage Ordinance effective October 1st of each year. The Living Wage adjustment under this contract shall not be considered until October 2020. It is the Contractor's responsibility to request any pricing adjustment under this provision for the Living Wage. Any price adjustment to the hourly rates herein cannot exceed the Living Wage increase percentage amount for that fiscal year.

ARTICLE 10. LIVING WAGE/SUPPLEMENTAL GENERAL AGREEMENT

The Contractor shall comply with the provisions of Section 2-8.9 of the Code of Miami-Dade County, also known as the Living Wage Ordinance (Appendix C, Supplemental General Condition – Living Wage), and hereby acknowledges awareness of the penalties for non-compliance.

ARTICLE 11. METHOD AND TIMES OF PAYMENT

The Contractor shall invoice the County periodically, but not more than once per month, upon

Invoices certified by the Contractor pursuant to Appendix B – 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 shall be made in a timely manner and that interest payments be made on late payments. All firms, including Small Business Enterprises, providing goods and services to the County, shall receive payment to maintain sufficient cash flow. In accordance with Section 218.74 of the Florida Statutes, and Section 2-8.1.4 of the Code of Miami-Dade County, 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. Billings from prime Contractors under services and goods contracts with the County or Public Health Trust, that are Small Business Enterprise contract set-aside, bid preference or contain a subcontractor goal, shall be promptly reviewed and payment made by the County or Trust on those amounts not under dispute within fourteen (14) calendar days of receipt of such billing by the County or the Trust pursuant to Sections 2-8.1.1.1 and 2-8.1.1.2 of the Code of Miami-Dade. 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
Finance Department
c/o Miami Dade PROS Department
Attention: Shared Services Payable Unit
111 NW 1st Street, 26th FL
Miami, Florida 33128

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

ARTICLE 12. 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.

The Contractor shall furnish to Miami-Dade County Internal Services Department, Strategic Procurement Division, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.
- B. Commercial General Liability Insurance in an amount not less than \$5,000,000 per occurrence. Policy must include coverage for Personal Injury Liability. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

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

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

or

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

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

Compliance with the foregoing requirements shall not relieve the 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 of issuance of a purchase order. 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 from the date the County notifies the Contractor that the insurance certification is insufficient 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 of issuance of a purchase order, 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 assure that the Certificates of Insurance required in conjunction with this Section remain in full force for the term of the Contract, including any renewal or extension periods that may be exercised by the County. If the Certificate(s) of Insurance is scheduled to expire during the term of the Contract, the Contractor shall submit new or renewed Certificate(s) of Insurance to the County a minimum of ten (10) calendar days before such expiration. In the event that expired Certificates of Insurance are not replaced or renewed to cover the Contract period, the County may suspend the Contract until the new or renewed certificates are received by the County in the manner prescribed herein. If such suspension exceeds thirty (30) calendar days, the County may, at its sole discretion, terminate the Contract for cause and the Contractor shall be responsible for all direct and indirect costs associated with such termination.

ARTICLE 13. MANNER OF PERFORMANCE

- a) The Contractor shall provide the Services described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Contractor in all aspects of the Services. At the request of the County, the Contractor shall promptly remove from the Project any Contractor's employee, subcontractor, or any other person performing Services hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.
- b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and or demotion of such Contractor's personnel.
- c) The Contractor agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any its personnel if so directed upon reasonable request from the County, should the County make a determination, in its sole discretion, that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.
- d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.
- e) The Contractor shall at all times cooperate with the County and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.
- f) The Contractor shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

ARTICLE 14. EMPLOYEES OF THE CONTRACTOR

All employees of the Contractor shall be considered to be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. The County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the County. Each employee shall have and wear proper identification.

ARTICLE 15. INDEPENDENT CONTRACTOR RELATIONSHIP

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

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

ARTICLE 16. DISPUTE RESOLUTION PROCEDURE

- a) The Contractor hereby acknowledges that the Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Contractor shall be bound by all determinations or orders and shall promptly comply with every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. **Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.**
- d) In the event of such dispute, the Parties 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 10 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 may pursue any remedies available under law after exhausting the provisions of this Article. This Article will survive the expiration or termination of this Agreement.

ARTICLE 17. 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 18. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

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

ARTICLE 19. AUDITS

The County, or its duly authorized representatives and governmental agencies, shall until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents,

papers and records and of its subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

Pursuant to Section 2-481 of the Code of Miami-Dade County, 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 20. SUBSTITUTION OF PERSONNEL

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

ARTICLE 21. 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 22. SUBCONTRACTUAL RELATIONS

- a) If the Contractor will cause any part of this Agreement to be performed by a Subcontractor, the Contractor shall ensure that 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 may 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 23. 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 is not responsible for the accuracy of the assumptions presented; and the County is not 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 24. 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 25. TERMINATION AND SUSPENSION OF WORK

- a) This Agreement may be terminated for cause by the County for reasons including, but not limited to, the following: (i) the Contractor commits an Event of Default (as defined below in Article 26); or (ii) Contractor attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material misstatement.
- b) This Agreement may also be terminated for convenience by the County. Termination for convenience is effective on the termination date stated in the written notice provided by the County.
- c) If County terminates this Agreement for cause under Article 25(a)(ii) above, the County may, in its sole discretion, also 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 pay all direct and indirect costs associated with such termination or cancellation, including attorneys' fees.
- d) 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 Code of Miami-Dade County.

- 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 26. EVENT OF DEFAULT

- a) An Event of Default is a material breach of this Agreement by the Contractor, including but not limited to the following:
- i. the Contractor has not delivered Deliverables on a timely basis;
 - ii. the Contractor has refused or failed to supply enough properly skilled staff personnel;
 - iii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;
 - iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
 - v. the Contractor has failed to obtain the approval of the County where required by this Agreement;

- vi. the Contractor has failed to provide "adequate assurances" as required under subsection b below;
 - vii. the Contractor has failed in the representation of any warranties stated herein; or
 - viii. the Contractor has failed to comply with Article 38 of this Agreement.
- b) When, in the sole 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 the County with adequate assurances to the satisfaction of the Project Manager, 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 adequate assurances within the prescribed timeframe, the County may:
- i. treat such failure as a repudiation and/or a material breach of this Agreement; and
 - ii. resort to any remedy for breach provided herein or at law, including but not limited to, terminating this Agreement or taking over the performance of the Services or any part thereof either by itself or through others.
- c) If the County terminates 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 27. 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 28. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, whether or not the County elects to terminate this Agreement as a result, 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 29. 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 Work.
- 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 subcontractor or 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 or subcontractor 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 and subcontractors 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 30. CONFIDENTIALITY

- a) All 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 or its subcontractors 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, subcontractors 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, subcontractors 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, subcontractors 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 subcontractor's 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, subcontractors 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 31. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, the 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 32. 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, subcontractors 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, subcontractors 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 rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its subcontractors specifically for the County, hereinafter referred to as "Developed Works" shall become the property of the County.
- c) Accordingly, neither the Contractor nor its employees, agents, subcontractors 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, subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.
- d) Except as otherwise provided in this Article 32, or elsewhere herein, the Contractor and its subcontractors and 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 subcontractors and 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 33. VENDOR REGISTRATION/CONFLICT OF INTEREST**a) Vendor Registration**

The Contractor shall be a registered vendor with the County – Internal Services Department, Strategic Procurement Division, for the duration of this Agreement. In becoming a registered vendor with the 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 Code of Miami-Dade County)
2. *Miami-Dade County Employment Disclosure Affidavit*
(Section 2-8.1(d)(2) of the Code of Miami-Dade County)
3. *Miami-Dade County Employment Drug-free Workplace Certification*
(Section 2-8.1.2(b) of the Code of Miami-Dade County)
4. *Miami-Dade County Disability and Nondiscrimination Affidavit*
(Section 2-8.1.5 of the Code of Miami-Dade County)
5. *Miami-Dade County Debarment Disclosure Affidavit*
(Section 10.38 of the Code of Miami-Dade County)
6. *Miami-Dade County Vendor Obligation to County Affidavit*
(Section 2-8.1 of the Code of Miami-Dade County)
7. *Miami-Dade County Code of Business Ethics Affidavit*
(Sections 2-8.1(f), 2-11.1(b)(1) through (5) and (9), and 2-11.1(c) of the Code of Miami-Dade County)
8. *Miami-Dade County Family Leave Affidavit*
(Article V of Chapter 11 of the Code of Miami-Dade County)
9. *Miami-Dade County Living Wage Affidavit*
(Section 2-8.9 of the Code of Miami-Dade County)
10. *Miami-Dade County Domestic Leave and Reporting Affidavit* (Article VIII, Section 11A-60 - 11A-67 of the Code of Miami-Dade County)
11. *Miami-Dade County E-Verify Affidavit*
(Executive Order 11-116)
12. *Miami-Dade County Pay Parity Affidavit*
(Resolution R-1072-17)
13. *Subcontracting Practices*
(Section 2-8.8 of the Code of Miami-Dade County)
14. *Subcontractor/Supplier Listing*
(Section 2-8.1 of the Code of Miami-Dade County)
15. *Form W-9 and 147c Letter*
(as required by the Internal Revenue Service)
16. *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
17. *Office of the Inspector General*
(Section 2-1076 of the Code of Miami-Dade County)
18. *Small Business Enterprises*
The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.1.1.1.1, 2-8.1.1.1.2 and 2-8.2.2 of the Code of Miami-Dade County and Title 49 of the Code of Federal Regulations.
19. *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 and Code of Ethics

Section 2-11.1(d) of the Code of Miami-Dade County requires that any County employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with the County or any person or agency acting for the 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 the County or any person or agency acting for the County. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. All autonomous personnel, quasi-judicial personnel, advisory personnel, and employees wishing to

do business with the County are hereby advised they must comply with the applicable provisions of Section 2-11.1 of the Code of Miami-Dade County relating to Conflict of Interest and Code of Ethics. In accordance with Section 2-11.1 (y), the Miami-Dade County Commission on Ethics and Public Trust (Ethics Commission) shall be empowered to review, interpret, render advisory opinions and letters of instruction and enforce the Conflict of Interest and Code of Ethics Ordinance.

ARTICLE 34. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

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

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. 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 Implementing 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 subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 35. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

As applicable, the Contractor shall 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 clause provided under 41 C.F.R. Part 60-1.3 in accordance with Executive Order 11246, "Equal Employment Opportunity", as amended.
- b) Miami-Dade County Small Business Enterprises Development Participation Provisions.
- c) The Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.
- d) The Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148) as supplemented by the Department of Labor regulations (29 CFR Part 5).
- e) The Copeland "Anti-Kickback" Act (40 U.S.C. 3145) as supplemented by the Department of Labor regulations (29 CFR Part 2).
- f) Section 2-11.1 of the Code of Miami-Dade County, "Conflict of Interest and Code of Ethics."
- g) Section 10-38 of the Code of Miami-Dade County, "Debarment of Contractors from County Work."
- h) Section 11A-60 - 11A-67 of the Code of Miami-Dade County, "Domestic Leave."
- i) Section 21-255 of the Code of Miami-Dade County, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.
- j) The Equal Pay Act of 1963, as amended (29 U.S.C. 206(d)).

- k) Section 448.07 of the Florida Statutes "Wage Rate Discrimination Based on Sex Prohibited."
- l) Chapter 11A of the Code of Miami-Dade County (§ 11A-1 et seq.) "Discrimination."
- m) Chapter 22 of the Code of Miami-Dade County (§ 22-1 et seq.) "Wage Theft."
- n) Chapter 8A, Article XIX, of the Code of Miami-Dade County (§ 8A-400 et seq.) "Business Regulations."
- o) Any other laws prohibiting wage rate discrimination based on sex.

Pursuant to Resolution R-1072-17, by entering into this Contract, the Contractor is certifying that the Contractor is in compliance with, and will continue to comply with, the provisions of items "f" through "k" above.

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, the 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 36. 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, gender identity or gender expression, status as victim of domestic violence, dating violence or stalking, or veteran status, and on housing related contracts the source of income, 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 37. CONFLICT OF INTEREST

The Contractor represents that:

- a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the award of this Agreement.
- b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:
 - i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or
 - ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.
- c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.
- d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the 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 38. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

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

- a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and
- b) Communicate in any way with any contractor, department, board, agency, commission or

other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the County; and

- c) Except as may be required by law, the Contractor and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Contractor or such parties has been approved or endorsed by the County.

ARTICLE 39. BANKRUPTCY

The County may 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 40. 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 41. COUNTY USER ACCESS PROGRAM (UAP)

a) User Access Fee

Pursuant to Section 2-8.10 of the Code of Miami-Dade County, 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 26 of this Contract.

ARTICLE 42. 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. Within two (2) weeks of the end of each quarter, the Contractor shall provide quarterly reports to the SFWIB indicating the name and number of employees hired in the previous quarter, including the source from which the employees were found, and payroll records and tallies of employee work hours, 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.careersourcesfl.com/firstsource/>.

ARTICLE 43. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY

The Contractor shall comply with the Public Records Laws of the State of Florida, including by not limited to, (1) keeping and maintaining all public records that ordinarily and necessarily would be required by the County in order to perform the service; (2) providing the public with access to public records on the same terms and conditions that the County 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) ensuring 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) meeting all requirements for retaining public records and transferring, at no cost, to the County all public records in possession of the Contractor upon termination of the contract and destroying any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements upon such transfer. In addition, all records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County. Failure to meet any of these provisions or to comply with Florida's Public Records Laws as applicable shall be a material breach of this Agreement and shall be enforced in accordance with the terms and conditions of the Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 375-5773, ISD-VSS@MIAMIDADE.GOV, 111 NW 1st STREET, SUITE 1300, MIAMI, FLORIDA 33128

ARTICLE 44. 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 45. INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION and/or PROTECTED HEALTH INFORMATION

Any person or entity that performs or assists Miami-Dade County with a function or activity involving the use or disclosure of "Individually Identifiable Health Information (IIHI) and/or Protected Health Information (PHI) shall comply with the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the Miami-Dade County Privacy Standards Administrative Order. HIPAA mandates for privacy, security and electronic transfer standards, include but are not limited to:

1. Use of information only for performing services required by the contract or as required by law;
2. Use of appropriate safeguards to prevent non-permitted disclosures;
3. Reporting to Miami-Dade County of any non-permitted use or disclosure;
4. Assurances that any agents and subcontractors agree to the same restrictions and conditions that apply to the Contractor and reasonable assurances that IIHI/PHI will be held confidential;
5. Making Protected Health Information (PHI) available to the customer;
6. Making PHI available to the customer for review and amendment; and incorporating any amendments requested by the customer;
7. Making PHI available to Miami-Dade County for an accounting of disclosures; and
8. Making internal practices, books and records related to PHI available to Miami-Dade County for compliance audits.

PHI shall maintain its protected status regardless of the form and method of transmission (paper records, and/or electronic transfer of data). The Contractor must give its customers written notice of its privacy information practices including specifically, a description of the types of uses and disclosures that would be made with protected health information.

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

Contractor
G4S Secure Solutions (USA) Inc

Miami-Dade County

By:

[Signature]

Name:

John J. Aanta

Title:

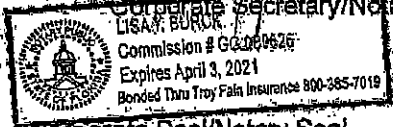
Gov. Hill Resident Florida

Date:

November 07, 2019

Attest:

Lisa M. Burk



Corporate Seal/Notary Seal

By:

Name:

Carlos A. Gimenez

Title:

Mayor

Date:

Attest:

Clerk of the Board

Approved as to form
and legal sufficiency

Assistant County Attorney

Security Guard Services for Special Taxing Districts
Contract No: RFP-01261B

Special Assessment District Assignments
Belle Meade
Coventry
Enchanted Lake
Entrada
Four Way Lodge Estates
Gables by the Sea
Highland Gardens
Highland Lakes
Morningside
North Dade Country Club/Andover
Oak Forest
Sabal Palm

THIS AGREEMENT made and entered into as of this _____ day of _____ by and between Kent Security Services Inc., a corporation organized and existing under the laws of the State of Florida, having its principal office at 14600 Biscayne Blvd, North Miami Beach, Florida 33181 (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") (collectively, the "Parties"),

WITNESSETH:

WHEREAS, the Contractor has offered to provide security guard services, on a non-exclusive basis; that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Proposals (RFP) No. 01261 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

WHEREAS, the Contractor has submitted a written proposal dated July 19, 2019, hereinafter referred to as the "Contractor's Proposal" which is incorporated herein by reference; and,

WHEREAS, the County desires to procure from the Contractor such security guard services for the County, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the Parties 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 (Article 1 through 45), the Scope of Services (Appendix A), all other appendices and attachments hereto, all amendments issued hereto, RFP No. 01261 and all associated addenda, and the Contractor's Proposal.
- c) The words "Contract Manager" to mean Miami-Dade County's Director, Internal Services Department, or the duly authorized representative designated to manage the Contract.
- d) The word "Contractor" to mean Kent Security Services Sol Inc. and its permitted successors.
- 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 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 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 Project Manager.
- h) The words "Extra Work" or "Additional Work" to mean additions or deletions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the County.
- i) The words "Project Manager" to mean the County Mayor or a duly authorized representative designated to manage the Project.
- j) The words "Proposal" to mean an offer to provide good or services in response to a Request for Proposal.
- k) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.
- l) 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.
- m) 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.

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) Articles 1 through 45 of this Agreement, 2) the Scope of Services (Appendix A), 3) the Miami-Dade County's RFP No.01261 and any associated addenda and attachments thereof, and 4) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

- a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.
- b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.
- c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.
- d) The titles, headings, captions and arrangements used in this Agreement 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 and includes 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 or their 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 Work and 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 Work and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of and to the satisfaction of the Project Manager.

- e) The Contractor acknowledges that the County shall make 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 and shall continue through the last day of the forty-eighth (48th) month. The County, at its sole discretion, may renew this Contract once for four (4) years. The County may also 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 e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

- (1) to the County
to the Project Manager:

Miami-Dade County
 Parks, Recreation and Open Spaces Department
 Attention: Division Chief
 Phone: (305) 375-2702
 E-mail: (305) 375-3338

and,
 a)

- to the Contract Manager:

Miami-Dade County
 Internal Services Department, Strategic Procurement Division
 Attention: Chief Procurement Officer
 111 N.W. 1st Street, Suite 1375
 Miami, FL 33128-1974
 Phone: (305) 375-4900
 E-mail: Namita.Uppal@miamidade.gov

- (2) To the Contractor

Kent Security Services, Inc.
 14600 Biscayne Blvd.,
 North Miami Beach, Florida 33181
 Attention: Gil Neuman, Chief Executive Officer
 Phone: (305) 919-9400
 E-mail: gneuman@kentservices.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. PERFORMANCE BOND

Contractor shall provide a Performance Bond in the amount of 10% of the total agreed upon yearly (52 week) total price for ISD. Performance Bond shall be delivered to the County within fifteen (15) calendar days after the effective date of the resolution awarding this Contract, if any. Performance Bond may be prepared on the applicable bond form(s) provided herein as Attachment 2. It may be in the form of a Surety Bond written through a local surety bond agency, rated as to Management and Strength. In lieu of a bond, an irrevocable letter of credit or a cash bond in the form of a certified cashier's check made out to the Board of County Commissioners will be acceptable. No other forms shall be accepted. If the Contractor fails to deliver the Performance Bond within this specified time, including granted extensions, the County shall declare the Contractor in default of the contractual terms and conditions, and the Contractor shall surrender its offer guaranty/Proposal bond, and the County shall not accept any Proposal from the Contractor for a twelve (12) month period following such default.

Contractor shall execute and deliver prior to the issuance of a Notice-to-Proceed, a Performance Bond in the amount of 10% of the total agreed contract price. If the Contractor fails to deliver the initial Performance Bond within the specified time, including granted extensions, the County shall declare the Contractor in default of the contractual terms and conditions, and the Contractor shall surrender its proposal guarantee.

ARTICLE 8. 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 as stipulated in Appendix B, 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.

The County shall not be liable for any out-of-pocket expenses, including employee lodging, transportation, per diem, and all miscellaneous cost and fees.

ARTICLE 9. PRICING

Prices shall remain firm and fixed for the term of the Contract, including any option or extension periods; however, the Contractor may offer incentive discounts to the County at any time during the Contract term, including any renewal or extension thereof. The initial negotiated prices shall prevail until the first Living Wage adjustment is considered.

The County may consider a request from the Contractor for a price adjustment only to applicable hourly, billable positions, at such time that there is an increase in the Living Wage, in accordance with the Living Wage Ordinance effective October 1st of each year. The Living Wage adjustment under this contract shall not be considered until October 2020. It is the Contractor's responsibility to request any pricing adjustment under this provision for the Living Wage. Any price adjustment

to the hourly rates herein cannot exceed the Living Wage increase percentage amount for that fiscal year.

ARTICLE 10. LIVING WAGE/SUPPLEMENTAL GENERAL AGREEMENT

The Contractor shall comply with the provisions of Section 2-8.9 of the Code of Miami-Dade County, also known as the Living Wage Ordinance (Appendix C, Supplemental General Condition – Living Wage), and hereby acknowledges awareness of the penalties for non-compliance.

ARTICLE 11. METHOD AND TIMES OF PAYMENT

The Contractor shall invoice the County periodically, but not more than once per month, upon invoices certified by the Contractor pursuant to Appendix B – 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 shall be made in a timely manner and that interest payments be made on late payments. All firms, including Small Business Enterprises, providing goods and services to the County, shall receive payment to maintain sufficient cash flow. In accordance with Section 218.74 of the Florida Statutes, and Section 2-8.1.4 of the Code of Miami-Dade County, 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. Billings from prime Contractors under services and goods contracts with the County or Public Health Trust, that are Small Business Enterprise contract set-aside, bid preference or contain a subcontractor goal, shall be promptly reviewed and payment made by the County or Trust on those amounts not under dispute within fourteen (14) calendar days of receipt of such billing by the County or the Trust pursuant to Sections 2-8.1.1.1.1 and 2-8.1.1.1.2 of the Code of Miami-Dade. 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
Finance Department
c/o Miami Dade PROS Department
Attention: Shared Services Payable Unit
111 NW 1st Street, 26th FL
Miami, Florida 33128

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

ARTICLE 12. 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.

The Contractor shall furnish to Miami-Dade County Internal Services Department, Strategic Procurement Division, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.
- B. Commercial General Liability Insurance in an amount not less than \$5,000,000 per occurrence. Policy must include coverage for Personal Injury Liability. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

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

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

or

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

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

Compliance with the foregoing requirements shall not relieve the 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 issuance of a purchase order. 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 from the date the County notifies the Contractor that the insurance certification is insufficient 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 of issuance of a purchase order, 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 assure that the Certificates of Insurance required in conjunction with this Section remain in full force for the term of the Contract, including any renewal or extension periods that may be exercised by the County. If the Certificate(s) of Insurance is scheduled to expire during the term of the Contract, the Contractor shall submit new or renewed Certificate(s) of Insurance to the County a minimum of ten (10) calendar days before such expiration. In the event that expired Certificates of Insurance are not replaced or renewed to cover the Contract period, the County may suspend the Contract until the new or renewed certificates are received by the County in the manner prescribed herein. If such suspension exceeds thirty (30) calendar days, the County may, at its sole discretion, terminate the Contract for cause and the Contractor shall be responsible for all direct and indirect costs associated with such termination.

ARTICLE 13. MANNER OF PERFORMANCE

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

background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.

- e) The Contractor shall at all times cooperate with the County and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.
- f) The Contractor shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

ARTICLE 14. EMPLOYEES OF THE CONTRACTOR

All employees of the Contractor shall be considered to be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. The County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the County. Each employee shall have and wear proper identification.

ARTICLE 15. INDEPENDENT CONTRACTOR RELATIONSHIP

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

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

ARTICLE 16. DISPUTE RESOLUTION PROCEDURE

- a) The Contractor hereby acknowledges that the Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Contractor shall be bound by all determinations or orders and shall promptly comply with every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in

accordance with the procedures set forth in this Article. **Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.**

- d) In the event of such dispute, the Parties 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 10 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 may pursue any remedies available under law after exhausting the provisions of this Article. This Article will survive the expiration or termination of this Agreement.

ARTICLE 17. 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 18. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

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

ARTICLE 19. AUDITS

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

Pursuant to Section 2-481 of the Code of Miami-Dade County, 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 20. SUBSTITUTION OF PERSONNEL

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

ARTICLE 21. 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 22. SUBCONTRACTUAL RELATIONS

- a) If the Contractor will cause any part of this Agreement to be performed by a Subcontractor, the Contractor shall ensure that 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 may 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 23. 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 is not responsible for the accuracy of the assumptions presented; and the County is not 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 24. 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 25. TERMINATION AND SUSPENSION OF WORK

- a) This Agreement may be terminated for cause by the County for reasons including, but not limited to, the following: (i) the Contractor commits an Event of Default (as defined below in Article 26); or (ii) Contractor attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material misstatement.

- b) This Agreement may also be terminated for convenience by the County. Termination for convenience is effective on the termination date stated in the written notice provided by the County.
- c) If County terminates this Agreement for cause under Article 25(a)(ii) above, the County may, in its sole discretion, also 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 pay all direct and indirect costs associated with such termination or cancellation, including attorneys' fees.
- d) 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 Code of Miami-Dade County.
- 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 26. EVENT OF DEFAULT

- a) An Event of Default is a material breach of this Agreement by the Contractor, including but not limited to the following:
- i. the Contractor has not delivered Deliverables on a timely basis;

- ii. the Contractor has refused or failed to supply enough properly skilled staff personnel;
 - iii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;
 - iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
 - v. the Contractor has failed to obtain the approval of the County where required by this Agreement;
 - vi. the Contractor has failed to provide "adequate assurances" as required under subsection b below;
 - vii. the Contractor has failed in the representation of any warranties stated herein; or
 - viii. the Contractor has failed to comply with Article 38 of this Agreement.
- b) When, in the sole 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 the County with adequate assurances to the satisfaction of the Project Manager, 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 adequate assurances within the prescribed timeframe, the County may:
- i. treat such failure as a repudiation and/or a material breach of this Agreement; and
 - ii. resort to any remedy for breach provided herein or at law, including but not limited to, terminating this Agreement or taking over the performance of the Services or any part thereof either by itself or through others.
- b) If the County terminates 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 27. 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 28. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, whether or not the County elects to terminate this Agreement as a result, 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 29. 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 Work.
- 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 subcontractor or 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 or subcontractor 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 and subcontractors 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 30. CONFIDENTIALITY

- a) All 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 or its subcontractors 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, subcontractors 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, subcontractors 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, subcontractors 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 subcontractor's 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, subcontractors 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 31. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, the 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 32. 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, subcontractors 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, subcontractors 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 rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its subcontractors specifically for the County, hereinafter referred to as "Developed Works" shall become the property of the County.
- c) Accordingly, neither the Contractor nor its employees, agents, subcontractors 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, subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.
- d) Except as otherwise provided in this Article 32, or elsewhere herein, the Contractor and its subcontractors and 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 subcontractors and 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 33. VENDOR REGISTRATION/CONFLICT OF INTEREST

a). Vendor Registration

The Contractor shall be a registered vendor with the County – Internal Services Department, Strategic Procurement Division, for the duration of this Agreement. In becoming a registered vendor with the 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 Code of Miami-Dade County)
2. *Miami-Dade County Employment Disclosure Affidavit*
(Section 2.8.1(d)(2) of the Code of Miami-Dade County)
3. *Miami-Dade County Employment Drug-free Workplace Certification*
(Section 2-8.1.2(b) of the Code of Miami-Dade County)
4. *Miami-Dade County Disability and Nondiscrimination Affidavit*
(Section 2-8.1.5 of the Code of Miami-Dade County)
5. *Miami-Dade County Debarment Disclosure Affidavit*
(Section 10.38 of the Code of Miami-Dade County)
6. *Miami-Dade County Vendor Obligation to County Affidavit*
(Section 2-8.1 of the Code of Miami-Dade County)
7. *Miami-Dade County Code of Business Ethics Affidavit*
(Sections 2-8.1(i), 2-11.1(b)(1) through (6) and (9), and 2-11.1(c) of the Code of Miami-Dade County)
8. *Miami-Dade County Family Leave Affidavit*
(Article V of Chapter 11 of the Code of Miami-Dade County)
9. *Miami-Dade County Living Wage Affidavit*
(Section 2-8.9 of the Code of Miami-Dade County)
10. *Miami-Dade County Domestic Leave and Reporting Affidavit* (Article VIII, Section 11A-60 - 11A-67 of the Code of Miami-Dade County)
11. *Miami-Dade County E-Verify Affidavit*
(Executive Order 11-116)
12. *Miami-Dade County Pay Parity Affidavit*
(Resolution R-1072-17)
13. *Subcontracting Practices*
(Section 2-8.8 of the Code of Miami-Dade County)
14. *Subcontractor/Supplier Listing*
(Section 2-8.1 of the Code of Miami-Dade County)
15. *Form W-9 and 147c Letter*
(as required by the Internal Revenue Service)
16. *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
17. *Office of the Inspector General*
(Section 2-1076 of the Code of Miami-Dade County)
18. *Small Business Enterprises*
The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.1.1.1, 2-8.1.1.2 and 2-8.2.2 of the Code of Miami-Dade County and Title 49 of the Code of Federal Regulations.
19. *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 and Code of Ethics

Section 2-11.1(d) of the Code of Miami-Dade County requires that any County employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with the County or any person or agency acting for the 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 the County or any person or agency acting for the County. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. All autonomous personnel, quasi-judicial personnel, advisory personnel, and employees wishing to do business with the County are hereby advised they must comply with the applicable provisions of Section 2-11.1 of the Code of Miami-Dade County relating to Conflict of Interest and Code of Ethics. In accordance with Section 2-11.1 (y), the Miami-Dade County Commission on Ethics and Public Trust (Ethics Commission) shall be empowered to review, interpret, render advisory opinions and letters of instruction and enforce the Conflict of Interest and Code of Ethics Ordinance.

ARTICLE 34. INSPECTOR GENERAL REVIEWS**Independent Private Sector Inspector General Reviews**

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

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. 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 Implementing 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 subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 35. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

As applicable, the Contractor shall 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 clause provided under 41 C.F.R. Part 60-1.3 in accordance with Executive Order 11246, "Equal Employment Opportunity", as amended.
- b) Miami-Dade County Small Business Enterprises Development Participation Provisions.
- c) The Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.
- d) The Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148) as supplemented by the Department of Labor regulations (29 CFR Part 5).
- e) The Copeland "Anti-Kickback" Act (40 U.S.C. 3145) as supplemented by the Department of Labor regulations (29 CFR Part 2).

- f) Section 2-11.1 of the Code of Miami-Dade County, "Conflict of Interest and Code of Ethics."
- g) Section 10-38 of the Code of Miami-Dade County, "Debarment of Contractors from County Work."
- h) Section 11A-60 - 11A-67 of the Code of Miami-Dade County, "Domestic Leave."
- i) Section 21-255 of the Code of Miami-Dade County, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.
- j) The Equal Pay Act of 1963, as amended (29 U.S.C. 206(d)).
- k) Section 448.07 of the Florida Statutes "Wage Rate Discrimination Based on Sex Prohibited."
- l) Chapter 11A of the Code of Miami-Dade County (§ 11A-1 et seq.) "Discrimination."
- m) Chapter 22 of the Code of Miami-Dade County (§ 22-1 et seq.) "Wage Theft."
- n) Chapter 8A, Article XIX, of the Code of Miami-Dade County (§ 8A-400 et seq.) "Business Regulations."
- o) Any other laws prohibiting wage rate discrimination based on sex.

Pursuant to Resolution R-1072-17, by entering into this Contract, the Contractor is certifying that the Contractor is in compliance with, and will continue to comply with, the provisions of items "f" through "k" above.

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, the 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 36. 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, gender identity or gender expression, status as victim of domestic violence, dating violence or stalking, or veteran status, and on housing related contracts the source of income, 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 37. CONFLICT OF INTEREST

The Contractor represents that:

- a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the award of this Agreement.
- b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:
 - i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or
 - ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.
- c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.
- d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the 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 38. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

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

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

ARTICLE 39. BANKRUPTCY

The County may 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 40. 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 41. COUNTY USER ACCESS PROGRAM (UAP)

a) User Access Fee

Pursuant to Section 2-8.10 of the Code of Miami-Dade County, 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 26 of this Contract.

ARTICLE 42. 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. Within two (2) weeks of the end of each quarter, the Contractor shall provide quarterly reports to the SFWIB indicating the name and number of employees hired in the previous quarter, including the source from which the employees were found, and payroll records and tallies of employee work hours, 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 non-compliance, whichever is less. Registration procedures and additional information regarding the FSHRP are available at <https://apps.careersourcesfl.com/firstsource/>.

ARTICLE 43. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY

The Contractor shall comply with the Public Records Laws of the State of Florida, including by not limited to, (1) keeping and maintaining all public records that ordinarily and necessarily would be required by the County in order to perform the service; (2) providing the public with access to public records on the same terms and conditions that the County 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) ensuring 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) meeting all requirements for retaining public records and transferring, at no cost, to the County all public records in possession of the Contractor upon termination of the contract and destroying any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements upon such transfer. In addition, all records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County. Failure to meet any of these provisions or to comply with Florida's Public Records Laws as applicable shall be a material breach of this Agreement and shall be enforced in accordance with the terms and conditions of the Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 375-5773, ISD-VSS@MIAMIDADE.GOV, 111 NW 1st STREET, SUITE 1300, MIAMI, FLORIDA 33128

ARTICLE 44. 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 45. INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION and/or PROTECTED HEALTH INFORMATION

Any person or entity that performs or assists Miami-Dade County with a function or activity involving the use or disclosure of "Individually Identifiable Health Information (IIHI) and/or Protected Health Information (PHI) shall comply with the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the Miami-Dade County Privacy Standards Administrative Order. HIPAA mandates for privacy, security and electronic transfer standards, include but are not limited to:

1. Use of information only for performing services required by the contract or as required by law;
2. Use of appropriate safeguards to prevent non-permitted disclosures;
3. Reporting to Miami-Dade County of any non-permitted use or disclosure;
4. Assurances that any agents and subcontractors agree to the same restrictions and conditions that apply to the Contractor and reasonable assurances that IIHI/PHI will be held confidential;
5. Making Protected Health Information (PHI) available to the customer;
6. Making PHI available to the customer for review and amendment; and incorporating any amendments requested by the customer;
7. Making PHI available to Miami-Dade County for an accounting of disclosures; and
8. Making internal practices, books and records related to PHI available to Miami-Dade County for compliance audits.

PHI shall maintain its protected status regardless of the form and method of transmission (paper records, and/or electronic transfer of data). The Contractor must give its customers written notice of its privacy information practices including specifically, a description of the types of uses and disclosures that would be made with protected health information.

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

Contractor

Miami-Dade County

By:

Name:

Gil Neuman

Title:

CEO

Date:

11/20/19

Attest:

Camille A. Flores

Corporate Secretary/Notary Public

By:

Name:

Carlos A. Gimenez

Title:

Mayor

Date:

Attest:

Clerk of the Board

Corporate Seal/Notary Seal

Approved as to form and legal sufficiency

Assistant County Attorney



Security Guard Services for Special Taxing Districts
Contract No. RFP-01261C

Special Assessment District Assignments
Allison Island Keystone Point North Bay Island

THIS AGREEMENT made and entered into as of this _____ day of _____ by and between Universal Protection Service, LLC dba Allied Universal Security Services, LLC, a corporation organized and existing under the laws of the State of Florida, having its principal office at 7300 Corporate Center, Suite 600, Miami, Florida 33126 (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") (collectively, the "Parties"),

WITNESSETH:

WHEREAS, the Contractor has offered to provide security guard services, on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Proposals (RFP) No. 01261 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

WHEREAS, the Contractor has submitted a written proposal dated July 19, 2019, hereinafter referred to as the "Contractor's Proposal" which is incorporated herein by reference; and,

WHEREAS, the County desires to procure from the Contractor such security guard services for the County, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the Parties 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 (Article 1 through 45), the Scope of Services (Appendix A), all other appendices and attachments hereto, all amendments issued hereto, RFP No. 01261 and all associated addenda, and the Contractor's Proposal.

- c) The words "Contract Manager" to mean Miami-Dade County's Director, Internal Services Department, or the duly authorized representative designated to manage the Contract.
- d) The word "Contractor" to mean Universal Protection Service, LLC dba Allied Universal Security Services, LLC and its permitted successors.
- 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 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 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 Project Manager.
- h) The words "Extra Work" or "Additional Work" to mean additions or deletions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the County.
- i) The words "Project Manager" to mean the County Mayor or a duly authorized representative designated to manage the Project.
- j) The words "Proposal" to mean an offer to provide good or services in response to a Request for Proposal.
- k) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.
- l) 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.
- m) 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.

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) Articles 1 through 45 of this Agreement, 2) the Scope of Services (Appendix A), 3) the Miami-Dade County's RFP No.01261 and any associated addenda and attachments thereof, and 4) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

- a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise

indicated.

- b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.
- c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.
- d) The titles, headings, captions and arrangements used in this Agreement 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 and includes 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 or their 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 Work and 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 Work and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of and to the satisfaction of the Project Manager.
- e) The Contractor acknowledges that the County shall make 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 and shall continue through the last day of the forty-eighth (48th) month. The County, at its sole discretion, may renew this Contract once for four (4) years. The County may also 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 e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

(1) to the County

a) to the Project Manager:

Miami-Dade County
Parks, Recreation and Open Spaces Department
Attention: Division Chief
Phone: (305) 375-2702
E-mail: (305) 375-3338

and,

b) to the Contract Manager:

Miami-Dade County
Internal Services Department, Strategic Procurement Division
Attention: Chief Procurement Officer
111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974
Phone: (305) 375-4900
E-mail: Namita.Uppal@miamidadegov

(2) To the Contractor

Universal Protection Service, LLC dba Allied Universal Security Services, LLC
7300 Corporate Center,
Suite 600
Miami, FL 33126
Attention: Taylor McDonald, Director, Government Services, FL
Phone: (305) 262-7123
E-mail: taylor.mcdonald@aus.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. PERFORMANCE BOND

Contractor shall provide a Performance Bond in the amount of 10% of the total agreed upon yearly (52 week) total price for ISD. Performance Bond shall be delivered to the County within fifteen (15) calendar days after the effective date of the resolution awarding this Contract, if any. Performance Bond may be prepared on the applicable bond form(s) provided herein as Attachment 2. It may be in the form of a Surety Bond written through a local surety bond agency, rated as to Management and Strength. In lieu of a bond, an irrevocable letter of credit or a cash bond in the form of a certified cashier's check made out to the Board of County Commissioners will be acceptable. No other forms shall be accepted. If the Contractor fails to deliver the Performance Bond within this specified time, including granted extensions, the County shall declare the Contractor in default of the contractual terms and conditions, and the Contractor shall surrender its offer guaranty/Proposal bond, and the County shall not accept any Proposal from the Contractor for a twelve (12) month period following such default.

Contractor shall execute and deliver prior to the issuance of a Notice-to-Proceed, a Performance Bond in the amount of 10% of the total agreed contract price. If the Contractor fails to deliver the initial Performance Bond within the specified time, including granted extensions, the County shall declare the Contractor in default of the contractual terms and conditions, and the Contractor shall surrender its proposal guarantee.

ARTICLE 8. 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 as stipulated in Appendix B, 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.

The County shall not be liable for any out-of-pocket expenses, including employee lodging, transportation, per diem, and all miscellaneous cost and fees.

ARTICLE 9. PRICING

Prices shall remain firm and fixed for the term of the Contract, including any option or extension periods; however, the Contractor may offer incentive discounts to the County at any time during the Contract term, including any renewal or extension thereof. The initial negotiated prices shall prevail until the first Living Wage adjustment is considered.

The County may consider a request from the Contractor for a price adjustment only to applicable hourly, billable positions, at such time that there is an increase in the Living Wage, in accordance with the Living Wage Ordinance effective October 1st of each year. The Living Wage adjustment under this contract shall not be considered until October 2020. It is the Contractor's responsibility to request any pricing adjustment under this provision for the Living Wage. Any price adjustment to the hourly rates herein cannot exceed the Living Wage increase percentage amount for that fiscal year.

ARTICLE 10. LIVING WAGE/SUPPLEMENTAL GENERAL AGREEMENT

The Contractor shall comply with the provisions of Section 2-8.9 of the Code of Miami-Dade County, also known as the Living Wage Ordinance (Appendix C, Supplemental General Condition – Living Wage), and hereby acknowledges awareness of the penalties for non-compliance.

ARTICLE 11. METHOD AND TIMES OF PAYMENT

The Contractor shall invoice the County periodically, but not more than once per month, upon invoices certified by the Contractor pursuant to Appendix B – 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 shall be made in a timely manner and that interest payments be made on late payments. All firms, including Small Business Enterprises, providing goods and services to the County, shall receive payment to maintain sufficient cash flow. In accordance with Section 218.74 of the Florida Statutes, and Section 2-8.1.4 of the Code of Miami-Dade County, 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. Billings from prime Contractors under services and goods contracts with the County or Public Health Trust, that are Small Business Enterprise contract set-aside, bid preference or contain a subcontractor goal, shall be promptly reviewed and payment made by the County or Trust on those amounts not under dispute within fourteen (14) calendar days of receipt of such billing by the County or the Trust pursuant to Sections 2-8.1.1.1.1 and 2-8.1.1.1.2 of the Code of Miami-Dade. 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
Finance Department
c/o Miami Dade PROS Department
Attention: Shared Services Payable Unit
111 NW 1st Street, 26th FL
Miami, Florida 33128

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

ARTICLE 12. 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.

The Contractor shall furnish to Miami-Dade County Internal Services Department, Strategic Procurement Division, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.
- B. Commercial General Liability Insurance in an amount not less than \$5,000,000 per occurrence. Policy must include coverage for Personal Injury Liability. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

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

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

or

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

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

Compliance with the foregoing requirements shall not relieve the 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 issuance of a purchase order. 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 from the date the County notifies the Contractor that the insurance certification is insufficient 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 of issuance of a purchase order, 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 assure that the Certificates of Insurance required in conjunction with this Section remain in full force for the term of the Contract, including any renewal or extension periods that may be exercised by the County. If the Certificate(s) of Insurance is scheduled to expire during the term of the Contract, the Contractor shall submit new or renewed Certificate(s) of Insurance to the County a minimum of ten (10) calendar days before such expiration. In the event that expired Certificates of Insurance are not replaced or renewed to cover the Contract period, the County may suspend the Contract until the new or renewed certificates are received by the County in the manner prescribed herein. If such suspension exceeds thirty (30) calendar days, the County may, at its sole discretion, terminate the Contract for cause and the Contractor shall be responsible for all direct and indirect costs associated with such termination.

ARTICLE 13. MANNER OF PERFORMANCE

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

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

ARTICLE 14. EMPLOYEES OF THE CONTRACTOR

All employees of the Contractor shall be considered to be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. The County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the County. Each employee shall have and wear proper identification.

ARTICLE 15. INDEPENDENT CONTRACTOR RELATIONSHIP

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

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

ARTICLE 16. DISPUTE RESOLUTION PROCEDURE

- a) The Contractor hereby acknowledges that the Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Contractor shall be bound by all determinations or orders and shall promptly comply with every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in

accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.

- d) In the event of such dispute, the Parties 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 10 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 may pursue any remedies available under law after exhausting the provisions of this Article. This Article will survive the expiration or termination of this Agreement.

ARTICLE 17. 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 18. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Contractor shall maintain, and shall require that its subcontractors and suppliers maintain,

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

ARTICLE 19. AUDITS

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

Pursuant to Section 2-481 of the Code of Miami-Dade County, 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 20. SUBSTITUTION OF PERSONNEL

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

ARTICLE 21. 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 22. SUBCONTRACTUAL RELATIONS

- a) If the Contractor will cause any part of this Agreement to be performed by a Subcontractor, the Contractor shall ensure that 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 may 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 23. 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 is not responsible for the accuracy of the assumptions presented; and the County is not 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 24. 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 25. TERMINATION AND SUSPENSION OF WORK

- a) This Agreement may be terminated for cause by the County for reasons including, but not limited to, the following: (i) the Contractor commits an Event of Default (as defined below in Article 26); or (ii) Contractor attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material misstatement.
- b) This Agreement may also be terminated for convenience by the County. Termination for convenience is effective on the termination date stated in the written notice provided by the County.

- c) If County terminates this Agreement for cause under Article 25(a)(ii) above, the County may, in its sole discretion, also 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 pay all direct and indirect costs associated with such termination or cancellation, including attorneys' fees.
- d) 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 Code of Miami-Dade County.
- 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 26. EVENT OF DEFAULT

- a) An Event of Default is a material breach of this Agreement by the Contractor, including but not limited to the following:
- i. the Contractor has not delivered Deliverables on a timely basis;
 - ii. the Contractor has refused or failed to supply enough properly skilled staff personnel;
 - iii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;

- iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
 - v. the Contractor has failed to obtain the approval of the County where required by this Agreement;
 - vi. the Contractor has failed to provide "adequate assurances" as required under subsection b below;
 - vii. the Contractor has failed in the representation of any warranties stated herein; or
 - viii. the Contractor has failed to comply with Article 38 of this Agreement.
- b) When, in the sole 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 the County with adequate assurances to the satisfaction of the Project Manager, 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 adequate assurances within the prescribed timeframe, the County may:
- i. treat such failure as a repudiation and/or a material breach of this Agreement; and
 - ii. resort to any remedy for breach provided herein or at law, including but not limited to, terminating this Agreement or taking over the performance of the Services or any part thereof either by itself or through others.
- c) If the County terminates 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 27. 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 28. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, whether or not the County elects to terminate this Agreement as a

result, 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 29. 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 Work.
- 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 subcontractor or 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 or subcontractor 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 and subcontractors 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 30. CONFIDENTIALITY

- a) All 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 or its subcontractors 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, subcontractors 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, subcontractors 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, subcontractors 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 subcontractor's 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, subcontractors 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 31. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, the 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 32. 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, subcontractors 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, subcontractors 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 rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its subcontractors specifically for the County, hereinafter referred to as "Developed Works" shall become the property of the County.
- c) Accordingly, neither the Contractor nor its employees, agents, subcontractors 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, subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.
- d) Except as otherwise provided in this Article 32, or elsewhere herein, the Contractor and its subcontractors and 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 subcontractors and 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 33. VENDOR REGISTRATION/CONFLICT OF INTEREST

a) Vendor Registration

The Contractor shall be a registered vendor with the County – Internal Services Department, Strategic Procurement Division, for the duration of this Agreement. In becoming a registered vendor with the 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 Code of Miami-Dade County)
2. *Miami-Dade County Employment Disclosure Affidavit*
(Section 2.8.1(d)(2) of the Code of Miami-Dade County)
3. *Miami-Dade County Employment Drug-free Workplace Certification*
(Section 2-8.1.2(b) of the Code of Miami-Dade County)
4. *Miami-Dade County Disability and Nondiscrimination Affidavit*
(Section 2-8.1.5 of the Code of Miami-Dade County)
5. *Miami-Dade County Debarment Disclosure Affidavit*
(Section 10.38 of the Code of Miami-Dade County)
6. *Miami-Dade County Vendor Obligation to County Affidavit*
(Section 2-8.1 of the Code of Miami-Dade County)
7. *Miami-Dade County Code of Business Ethics Affidavit*
(Sections 2-8.1(f), 2-11.1(b)(1) through (6) and (9), and 2-11.1(e) of the Code of Miami-Dade County)
8. *Miami-Dade County Family Leave Affidavit*
(Article V of Chapter 11 of the Code of Miami-Dade County)
9. *Miami-Dade County Living Wage Affidavit*
(Section 2-8.9 of the Code of Miami-Dade County)
10. *Miami-Dade County Domestic Leave and Reporting Affidavit* (Article VIII, Section 11A-60 - 11A-67 of the Code of Miami-Dade County)
11. *Miami-Dade County E-Verify Affidavit*
(Executive Order 11-116)
12. *Miami-Dade County Pay Parity Affidavit*
(Resolution R-1072-17)
13. *Subcontracting Practices*
(Section 2-8.8 of the Code of Miami-Dade County)
14. *Subcontractor/Supplier Listing*
(Section 2-8.1 of the Code of Miami-Dade County)
15. *Form W-9 and 147c Letter*
(as required by the Internal Revenue Service)
16. *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
17. *Office of the Inspector General*
(Section 2-1076 of the Code of Miami-Dade County)
18. *Small Business Enterprises*
The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.1.1.1.1, 2-8.1.1.1.2 and 2-8.2.2 of the Code of Miami-Dade County and Title 49 of the Code of Federal Regulations.
19. *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 and Code of Ethics

Section 2-11.1(d) of the Code of Miami-Dade County requires that any County employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with the County or any person or agency acting for the 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 the County or any person or agency acting for the County. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. All autonomous personnel, quasi-judicial personnel, advisory personnel, and employees wishing to do business with the County are hereby advised they must comply with the applicable provisions of Section 2-11.1 of the Code of Miami-Dade County relating to Conflict of Interest and Code of Ethics. In accordance with Section 2-11.1 (y), the Miami-Dade County Commission on Ethics and Public Trust (Ethics Commission) shall be empowered to review, interpret, render advisory opinions and letters of instruction and enforce the Conflict of Interest and Code of Ethics Ordinance.

ARTICLE 34. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

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

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. 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 Implementing 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 subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 35. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

As applicable, the Contractor shall 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 clause provided under 41 C.F.R. Part 60-1.3 in accordance with Executive Order 11246, "Equal Employment Opportunity", as amended.
- b) Miami-Dade County Small Business Enterprises Development Participation Provisions.
- c) The Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.
- d) The Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148) as supplemented by the Department of Labor regulations (29 CFR Part 5).
- e) The Copeland "Anti-Kickback" Act (40 U.S.C. 3145) as supplemented by the Department of Labor regulations (29 CFR Part 2).
- f) Section 2-11.1 of the Code of Miami-Dade County, "Conflict of Interest and Code of Ethics."

- g) Section 10-38 of the Code of Miami-Dade County, "Debarment of Contractors from County Work."
- h) Section 11A-60 - 11A-67 of the Code of Miami-Dade County, "Domestic Leave."
- i) Section 21-255 of the Code of Miami-Dade County, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.
- j) The Equal Pay Act of 1963, as amended (29 U.S.C. 206(d)).
- k) Section 448.07 of the Florida Statutes "Wage Rate Discrimination Based on Sex Prohibited."
- l) Chapter 11A of the Code of Miami-Dade County (§ 11A-1 et seq.) "Discrimination."
- m) Chapter 22 of the Code of Miami-Dade County (§ 22-1 et seq.) "Wage Theft."
- n) Chapter 8A, Article XIX, of the Code of Miami-Dade County (§ 8A-400 et seq.) "Business Regulations."
- o) Any other laws prohibiting wage rate discrimination based on sex.

Pursuant to Resolution R-1072-17, by entering into this Contract, the Contractor is certifying that the Contractor is in compliance with, and will continue to comply with, the provisions of items "f" through "k" above.

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, the 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 36. 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, gender identity or gender expression, status as victim of domestic violence, dating violence or stalking, or veteran status, and on housing related contracts the source of income, 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 37. CONFLICT OF INTEREST

The Contractor represents that:

- a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the award of this Agreement.
- b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:
 - i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or
 - ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.
- c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.
- d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the 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 38. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

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

- a) Issue or permit to be issued any press release, advertisement or literature of any kind

which refers to the County, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such Information would be harmful to the public interest or is in any way undesirable; and

- b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the County; and
- c) Except as may be required by law, the Contractor and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Contractor or such parties has been approved or endorsed by the County.

ARTICLE 39. BANKRUPTCY

The County may 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 40. 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 41. COUNTY USER ACCESS PROGRAM (UAP)

a) User Access Fee

Pursuant to Section 2-8.10 of the Code of Miami-Dade County, 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 26 of this Contract.

ARTICLE 42. 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. Within two (2) weeks of the end of each quarter, the Contractor shall provide quarterly reports to the SFWIB indicating the name and number of employees hired in the previous quarter, including the source from which the employees were found, and payroll records and tallies of employee work hours, 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.careersourcesfl.com/firstsource/>.

ARTICLE 43. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY

The Contractor shall comply with the Public Records Laws of the State of Florida, including by not limited to, (1) keeping and maintaining all public records that ordinarily and necessarily would be required by the County in order to perform the service; (2) providing the public with access to public records on the same terms and conditions that the County 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) ensuring 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) meeting all requirements for retaining public records and transferring, at no cost, to the County all public records in possession of the Contractor upon termination of the contract and destroying any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements upon such transfer. In addition, all records stored electronically must be provided to

the County in a format that is compatible with the information technology systems of the County. Failure to meet any of these provisions or to comply with Florida's Public Records Laws as applicable shall be a material breach of this Agreement and shall be enforced in accordance with the terms and conditions of the Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 375-5773; ISD-VSS@MIAMIDADE.GOV, 111 NW 1st STREET, SUITE 1300, MIAMI, FLORIDA 33128

ARTICLE 44. 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 45. INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION and/or PROTECTED HEALTH INFORMATION

Any person or entity that performs or assists Miami-Dade County with a function or activity involving the use or disclosure of "Individually Identifiable Health Information (IIHI) and/or Protected Health Information (PHI) shall comply with the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the Miami-Dade County Privacy Standards Administrative Order. HIPAA mandates for privacy, security and electronic transfer standards, include but are not limited to:


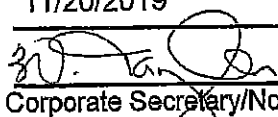
1. Use of information only for performing services required by the contract or as required by law;
2. Use of appropriate safeguards to prevent non-permitted disclosures;
3. Reporting to Miami-Dade County of any non-permitted use or disclosure;
4. Assurances that any agents and subcontractors agree to the same restrictions and conditions that apply to the Contractor and reasonable assurances that IIHI/PHI will be held confidential;
5. Making Protected Health Information (PHI) available to the customer;
6. Making PHI available to the customer for review and amendment; and incorporating any amendments requested by the customer;
7. Making PHI available to Miami-Dade County for an accounting of disclosures; and
8. Making internal practices, books and records related to PHI available to Miami-Dade County for compliance audits.

PHI shall maintain its protected status regardless of the form and method of transmission (paper records, and/or electronic transfer of data). The Contractor must give its customers written notice of its privacy information practices including specifically, a description of the types of uses and disclosures that would be made with protected health information.

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

Contractor

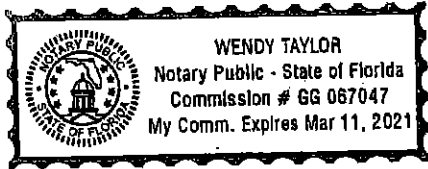
Miami-Dade County

By: 
 Name: Andrew Daniels
 Title: Vice President
 Date: 11/20/2019
 Attest: 
 Corporate Secretary/Notary Public

By: _____
 Name: Carlos A. Gimenez
 Title: Mayor
 Date: _____
 Attest: _____
 Clerk of the Board

Corporate Seal/Notary Seal

Approved as to form and legal sufficiency



Assistant County Attorney

APPENDIX A – SCOPE OF SERVICES	
Special Assessment District Assignments for Universal Protection Service, LLC dba Allied Universal Security Services, LLC	
Allison Island Keystone Point North Bay Island	

1) BACKGROUND

Miami-Dade County (the County), as represented by the Parks, Recreation and Open Spaces Department is contracting for professional Level 2 and Level 3 stationary security guard services to provide a visible safety and passive security program at various Special Assessment District (SAD) locations in the County. Sable Palm SAD requires only roving patrol security guard services.

The Contractor shall maintain a Class "B", Security Agency License, or class "BB" Security Agency Branch Office License, issued by the State of Florida, Division of Licensing. License during the term of the contract, including extensions and renewals thereof.

2) SPECIAL ASSESSMENT DISTRICT LOCATIONS

Level 2 Security Officer

Following is a list of SAD locations for the required Level 2 security guard services, including the number of guard houses, and the address of each location. All locations require twenty-four hours a day security guard service, with the exception of Sabal Palm. Sabal Palm requires a roving patrol 18 hours per day.

District #	Special Assessment District Name	Number of Guardhouses	Address
1	G-195 Belle Meade	1	654 NE 76 Street, Miami
2	G-189 Belle Meade Island	1	7651 NE 9 th Avenue, Miami
3	G-199 Biscayne Beach	1	960 Stillwater Drive, Miami Beach
4	G-203 Coventry	1	1799 NE 198 Terrace, North Miami Beach
5	G-221 Enchanted Lake	2	2210 NE 192 nd Street, North Miami Beach 19831 NE 23 rd Avenue, North Miami Beach
6	G-241 Entrada	1	3690 Matheson Avenue, Miami
7	G-232 Four Way Lodge Estates	1	3498 Poinciana Avenue, Miami
8	G-223 Gables by the Sea	2	5765 SW 128 th Street, Coral Gables 5975 SW 134 th Street, Coral Gables

9	G-194	Highland Gardens	1	21050 Highland Lakes Blvd., Miami
10	G-220	Highland Lakes	2	20445 Highland Lakes Blvd., Miami 2560 NE 209 Terrace, Miami
11	G-193	Keystone Point	3	1801 Keystone Blvd., North Miami 1801 Ixora Road, North Miami 12301 North Bayshore Drive, North Miami
12	G-237	Morningside	2	420 NW 50 th Terrace, Miami 5780 NE 5 th Avenue, Miami
13	G-205	North Bay Island	1	179 th Street Causeway, North Bay Village
14	G-191	North Dade Country Club/Andover	2	201 NW 207 th Street, Miami Gardens 200 NW 204 th Terrace, Miami Gardens
15	G-217	Oak Forest	2	19901 NE 21 st Avenue, Miami 2330 NE 201 st Street, Miami
16	G-231	Sabal Palm (Roving Patrol Only)	0	NE 169 St & NE 14 Ave, Miami

Level 3 Security Officer

Following is a list of SAD locations for the required Level 3 security guard services, including the number of guard houses, and the address of each location. All locations require twenty-four hours a day security guard service.

District #	Special Assessment District Name	Number of Guardhouse	Address	
1	G-198	Allison Island	1	6315 Allison Road, Miami Beach
2	G-152	Star Island	1	2 Star Island Drive, Miami Beach

Notes:

- a) The boundaries for each location are further defined in Exhibit A, Proposed District Boundaries.
- b) The County may at any time make changes to existing service. The changes may include, but not be limited to, scheduling changes and decreases in the hours or type of services.

3) MOVEMENT, ADDITION AND DELETION OF SAD LOCATIONS

During the term of the contract, SAD locations may be added or terminated at the discretion of the County. Notwithstanding the assignment of SAD locations, the County reserves the

right to assign additional SADs to a Contractor after award. Any assignment of additional SADs to a Contractor, after initial award, will be subject to negotiations. If the County and the recommended Contractor cannot negotiate a successful contract the County may terminate negotiations and begin negotiations with another recommended Contractor, until the SAD is assigned. Upon project award, the Contractor's contract will be supplemented, identifying additional SADs and pricing information for providing the security guard services. Future SADs requesting the security guard services will be assigned a Contractor using the method outlined above, except for cause as approved by the County.

At the County's discretion, a Contractor may be terminated for performance issues, being late in its obligations to the County, and any other reason specified by County policies and procedures. During the term of the contract, Contractor shall maintain the qualifications of the Contractor, and Contractor's personnel, at a standard consistent and equivalent to the qualification submissions submitted in Contractor's response to the Solicitation.

Movement of a Contractor between SADs, by the County, may also occur after contract award. In the event of said movement, The County will issue a Spot Market quote to vendors currently under the contract. Award of the SAD will be made to the responsive and responsible bidder. County reserves the right to establish an alternate, streamlined method of assigning SAD's.

4) REQUIREMENTS AND SERVICES TO BE PROVIDED

Contractor shall provide, in all instances as required by the County within the scope of this contract, adequate number of personnel to provide the Services at the designated SAD locations and hours, as may be amended by the County.

In addition, the Contractor shall provide all items necessary to provide the Services including adequate uniforms, equipment and vehicles, as specified herein.

A. Requirements Prior to Notice to Proceed

The County will issue a Notice to Proceed (NTP) after the Contractor has met the following requirements, but no later than 30 days after the execution of the Contract. The County reserves the right to terminate the contract if these requirements are not met within 30 days of contract execution.

Prior to a contract being executed, the County will review, inspect and determine, at its sole discretion, if the Contractor has met the following requirements. These requirements are continuing conditions throughout the term of the Contract, including extensions and renewals thereof.

The Contractor(s) shall:

1. Centralized Dispatch Station

- a) Have a stationary base station/office (dispatch location) where the Central Dispatch Center is located. The County may inspect the dispatch location at any time. The dispatch location shall provide centralized dispatching service, manned by experienced personnel, twenty-four (24) hours a day, seven days a week, unless otherwise indicated herein. The dispatcher on duty shall be available for contact by "local" telephone call and 2-way radio from the

guardhouse(s) at all times. The use of cellular phones and/or call forwarding for the main central dispatch telephone lines is unacceptable. A mobile transmitter/receiver or a handheld radio operated from the field or the office will not be considered sufficient to adequately provide dispatch service.

- b) Have a complete roster of all security guards assigned to the SAD and hours to be worked.
- c) Have a backup generator or other technology that allows for the continued operation of the Central Dispatch Center during power outages, inclement weather, man-made or natural disasters.

2. Insurance

Meet the Insurance requirements as specified in Article 12 of the Contract.

3. Performance Bond

Meet the Performance Bond requirements as specified in Article 7 of the Contract.

4. Permits, Licenses and Certificates

Provide all necessary permits, licenses and certificates for Contractor, Contractor's site supervisor(s), and Contractor's security personnel, that will be assigned to the contract.

5. Rights of Inspection

Ensure that the County may, in its sole discretion, visit and inspect the Central Dispatch Center to be utilized to provide services, prior to award and during the term of the contract, to ensure space and equipment is adequate to provide the Services.

B. GENERAL REQUIREMENTS

The Contractor shall:

- 1. Furnish management, supervision, manpower, equipment, supplies, etc. necessary to provide security services at each SAD location for which Contractor is awarded a contract.
- 2. Provide continuous twenty-four hours a day, 365 days per year, unarmed security services for the purpose of providing visible safety and passive security program at each of the SAD locations awarded.
- 3. Provide security guard service at each SAD locations' guardhouse, as specified herein. Each guardhouse shall be provided with a two-way radio (transmitter-receiver). The service will initially consist of at least one unarmed security guard operating at the guardhouse, located at the entrance to the community at the SAD locations illustrated on the attached maps (Exhibit A).
- 4. Issue to each security guard assigned to this project, an approved identification badge. The identification badge shall be worn while on duty at all times. The badge shall include a laminated employee photograph, employee number, physical description, employee title, and company name.
- 5. Issue uniforms to each security guard, which are the same for each class of employees (security guard and security supervisors). The style and color must be distinguishable

from the uniform of any police agency in the County. The cost of uniforms and other equipment, shall be the responsibility of the Contractor.

6. Post orders, at each security guardhouse. All security guards shall receive and pass post order testing conducted by the County, prior to duty assignment. All guards shall have access to the site post orders at all times while on duty.
7. Provide, to each employee performing security guard services, sufficient training in basic security guard duties. Training shall take place prior to the security guard commencing the services required herein.
8. Provide a security guard, designated as a full-time site supervisor, for each guardhouse, who shall inspect the SAD at least once per shift, seven days per week. Documentation of a sufficient number of personnel scheduled, so as to fulfill this requirement, shall be required.
9. Provide the following documents, as specified below; for each security guard assigned to guard post, prior to the security guard start of work in the SAD.
 - a) Routine urinalysis reports (by outside agency within preceding 60 days of employment)
 - b) Routine medical examination reports (dated within preceding 60 days of employment)
 - c) Training certification
 - d) Proof of minimum education requirements
 - e) Licenses
 - f) Florida Department of Law Enforcement certification of no felony record (dated within the preceding 60 days of employment)
 - g) Proof of citizenship or work permit or INS I-9 certification

10. The County may add armed security services to any SAD, upon request from the HOA.

5) **SECURITY GUARD PERSONNEL REQUIREMENTS**

The Contractor shall ensure that all personnel meet the minimum requirements, or standards regarding background, education, experience, health, citizenship and security requirements as established in this section to be eligible to perform security guard services requested herein, unless specifically and individually waived by the County's Project Manager or designee. Contractor's personnel shall keep active, and possess at all times while on duty, those professional, technical licenses or certificates as required by applicable law, including a company issued photo I.D. card. The Contractor shall provide in all instances, radio- equipped uniformed security guards, to provide security service at SAD locations.

All level of security guards shall meet the following requirements:

Have a valid Class "D" license from the Florida Department of State, pursuant to Florida Statute 493 and maintain this license at all times while providing Services to the County under the contract.

1. Be a citizen of the United States of America, or an alien who has been lawfully admitted for permanent residence as evidenced by Resident/Alien Registration Receipt Card Form I-151, or who presents other evidence from the Immigration and Naturalization Service that employment will not affect his/her immigration status. Acceptable evidence shall consist of a birth certificate or appropriate naturalization papers.

2. Be at least twenty-one (21) years of age.
3. Have and maintain a valid State of Florida Driver's license as well as responsible driving history as applicable. All Site Supervisors shall have a five (5) year driving history check completed demonstrating the candidate is free from habitual offenses, criminal charges, suspensions or behaviors which may indicate irresponsible behaviors prior to providing Services to the County. Thereafter, an annual Driver's License check shall be conducted and submitted to the County Project Manager or designee upon request. County Project Manager or designee maintains the sole discretion to determine the demonstration of responsible behavior and may waive these requirements if determined to be in the best interest of the County.
4. Have a national criminal history background verification completed demonstrating a history of responsible behavior and that the candidate is free from previous or open criminal offenses prior to providing service to the County. Contractor's personnel providing services to the County shall not have currently or in the past:
 - a) Any Felony including, Sexual or Domestic Violence conviction.
 - b) Discharged from the military under any conditions other than honorable.
 - c) Any history of irresponsible behavior including but not limited to any criminal activity, poor driving record or a problem employment record as determined by the County Project Manager or designee in his or her sole discretion.
 - d) Any criminal activity listed in 49 US Code of Federal Regulations (CFR) section 1542.209, Disqualifying Criminal Offenses or 19 CFR 122.183, Denial of Access, for assignments involving Aviation Department properties.

The Contractor shall conduct an annual national background verification of any employee or staff assigned to provide Services to the County under this Solicitation, and shall submit the verification to the County Project Manager or designee upon request. The County Project Manager or designee maintains the sole discretion to determine the demonstration of responsible behavior and may waive the requirements in C above if determined to be in the best interest of the County.

5. Be able to communicate proficiently (both oral and written) in English. Security work often deals with life/safety issues; therefore, the Contractor(s)' site supervisors shall be fully literate in the English language, (e.g., able to read, write, speak, understand, and be understood). Oral command of English must be sufficient to permit full communication, even in times of stress.
6. Shall successfully complete a medical examination, to be conducted at the Contractor(s)' expense prior to duty assignment or as required for reasonable cause, determined by the County Project Manager or designee. The results of the medical examination must demonstrate the personnel's ability to perform the required services.

The tests shall include, at a minimum:

- Psychological testing
- Vision
- Physical examination
- Speech
- Testing for drug and illegal substance use.
- Routine urinalysis
- Audio
- PPD skin testing
- Background screening
- Pulmonary function test

6) **EDUCATIONAL BACKGROUND AND EXPERIENCE**

1. **LEVEL 2 SECURITY GUARD**

Security guard are unarmed and shall have at minimum a Class D Security License and shall possess, at a minimum, a high school diploma or certified equivalency diploma (GED), and be able to document a work history or educational background which includes and meet at least one of the following qualifications:

- a) Minimum of five years of experience as a licensed security guard;
- b) Minimum of two years military experience;
- c) Civilian or Military law enforcement or Corrections accreditation;
- d) Four-year (bachelor's) degree from an accredited college or university;
- e) Two-year (associate) degree from an accredited college and one year experience as a licensed security guard.

The County may consider alternate qualifications.

2. **LEVEL 3 SECURITY GUARD**

This is the highest classification of security guard and is an unarmed position. Security guard shall have at minimum a Class D Security License, and shall possess a high school diploma or certified equivalency diploma (GED), and be able to document a work history or educational background which includes at least one of the following qualifications:

- a) Minimum of one year experience as a certified civilian or military police officer;
- b) Minimum of one year experience as a correctional officer (sworn with powers of arrest);
- c) Minimum of one year experience as a federal law enforcement officer;
- d) Minimum of three years Army or Marines combat area specialty;
- e) Minimum of one year Elite unit military experience (i.e., Special Forces or SEAL units);
- f) Four-year (bachelor's) degree from an accredited college or university in Criminal Justice.

The County may consider alternate qualifications.

Note: In the event if an armed security guard levels 2 and 3 are required, the security

guard will also be required to have and maintain a State of Florida "G" Firearms License.

3. SITE SUPERVISOR

Contractor shall provide a site supervisor. These positions, shall be the equivalent in qualifications of the highest classification of security guard being supervised. All site supervisors employed by the Contractor to provide services to the County are required to meet certain minimum qualifications or standards regarding background, experience, health, and licensure, as established in this section, unless specifically and individually waived in writing by the County Project Manager or designee.

The site supervisor will be interviewed and approved by the County Project Manager and/or designee prior to performing any duties related to a contract issued as a result of this RFP.

7) SECURITY GUARDS SPECIFIC TASKS AND RESPONSIBILITIES

The following tasks and responsibilities shall be performed by security personnel employed by the Contractor(s) to provide security guard services to the SADs.

1. SECURITY GUARD

The Security Guard shall:

- a) Report to work on time and remain on assigned duties until relieved as required.
- b) Maintain good personal and uniform appearance and be courteous to the public at all times. Uniforms shall be clean and pressed and include name tags.
- c) Maintain order and use good judgment and discretion in handling unruly or trespassing public.
- d) Maintain daily logs and write daily reports, and incident reports. Incident reports shall be on a pre-approved County form.
- e) Maintain a professional atmosphere within areas of assignment.
- f) Not read newspapers, magazines, religious materials or any other non-work related items while providing services to the County. In addition, newspapers and magazines are prohibited from being anywhere on post. Each security guard shall ensure at the start of each shift that this policy is followed (e.g., security guards need to be sure that there are no newspapers, unauthorized reading materials, televisions, radios, CD or MP-3 players or any other unauthorized items in the area of the post) because security guards will be held responsible and liquidated damages may be assessed (refer to Section 2.14).
- g) Security Guards shall sign in and sign out when reporting for duty and when leaving at the end of the work shifts. A "Record of Time of Arrival and Departure" form or similar form provided by the Contractor, shall be used for this purpose. The security guard's site supervisor shall sign and note time of arrival and departure in a contrasting color. All document time entries shall consist of the actual event time, not a scheduled time. Security guard shall notify dispatcher when using restroom facilities.

Note: The security guard personnel are not empowered to question, refuse entrance to the SAD, or unnecessarily detain anyone who wishes to enter the SAD.

2. SITE SUPERVISOR

The site supervisor shall:

- a) Be assigned to the SAD location as one of the security guards at the site.
- b) Remain in instant communication with the Contractor's Central Dispatch Center.
- c) Observe the condition and performance of the other guards, the condition of the guard house, the guard house environment and level of activity. Supervisory and responsibilities shall include on-site training and work direction, and may include the tasks and responsibilities listed for security guards.

8) TRAINING REQUIREMENTS

The Contractor shall provide mandatory, on-site orientation training to all security guards as specified in the post orders (refer to Section 2.12.3).

Site Orientation Training:

The training shall consist of, but not be limited to:

1. General and specific orders of the SAD location
2. Policy and specific procedures for responding to emergencies at the location
3. Procedures for access control and operation of the security system
4. Report writing
5. Safety and fire prevention
6. Police authority and jurisdiction
7. Identification
8. Other security matters, prior to duty assignment

Training shall be conducted by the Contractor's site supervisor, and shall take place prior to commencing the Services. Prior to completion of training, security guards shall not be in an active duty status and may not be placed on duty at any SAD location to which the security guard is being assigned. The measure of success for the training will be the effectiveness with which the security guard is able to perform post duties. The County shall be the sole assessor of the effectiveness of the training.

The County shall reimburse the Contractor for the training of security guards assigned to the SADs at the contracted hourly rate, for up to four hours of work for each guard who is approved, and after the guard has completed 160 hours of work after said training.

9) REPORTING REQUIREMENTS

The Contractor shall comply with the following reporting requirements and procedures:

1. Document any unusual events in the post logbook, within eight (8) hours of the occurrence so the County Project Manager or designee can identify the principles later, if a further investigation is needed. All bound logbooks become the property of the County upon their replacement. Hence, logbooks shall be kept in a clean and presentable manner and replaced as necessary to maintain this condition. The Contractor shall maintain all logbooks. Upon expiration of the contract or earlier as required by County Project Manager or designee, the Contractor shall deliver all such logbooks to the County, at a place to be determined by the County Project Manager.

2. A copy of all reports and all major incidents shall be furnished within 24 hours of occurrence to the County Project Manager or designee.
3. An incident report shall be completed whenever any unusual event and/or criminal events occur. Such events include, but are not limited to: discharge of firearms, major criminal act or any safety hazards. Security guards shall consult the Contractor's site supervisor when in doubt about any reports. If there are any injuries, 911 should be called immediately. The Central Dispatch Center shall be notified immediately after calling 911.
4. Pertinent facts of daily events shall be written in the post logbook, however any incident that requires a report shall be verbally reported to the Central Dispatch Center immediately after the incident occurs.

10) **WORK PRACTICES, STANDARDS AND DUTIES**

The Contractor shall furnish at all times trained security guards to perform the services described herein. Each security guard shall adhere to standards of behavior that promote a favorable image.

1. **Standards of Conduct**

The Contractor shall maintain satisfactory standards of employee competency, conduct, appearance and integrity, and shall take such disciplinary action with respect to its employees as may be necessary.

2. **Work Schedules**

The criteria for establishing work schedules and the requirements for relief periods and for starting and stopping work are contained herein.

a) **Posting Work Schedules**

The work schedules for supervisors and guards shall be prepared and posted in the work area for continuous five-week periods. Changes to schedules shall be posted in the work area with sufficient time to insure that employees affected by a change in duty hours are properly notified. Security guards are authorized to deviate from prescribed schedules only when unusual or emergency conditions exist. Such deviations and the reasons are to be recorded in the daily log.

b) **Relief**

The duties of the security guard require that the security guard not leave the post until properly relieved by duty personnel assigned to the following shift, if such shift is scheduled, or unless specifically authorized by the County. The Contractor shall provide breaks as required by federal and Florida law. Security guards, who are on a break, shall remain at their assigned post unless relieved by a properly trained relief personnel. Any violations may result in removal of the security guard, and/or may result in liquidated damages (refer to Section 2.14).

c) **Starting and Stopping Work**

All security guards shall be in uniform and ready to begin work promptly at the start of their shift and shall remain on the job, and in full uniform, until the end of their full tour of duty or until relieved.

d) Limitations on Hours and Assignments

No security guard shall provide more than twelve hours of service, including all break periods, within a twenty four hour period, unless the work periods are separated by an eight hour non-duty period. This limitation may be waived by the County in emergency situations that are beyond the control of the Contractor (e.g., weather conditions, civil disturbances, natural disasters, etc. preventing the next shift from getting to the post). Each occurrence will require an individual waiver provided by the County Project Manager or designee.

3. SAD Post Orders

SAD post orders shall be prepared and published by the County and posted at each security guard location by the Contractor. Security guards shall receive and must pass post order testing conducted by the County prior to duty assignment. Security guards shall have access to the site post orders at all times while on duty. No deviations from the post orders shall be made, except for emergencies. All post orders (initial or revised) must be approved by the County. Changes to the post orders approved by the County shall not require modification to the contract. Post Orders may include, but are not limited to, the following:

- a) SAD location information (e.g., operating hours, chain of command);
- b) SAD location rules and regulations;
- c) Operation of equipment;
- d) Vehicular traffic control;
- e) Access control procedures;
- f) Emergency response procedures;
- g) Security and fire control/alarm systems;
- h) Hazardous conditions, inspection/reporting;
- i) Response to emergencies, (e.g., fires, injury, or illness, etc.);
- j) Safeguarding persons and property; and
- k) Minimum number of hours for site orientation training.

4. Overtime

Overtime payment will be at a maximum rate of one and half times the regular hourly wages. Overtime hours shall be paid to the employee, by the Contractor, for all hours in the excess of 40 hours per week. As a matter of confirmation, overtime work only occurs after 40 hours of work, in a given week, by a given individual. Further, overtime work shall not be allowed during an employee's normal eight-hour workday.

The County will compensate the Contractor for overtime pay **only** when caused by special request of the County or by Force Majeure (an act that cannot be reasonably anticipated or controlled). Each occurrence will require an individual waiver provided by the County Project Manager or designee, prior to the commencement of the overtime work. Additionally, there are eight holidays, on which, if service is provided, the overtime rate applies. The eight holidays are New Year's Eve, New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Eve and Christmas Day.

5. Reports, Records and Desk Book

An "Officer's Desk Book" shall be maintained at the guardhouse and shall contain complete duty instructions for manning the post plus emergency procedure instructions. The Contractor's employees shall prepare required orders, instructions and reports, including reports of accidents, fires, unusual incidents and unlawful acts, and provide these reports to the County.

6. Emergency Assistance

In the event of an emergency or unusual occurrence, the security guard shall summon appropriate assistance, as may be required, such as the local fire and/or police departments, and after summoning the appropriate assistance, immediately notify dispatcher at the Central Dispatch Center.

7. Lost and Found

The security guard personnel shall receive and safely store lost and found articles pending return to owner or for other appropriate disposal, as determined by the County. Contractor shall notify the County at the County's next inspection visit of articles still unaccounted for.

8. Hazardous Conditions

The security guard personnel shall report daily, in accordance with procedures in the Officer's Desk Book, potentially hazardous conditions and items in need of repair.

9. Removal from Duty

If the County Project Manager or designee receives disqualifying information on a security guard, from results of the suitability check or due to unfitness for duty (as discussed below), the County Project Manager may request that the Contractor immediately remove said security guard from duty. The Contractor must comply with all such requests. Suitability checks can be performed at the discretion of the County, but no less than once every quarter.

a) Suitability

A security guard may be disqualified for duty if any of the following are developed as facts pursuant to a suitability check: a) conviction of a felony, a violent crime or a serious misdemeanor, b) possession of a record of arrest for continuing offenses, or c) falsification of information submitted for suitability check.

b) Unfitness for Duty

The County may also request the Contractor immediately remove any security guard from the guard post if that individual(s) assigned to duty has been disqualified for either suitability or security reasons, or is found to be unfit to perform security guard duties. For clarification, a determination of unfitness may be made from, but not be limited to, incidents involving the most immediate identifiable types of misconduct or delinquency as set forth below:

- Neglect of duty, including sleeping while on duty, unreasonable delays or failure to carry out assigned tasks, conducting personal affairs during official time, or refusing to render assistance or cooperate in upholding the integrity of the security program at the SAD.
- Falsification or unlawful concealment, removal, mutilation or destruction of any official documents or records, or concealment of material facts by willful omissions from official documents or records.
- Disorderly conduct, use of abusive or offensive language intimidation by words or actions, or fighting. Also, participation in disruptive activities which interfere with the normal and efficient guardhouse operation.
- Theft, vandalism, or any other criminal actions.
- Selling, consuming or being under the influence of intoxicants, drugs or substances which produce similar effects.
- Unethical or improper use of official authority or credentials.

- Unauthorized use of communications equipment or County property.
- Violation of security procedures or regulations.
- Recurring tardiness.
- Failure to have proper identification or registration on persons.
- Use of County telephones for purposes other than to report to supervisors or to report emergencies.

10. **Replacement Employees**

The Contractor shall provide the training outlined in Section 2.10 to each replacement security guard prior to the security guard start of work at any SAD location. All security guards shall be approved by the County Project Manager or designee prior to assignment to an SAD.

11. **Waivers**

When an unusual, short-term unavailability of regularly assigned security guards exists, the County, in writing and prior to the security guard's commencement of duty, may waive training requirements. The Contractor shall limit the use of any untrained or unqualified guard to a period not-to-exceed a cumulative total of 40 hours.

12. **Weapons**

No guns, night sticks, stun guns, handcuffs or other weapons are permitted at the guard post.

11) **COUNTY AND CONTRACTOR SUPPLIED ITEMS**

1. **COUNTY SUPPLIED EQUIPMENT, MATERIALS AND SUPPLIES**

The County shall furnish, at no cost to the Contractor, the following materials and equipment, to be used only in connection with the services being provided to the County:

- a) **Guardhouse** with a light, and related keys, including written operation procedures and instructions. Restroom and drinking water facilities are located at the guardhouse site.
- b) **Telephone** to be used for official business only under terms of any contract issued as a result of this Solicitation. Personal use of the telephone by security guards is strictly forbidden, except in case of emergency, and such use may be subject to imposition of applicable penalties or fines by the County.
- c) **Forms**: A sample of required forms and other documentation used in reporting procedures at specific locations will be provided or approved by the County, on a site specific basis.
- d) **Officer's Desk Books**, which will contain complete duty instructions for manning the post (District Post Orders), plus any special emergency procedure instructions.

Note: County-issued property shall be used only for official County business in the performance of the Services. All property furnished by the County, under this contract shall remain the property of the County. Upon termination of said contract, the Contractor shall render an accounting of all such property. All equipment issued by the County to the Contractor will be issued on Receipt of Property or other similar issue documents. Any property furnished by the County to fulfill contracted requirements, which is lost or

damaged resulting from improper use or negligence by the Contractor's employees, shall be subject to invoice deduction adjustments.

2. CONTRACTOR SUPPLIED ITEMS

The Contractor shall furnish, install, operate, and maintain in acceptable condition the following:

- a) **Communication Equipment:** A two-way radio (transmitter-receiver), licensed for use by the FCC, is required for each guardhouse. This criteria and all other facets of the Contractor's radio communications system will be evaluated by County radio technicians or other person(s) designated by the County Project Manager or designee prior to the issuance of NTP. Should the system be judged inadequate to provide service within the contractual standards specified herein, and the Contractor is unable or unwilling to make changes deemed necessary by the County, the NTP will not be issued. The County may, at its sole discretion terminate the contract for default.
- b) **Special Equipment:** At least one working flashlight (two "D" cell size or larger) shall be available at the guardhouse.
- c) **Uniforms:** Each security guard shall wear a complete, clean, well-fitting uniform as is initially approved by the County. Uniform shall include a shirt and cap. Uniforms, and the wearing of them, shall generally conform to standards and usage prescribed and in effect for security guards. All security guard personnel performing the services requested herein shall wear the same color and style of uniform. The Contractor shall supply a cold-weather jacket for each security guard required to perform duties while exposed to cold or wet weather conditions. All foul weather clothing shall be identical in style and color for each guard.

An appropriately lettered breast badge and cap ornament indicating the company by which the guard is employed shall be worn and prominently displayed as part of the uniform. Shoulder patches lettered to indicate the identity of the Contractor shall be worn on the left shoulder of the uniform. Items shall not be removed or substituted without permission of the County, nor shall any non-regulation items such as sweaters, scarves, etc., be added.

During warm weather months, the County may, at its discretion, permit the security guard to work without a cap. Failure however, to obey uniform regulations will result in liquidated damages (see Section 2.14 below) to the Contractor by the County, and possible removal of the employee from duty at SAD locations.

12) LIQUIDATED DAMAGES

Contractor shall be liable for damages, indirect or direct, resulting from its failure to meet all contractual requirements or standards. Contractor acknowledge and agree that damages likely to be incurred to the County as a result of the below listed incidents is incapable, or is difficult, to precisely estimate. In light of this difficulty, for each occurrence of an incident listed below, the Contractor shall be liable to the County in the amounts listed therein as liquidated damages, and not as penalties. Any of these violations may also result in the Contractor personnel being removed from the post and/or contract issued as a result of this Solicitation at the request of the County Project Manager or designee. Upon the occurrence of an incident, the County Project Manager shall promptly provide to the Contractor, a written notice of a violation and intent to impose liquidated damages in

the form of an Infraction Report. Infraction Reports shall be issued to the Contractor promptly by the County Project Manager or designee, in order to afford the Contractor time to notify the County of extenuating circumstances.

Note: The County will apply deductions for liquidated damages against the Contractor's invoice separately for each documented violation.

A. Major Incidents

If any of the following major incidents occur, the Contractor shall be liable to the County for liquidated damages in the amount of \$100.00 per incident:

- Failure to provide security guard coverage.
- Security guard sleeping on duty.
- Security guard working under the influence of drugs or alcohol.
- Security guard participating in any collusion of criminal activity such as theft, vandalism, sale of drugs or alcohol.
- Falsifying logbook entries or status reports.
- Failure to provide a written report documenting an incident or accident.
- Failure to properly train any security guard employee.
- Disorderly conduct, use of abusive or offensive language, intimidation by words or action, or fighting.
- A security guard working over 13 consecutive hours at a guard post.

B. Minor Incidents

If any of the following minor incidents occur, the Contractor shall be liable to the County for liquidated damages in the amount of \$50.00 per incident:

- Improper uniform or unsatisfactory appearance.
- Failure to make prescribed communication checks.
- Failure to provide specified inspections.
- Failure to post company-supplied nameplate.
- Failure to properly equip security officer.
- Security guard conducting personal affairs while on duty.

13) VIOLATIONS

The County Project Manager or designee may write violation reports. Any violations committed by the Contractor's personnel, will result in the suspension or removal from duty of said personnel at the discretion of the County Project Manager or designee. Violations that may result in termination from the contract include, but are not limited to:

1. **Personnel violations:** These violations may include, but not limited to: tardiness, sleeping on duty, failure to follow post orders, abandoning post, failed to report for duty, inappropriate behavior, improper or badly soiled uniform, failure to make report, improper State licensure (e.g., not on person, expired), improper records, reports or logbook, unauthorized visitors on post, not signing in or out in logbook, personal phone use, or health deficiencies.
2. **Administrative violations:** These violations may include, but not limited to: improperly or insufficiently equipped, no radio or inoperative radio, inadequate writing skills, inadequate training, lack of contract supervision, excessive hours on duty (not approved in advance by County), violations of local, State, or Federal laws, Regulations, or Ordinances, criminal

records check not complete or hired security guards with criminal records, difficulty in speaking or understanding English, and/or being understood by others, failure to have current post orders on site, invoicing discrepancies or inaccuracies, or contract violations.

3. Special violations: These violations may include, but not limited to: reassignment of any personnel previously suspended or removed from duty by the County, failure to notify the County of an arrest of personnel, improper internal employee fines or wage practices, false statements or falsification of any documents required by the County.
4. Repeated Violations: Repeated violations of any type or a particularly serious violation at the same SAD location may result in the removal of the Contractor from the SAD by the County. The SAD may be assigned to another Contractor. Similarly, new or existing SADs may be assigned to a different Contractor, in the best interest of the County, if there has been a demonstrated pattern of incompetence by the existing Contractor.

Note: A continuing pattern of frequent and/or egregious violations at multiple SAD locations, or repeated actions by the County Project Manager or designee to remove the Contractor from SAD locations, and may result in the termination of the Contract.

14) PROGRESS MEETINGS

Contractor shall attend mandatory meetings, at the discretion of the County Project Manager or designee, for the purpose of discussing issues relevant to the performance and/or administration of the Services. The County Project Manager or designee may call meetings at any time during the contractual period by giving the Contractor(s) reasonable notice. The Contractor(s)' Supervisor or other appropriate person(s), as requested by the County, shall be present at all meetings scheduled by the County Project Manager or designee unless specifically waived by the County Project Manager or designee.

15) ANCILLARY EQUIPMENT

Ancillary equipment i.e.; security cameras, security monitoring equipment, security gates, etc. shall not be installed by the Contractor under this contract.

**Appendix B
Price Schedule**

The hourly rate herein are for all assigned SAD locations awarded to the Contractor.

Table 1

Positions	# of Hours per Year	Hourly Billing Rates	Total Annual Amount	Total Initial Term Amount (4 Years)	Total OTR Amount (4 Years)
Level 2 Security Guard Unarmed	35,040	\$23.84	\$835,353.60	\$3,341,414.40	\$3,341,414.40
Level 3 Security Guard Unarmed	8,760	\$25.59	\$224,168.40	\$896,673.60	\$896,673.60
Security Guard Site Supervisor	8,760	\$26.34	\$230,738.40	\$922,953.60	\$922,953.60
Licensed Motor Vehicle for Roving Patrol	6,000	\$3.19	\$19,140.00	\$76,560.00	\$76,560.00
Total			\$1,309,400.40	\$5,237,601.60	\$5,237,601.60
Cumulative Total (If OTR Approved)				\$10,475,203.20	

Table 2

Positions	Hourly Billing Rates
Level 2 Security Guard Armed	\$29.85
Level 3 Security Guard Armed	\$32.51

Notes:

- Price above in Table 1 is firm and fixed, and include all expenses to be paid. Price is inclusive; as there will be no "add-on" charges for services. All out-of-pocket expenses i.e. security guard's uniform, uniform equipment, including employee travel, per diem, and miscellaneous costs and fees, are included in the price, as they will not be reimbursed separately by the County.
- Number of Hours annually indicated above are calculated using number of hours per guardhouse multiplied by 365 days, subject to change at any time by the County.
- Hourly rates above shall be those paid at the start of the contract. Rates for the option to renew period and Living Wage increases will be negotiated.
- No overtime or holiday rate shall be payable by the County. If due to an emergency or Contractor scheduling, a guard must be paid overtime, this will be the responsibility of the Contractor.
- The County will compensate for overtime pay only when caused by special request of the County or by Force Majeure.
- The County does not anticipate using the armed security guard positions in Table 2, but reserves the right to use such officers for the rates provided in the Contractor's proposal.
- The Living Wage adjustment under this contract shall not be considered until October 2020.

Universal Protection Service, LLC dba Allied Universal Security Services LLC

Sec. 2-8.9. - Living Wage Ordinance for County service contracts and County employees.

Definitions.

- (A) *Applicable department* means the County department using the service contract.
- (B) *County* means the government of Miami-Dade County or the Public Health Trust.
- (C) *Covered employee* means anyone employed by any Service Contractor, as further defined in this Chapter either full or part time, as an employee with or without benefits that is involved in providing service pursuant to the Service Contractor's contract with the County.
- (D) *Covered employer* means any and all service contractors and subcontractors of service contractors.
- (E) *Service contractor* is any individual, business entity, corporation (whether for profit or not for profit), partnership, limited liability company, joint venture, or similar business that is conducting business in Miami-Dade County or any immediately adjoining county and meets the following criteria:
- (1) The service contractor is paid in whole or part from one (1) or more of the County's general fund, capital project funds, special revenue funds, or any other funds either directly or indirectly, whether by competitive bid process, informal bids, requests for proposals, some form of solicitation, negotiation, or agreement, or any other decision to enter into a contract;
 - (2) The service contractor is engaged in the business of, or part of, a contract to provide, a subcontractor to provide, or similarly situated to provide, covered services, either directly or indirectly for the benefit of the County; or
 - (3) The service contractor is a General Aeronautical Service Permittee (GASP) or otherwise provides any of the Covered Services as defined herein at any Miami-Dade County Aviation Department facility including Miami International Airport pursuant to a permit, lease agreement or otherwise.
- (F) *Covered services* are any one (1) of the following:
- (1) *County service contracts.* Contracts awarded by the County that involve a total contract value of over one hundred thousand dollars (\$100,000.00) per year for the following services:
 - (i) Food preparation and/or distribution;
 - (ii) Security services;
 - (iii) Routine maintenance services such as custodial, cleaning, refuse removal, repair, refinishing, and recycling;
 - (iv) Clerical or other non-supervisory office work, whether temporary or permanent;
 - (v) Transportation and parking services including airport and seaport services;
 - (vi) Printing and reproduction services; and,
 - (vii) Landscaping, lawn, and/or agricultural services.
 - (2) *Service Contractors at Aviation Department Facilities.* Any service that is provided by a Service Contractor at a Miami-Dade County Aviation Department Facility is a covered service without reference to any contract value:
 - (A) *Ramp Service:* Guiding aircraft in and out of Airport; aircraft loading and unloading positions, designated by the Aviation Department; placing in position and operating passenger, baggage and cargo loading and unloading devices, as required for the safe and efficient loading and unloading of passengers, baggage and cargo to and from aircraft; performing such loading and unloading; providing aircraft utility services, such as air start and cabin air; fueling; catering; towing aircraft; cleaning of aircraft; delivering cargo, baggage and mail to and from aircraft to and from locations at any Miami-Dade County Aviation Department facility; and providing such other ramp services approved in writing by the Aviation Department;

- (B) Porter Assistance Services; Handling and transportation through the use of porters, or other means, of baggage and other articles of the passengers of contracting air carriers or aircraft operators, upon request of the passenger, in public access areas of the Airport Terminal Complex. The Living Wage shall not apply to employees performing related porter assistance services, including curbside check-in;
 - (C) Passenger Services: Preparing such clearance documents for the baggage and cargo of aircraft passengers, as may be required by all governmental agencies; furnishing linguists for the assistance of foreign-speaking passengers; passenger information assistance; arranging in-flight meals for departing aircraft with persons or companies authorized by the Department to provide such meals; and providing assistance to handicapped passengers;
 - (D) Dispatching and Communications Services: Providing ground to aircraft radio communication service; issuing flight clearances; sending and receiving standard arrival, departure and flight plan messages with appropriate distribution of received messages; providing standby radio flight watch for aircraft in flight; and calculation of fuel loads and take-off and landing weights for aircraft;
 - (E) Meteorological Navigation Services: Providing information based on the analysis and interpretation of weather charts; planning aircraft flights in accordance with the latest accepted techniques; providing appropriate prognostic weather charts; and generally providing information appropriate for enroute aerial navigation;
 - (F) Ticket Counter and Operations Space Service: The operation of ticket counter and airlines' operations space; ticket checking, sales and processing; weighing of baggage; operation of an information, general traffic operations and communications office for air carriers and aircraft operators with whom the Service Contractor has contracted to supply such services;
 - (G) Janitorial Services;
 - (H) Delayed Baggage Services;
 - (I) Security Services unless provided by federal government or pursuant to a federal government contract; and,
 - (J) Any other type of service that a GASP permittee is authorized to perform at any Miami-Dade County Aviation Department Facility will be considered a Covered Service, regardless of whether the service is performed by a GASP permittee or other Service Contractor.
 - (K) In-warehouse cargo handling.
- (3) *Concessionaires at Miami International Airport.* All services of all employees employed at Miami International Airport by a concessionaire, and all services of all subcontractors of such concessionaire providing services at Miami International Airport. For the purposes of this section, a concessionaire shall mean an entity that is authorized by contract, permit, lease, or other legal instrument supported by mutual consideration to offer goods, food, beverages, or services for sale to ticketed passengers inside Miami International Airport concourses or terminals. Notwithstanding the preceding, this subsection does not apply to employees of any airline or any entity that is exempt from the requirements of this subsection pursuant to state or federal law. A concessionaire who is otherwise exempt under this subsection may still be required to provide a living wage to its employees if it engages in activities covered in Sections 2-8.9(F)(1) and 2-8.9(F)(2).
- (4) *Services performed by County employees.* Should any services that are being performed by County employees at the time the ordinance from which this section derives was enacted be solicited in the future by the County to be performed by a service contractor, such services shall be covered services subject to this section regardless of the value of the contract.

Living Wage.(A) *Living wage paid.*

- (1) *Service contractors.* All service contractors as defined by this Chapter, performing covered services shall pay to all of its employees providing covered services, the current Living Wage rate of \$12.63 per hour with a qualifying Health Benefit Plan valued at no less than \$2.89 per hour per employee and \$15.52 per hour if no qualifying Health Benefit Plan is provided by the Service Contractor, applicable to the time when the covered service is performed as that rate is adjusted each fiscal year in the manner provided for herein for the adjustment of the Living Wage rate. An employee of a Concessionaire who receives some portion of their wages in the form of tips or gratuities may be paid a wage less than the Living Wage specified herein, so long as the combination of direct wages paid to such employee plus tips or gratuities equals or exceeds, the Living Wage provided for herein. For purposes of evaluating the wage paid to tipped employees, the terms employer, employee, direct wage, tips and gratuity shall have the same meaning as in the Federal Fair Labor Standards Act and its Implementing regulations.
- (2) *County employees.* For County employees under the County pay plan, the County will begin to pay a living wage consistent with the goals of this section on a phase-in basis beginning in the 2000-2001 County budget year increasing on an annual basis incrementally so that the living wage is fully implemented for County employees in the 2002-2003 County budget year as adjusted for inflation pursuant to Subsection (C) below. Thereafter, the Living Wage to be paid by the County to its employees shall not be subject to the annual indexing required under Subsection (C) below and instead is subject to negotiation within the collective bargaining structure.

(B) *Health Benefit Plan.*

- (1) For a covered employer or the County to comply with the Living Wage provision by choosing to pay the lower wage scale when a covered employer also provides a Health Benefit Plan, such Health Benefit Plan shall consist of payment of \$2.89 per hour per employee commencing in health benefit plan year 2017 and for subsequent years the amount shall be adjusted by the percentage change in the consumer price index for medical care for the Miami-Ft. Lauderdale area published by the United States Department of Labor. The minimum amount of payment by a Service Contractor for the provision of a Health Benefit Plan on a per-hour basis will be calculated based on a maximum of a 40-hour work week. Overtime hours will not require additional payments towards the provision of a Health Benefit Plan. If the Service Contractor pays less than the required amount for providing a Health Benefit Plan provided in this section, then the Service Contractor may comply with the Living Wage requirements by paying the covered employee the difference between the premium it pays for the Health Benefit Plan of the Covered Employee and the minimum amount required by this section for a qualifying Health Benefit Plan. The Service Contractor may require that all employees enroll in a Health Benefit Plan offered by the Service Contractor, provided that the employee is not required to pay a premium contribution for employee-only coverage. Proof of the provision of a Health Benefit Plan must be submitted to the County to qualify to pay the applicable wage rate for employees with a qualifying Health Benefit Plan. Health Benefit Plan for purposes of complying with this section shall qualify if it includes the benefits contained in a standard health benefit plan meeting the requirements set forth in § 627.6699(12)(a), Florida Statutes.
- (2) To the extent a Covered Employer seeks to pay the lower Living Wage rate for employers providing a qualifying Health Benefit Plan during the initial eligibility period applicable to new employees, the Living Wage requirement may be complied with as follows during the eligibility period:
 - (a) Provided the Covered Employer will be providing a qualifying Health Benefit Plan to a new employee upon the completion of such employee's eligibility period required under the Covered Employer's Health Benefit Plan and the Covered Employer has taken the necessary steps to effectuate coverage

for such employee, a Covered Employer may only qualify to pay the Living Wage rate applicable to employees with a Health Benefit Plan for a term not to exceed the first ninety (90) days of the new initial employee's eligibility period, said term commencing on the employee's date of hire.

- (b) If the Covered Employee is not provided with a qualifying Health Benefit Plan within ninety (90) days of initial hire, then the Covered Employer commencing on the ninety-first (91st) day of the new employee's initial eligibility period, must commence to pay the applicable Living Wage rate for Covered Employees without a Health Benefit Plan and must retroactively pay the Covered Employee the difference between the two Living Wage rates for the term of the eligibility period.
- (C) *Indexing.* The living wage will be annually indexed to inflation as defined by the Consumer Price Index calculated by the U.S. Department of Commerce as applied to the County of Miami-Dade. The first indexing adjustment shall occur for the 2001-2002 County budget year using the Consumer Price Index figures provided for the calendar year ended December 31, 2000, and thereafter on an annual basis. Commencing October 1, 2017, the \$2.89 cost for a qualifying health benefit plan shall be adjusted based on the consumer price index for medical care for the Miami-Ft. Lauderdale area and that indexed cost shall be added to the existing Living Wage rate when a qualifying Health Benefit Plan is provided to determine the newly adjusted Living Wage rate without qualifying health benefits.
- (D) *Certification required before payment.* Any and all contracts for covered services shall be void, and no funds may be released, unless prior to entering any agreement with the County for a service contract, the Covered Employer certifies to the applicable department that it will pay each of its employees no less than the Living Wage described in (A). A copy of this certificate must be made available to the public upon request. The certificate, at a minimum, must include the following:
- (1) The name, address, and phone number of the employer, a local contact person, and the specific project for which the service contract is sought;
 - (2) The amount of the contract and the applicable department the contract will serve;
 - (3) A brief description of the project or service provided;
 - (4) A statement of the wage levels for all employees; and
 - (5) A commitment to pay all employees a Living Wage, as defined by paragraph (A).
- (E) *Observance of other laws.* Every employee shall be paid not less than bi-weekly, and without subsequent deduction or rebate on any account (except as such payroll deductions as are directed or permitted by law or by a collective bargaining agreement). The employer shall pay employees wage rates in accordance with federal and all other applicable laws such as overtime and similar wage laws.
- (F) *Posting.* A copy of the Living Wage rate notice issued by the County shall be kept posted by the employer at the site of the work in a prominent place where it can easily be seen by the employees and shall be supplied to the employee within a reasonable time after a request to do so. In addition, Service Contractors shall forward a copy of the requirements of this Ordinance to any person submitting a bid or issued a permit or lease agreement for a subcontract on any service contract covered by this Chapter. Covered employers are also required to print the following statements on the front of the individual's first paycheck and every six months thereafter: "You are required by Miami-Dade County law to be paid at least [insert applicable rate under this Chapter] dollars an hour. If you are not paid this hourly rate, contact your supervisor or a lawyer." All notices will be printed in English, Spanish, and Creole.
- (G) *Collective bargaining.* Nothing in this Chapter shall be read to require or authorize any employer to reduce wages set by a collective bargaining agreement or as required under any prevailing wage law.

Implementation.

- (A) *Procurement Specifications and Contracts.* The Living Wage shall be required in the procurement

specifications and contract language for all County service contracts for covered services. The procurement specifications and contract language for applicable contracts shall include a requirement that Service Contractors agree to produce all documents and records relating to payroll and compliance with this Ordinance upon request from the Applicable Department or as otherwise provided by the County Manager by Administrative Order.

- (B) *Information Distributed.* All requests for bids or requests for proposals for service contracts, whether advertised or informally solicited, and permits, leases and any other agreement issued by the Miami-Dade Aviation Department for covered services shall include appropriate information about the requirements of this Ordinance.
- (C) *Maintenance of Payroll Records.* Each covered employer shall maintain payrolls for all covered employees and basic records relating thereto and shall preserve them for a period of three (3) years from the expiration, suspension or termination date of the contract in which the requirements of this Chapter were applicable. The records shall contain at a minimum:
- (1) The name and address of each covered employee;
 - (2) The job title and classification;
 - (3) The number of hours worked each day;
 - (4) The gross wages earned and deductions made;
 - (5) Annual wages paid;
 - (6) A copy of the social security returns and evidence of payment thereof;
 - (7) A record of fringe benefit payments including contributions to approved plans; and
 - (8) Any other data or information the County should require from time to time.
- (D) *Reporting Payroll.* The covered employer shall by the 10th of each month, submit to the County (or if by request within the requested time frame) certified payroll showing the employer's payroll records for each Covered Employee working on the contract(s) for covered services for the previous month via the County's web-based system. Upon request by the County, the covered employer shall produce for inspection and copying its payroll records for any or all of its covered employees for the prior three-year period.
- (E) *Reporting Employment Activity.* Upon request by the County but in any event no less frequently than every six (6) months, the covered employer must submit to the County an Employment Activity Report Form containing the following information:
- (1) Race and gender of employees hired and terminated; and
 - (2) Zip code of employees hired and terminated; and
 - (3) Wage rate of employees hired and terminated.

Commission on a Living Wage, Establishment and Responsibility.

- (A) *Establishment.* The County Commission shall establish a fifteen-person commission entitled the "Living Wage Commission" the purpose of which shall be to review the effectiveness of this Chapter, review certifications submitted by covered employers to the County to include reviewing complaints filed by employees and to make recommendations to the Applicable Department, County Mayor and the County Commission regarding same.
- (B) *Members.* The Commission shall be composed of fifteen (15) members provided that no more than six (6) members are representatives of the business community or affected employer groups selected for a term of two (2) years in the following manner:
- (1) Two (2) members of the commission shall be selected by the County Mayor; and
 - (2) One (1) member shall be selected by each of the County Commissioners.

- (C) *Meetings.* The Living Wage Commission shall meet quarterly and in special session as required. All meetings of the Commission shall be open to the public and will allow for public testimony on policies or conduct relating to this.
- (D) *Staff support.* The County Manager as more fully delineated by Administrative Order shall provide staff support for the compliance and enforcement of this section and as is necessary to support the activities of the Living Wage Commission.

Compliance and Enforcement.

- (A) *Service contractor to cooperate.* The service contractor shall permit County employees, agents, or representatives to observe work being performed at, in, or on the project or matter for which the service contractor has a contract. The County representatives may examine the books and records of the service contractor relating to employment and payroll to determine if the service contractor is in compliance with the provisions of this Chapter.
- (B) *Complaint procedures and sanctions.* An employee who believes that this Chapter applies or applied to him or her and the service contractor is or was not complying with the requirements of this Chapter has a right to complain by filing a written complaint. The County Mayor shall establish by Administrative Order the procedures and requirements for filing a complaint and for the processing and resolution of complaints under this section including the sanctions to be imposed for violations of this section. The County Mayor shall also by Administrative Order establish a procedure applicable to complaints by County employees regarding noncompliance with this section.
- (C) *Private right of action against service contractors.* Any covered employee of a service contractor, or any person who was formerly a covered employee of a service contractor, may instead of adhering to the County administrative procedure set forth in this section but not in addition to such procedure, bring an action by filing suit against the covered employer in any court of competent jurisdiction to enforce the provisions of this Chapter and may be awarded back pay, benefits, attorney's fees, and costs. The applicable statute of limitations for such a claim will be two (2) years as provided in Florida Statutes Section 95.11(4)(c) in an action for payment of wages. The court may also impose sanctions on the employer, including those persons or entities aiding or abetting the employer, to include wage restitution to the affected employee and damages payable to the covered employee in the sum of up to five hundred dollars (\$500.00) for each week each employer is found to have violated this Chapter.
- (D) *Sanctions against service contractors.* For violations of this Ordinance as determined pursuant to the procedures set forth by Administrative Order, the County may sanction a service contractor for violations of this section by requiring the service contractor to pay wage restitution to the affected employee. The County may also sanction the service contractor for violations in at least one (1) of the following additional ways:
- (1) Penalties payable to the County in an amount equal to 20% of the amount of the underpayment of wages and/or benefits for the first instance of underpayment; 40% for the second instance; and for the third and successive instances 60% of the amount of underpayment. A fourth violation shall constitute a default of the contract where the underpayment occurred and may be cause for suspension or termination in accordance with the contract's terms and debarment in accordance with the debarment procedures of the County. Monies received from payment of penalties imposed hereunder shall be deposited in a separate account and shall be utilized to defray costs of administering the Living Wage provisions.
 - (2) The sum of up to five hundred dollars (\$500.00) for each week for each covered employee found to have not been paid in accordance with this Chapter.
 - (3) Suspend payment or terminate payment under the contract or terminate the contract with the service contractor.

- (4) If a service contractor fails to cure a Notice of Violation or pay any sanctions that are assessed by the County contractor and all officers, principals, directors, shareholders owning or controlling ten (10) percent or more partners, qualifiers, divisions or other organizational elements of the non-complying service contractor may County to be ineligible for bidding on or otherwise participating in Living Wage contracts and permits until a have been paid in full and regardless of whether such payment has been made may also be declared ineligible otherwise participating in Living Wage contracts for a period of up to three (3) years. In addition all covered ineligible for Living Wage contracts and permits under this section where any officers, principals, directors, or controlling ten (10) percent or more of the stock, partners, qualifiers, divisions or other organizational element employer were officers, principals, directors, shareholders owning or controlling ten (10) percent or more or qualifiers, divisions or other organizational elements of a covered employer who has been declared ineligible
- (5) In addition to any other sanctions provided for herein, for violations other than underpayment of wages and/or benefits, damages payable to the County in the amount of five hundred dollars (\$500.00) per week for each week in which the violation remains outstanding.
- (6) A service contractor who fails to timely and adequately respond in the manner and within the timeframe set forth in a written request from the County to a notice of noncompliance, or fails to attend a Compliance Meeting, or who does not timely request an administrative hearing from an adverse compliance determination made by the County after a Compliance Meeting shall be deemed not to have complied with the requirements of this section as stated in the notice or determination of noncompliance and, in the case of underpayment of the Living Wage required, an amount sufficient to pay any underpayment shall be withheld from contract proceeds to include any deposits, and/or bonds and remitted to the employee and the Service Contractor may be fined the applicable penalty for such underpayment as defined herein.
- (7) All such sanctions recommended or imposed shall be a matter of public record.
- (E) *Interest on Unpaid Sanctions.* All sanctions imposed pursuant to the authority of this Chapter shall bear interest at the same rate as the State of Florida statutory rate for judgments provided by Florida Statutes § 55.03.
- (F) *Retaliation and discrimination barred.* An employer shall not discharge, reduce the compensation or otherwise discriminate against any employee for making a complaint to the Living Wage Commission, the applicable department, the County, or otherwise asserting his or her rights under this Chapter, participating in any of its proceedings or using any civil remedies to enforce his or her rights under the Chapter. Allegations of retaliation or discrimination, if found by the County Mayor pursuant to procedures set forth by Administrative Order or by a court of competent jurisdiction under paragraph (C), shall result in an order of restitution and reinstatement of a discharged employee with back pay to the date of the violation or such other relief as deemed appropriate. In addition, the County Mayor or the Court may impose an additional sanction of up to five hundred dollars (\$500.00) for each week since the covered employee was discharged as a result of prohibited retaliation under this Chapter.
- (G) *Remedies herein non-exclusive.* No remedy set forth in this Chapter is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce the right under this Chapter in a court of law.

(Ord. No. 99-44, § 5-11-99; Ord. No. 00-85, § 1, 7-6-00; Ord. No. 02-147, § 1, 9-12-02; Ord. No. 06-67, § 1, 5-9-06; Ord. No. 06-151, § 1, 10-10-06; Ord. No. 09-15, § 1, 3-3-09; Ord. No. 16-37, § 1, 4-5-16; Ord. No. 16-87, § 1, 9-7-16; Ord. No. 18-33, § 8, 4-10-18; Ord. No. 18-78, § 2, 7-24-18)



MIAMI-DADE COUNTY, FLORIDA
PERFORMANCE AND PAYMENT BOND

Any change, alteration or addition to this form will disqualify this Performance and Payment Bond

STATE OF FLORIDA)
COUNTY OF DADE)

KNOW ALL MEN BY THESE MEANS THAT

As Principal, and

A corporation organized under the laws of the State of ... as Surety, (said Principal and said Surety hereinafter collectively being referred to as Obligor), are held and finally bound unto Dade County, Florida, acting by and through the BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, and their successors in office, hereinafter called the Obligee, in the sum of \$... lawful money of the United States of America, for the payment whereof to the Obligee, the Principal and Surety respectively bind themselves, their successors, heirs, and assigns, jointly and severally, finally by these present.

Signed, sealed and dated this ... day of ..., 20...

WHEREAS the Principal and Obligee have entered into a written contract, hereinafter called the "Contract" for

As evidenced by contract and specifications made a part thereof, entered into between the Principal and the Obligee on the ... day of ... 20... a copy of which Contract may be attached hereto and is hereby referred to and made a part thereof.

NOW, THEREFORE, the conditions of the foregoing obligation is such that if the Principal shall indemnify the Obligee for all loss that the Obligee may sustain by reason of the Principal's failure to comply with any of the terms of the Contract, then this obligation shall be void; otherwise, it shall remain in full force.

THIS BOND shall also be security for the performance by the Principal and Surety of the following additional covenants and obligations, and the recitals and references herein contained shall constitute a part of this Bond and obligation:

- 1. Said Principal (Contractor) shall well and truly perform; carry out and abide by all terms, conditions and provisions of said Contract including all maintenance and warranty provisions and furnish complete the items herein specified in accordance with the terms thereof, and the Obligor herein shall and does hereby agree to indemnify the Obligee and hold it harmless of, from and against any and all liability, loss, cost, damage or expense and attorney's fees, including appellate proceedings, which said Dade County, Florida may incur or which may accrue or be imposed upon either thereof by reason of any negligence, default and/or misconduct on the part of the said contractor, and ... agents, servants, and/or employees, in, about or on account of the performance of said contract by the said contractor, and shall repay to and reimburse to the said Dade County, Florida, promptly upon demand, all sums of money, each and every, reasonably paid out or expended by the said Obligee on account of the failure and/or refusal of said contractor to carry out, do, perform and/or comply with any of the terms and provisions of said Contract at the time and in the manner therein provided.
2. The Principal will make payments to all persons supplying Principal labor, material and supplies used directly or indirectly by the Principal or any subcontractors of the Principal in the prosecution of the work provided for in said Contract.
3. Each and every person, natural and artificial, for whose benefit this bond has been executed as disclosed by the text of this bond and of said Contract, specifications, drawings and all papers, and of said agreement and instruments attached and made a part of said Contract, and each and every person, natural and artificial, supplying labor, materials and supplies in furtherance of said Contract, shall have the same several rights of suit or action upon this bond as if he or they were the Obligee or Obligees herein specially mentioned, and the obligations hereof shall be several as to the rights of said persons or said Obligees hereof.
4. In each and every suit brought against the Obligor upon this bond in which the Plaintiff shall be successful, there shall be assessed therein against the Obligor herein, in favor of the Plaintiff therein, reasonable counsel fees, which the Obligor hereby expressly agrees to pay as part of the cost and expense of such suit.

IN WITNESS WHEREOF THE PRINCIPAL AND THE SURETY HAVE EXECUTED THESE

Presents this _____ day of _____, 20____

WHEN THE PRINCIPAL IS AN INDIVIDUAL:

Signed, sealed and delivered in the presence of _____
Printed Name of Individual

Two Witnesses
Signature of Individual

WHEN THE PRINCIPAL IS SOLE PROPRIETORSHIP OR OPERATES UNDER TRADE NAME:

Signed, sealed and delivered in the presence of _____
Name of Firm

Signature of Individual

Two Witnesses
Printed Name of Individual

WHEN THE PRINCIPAL IS A PARTNERSHIP:

Signed, sealed and delivered in the presence of _____
Name of Firm -- A Partnership

Printed Name of One Partner

Two Witnesses
Signature of One Partner

WHEN PRINCIPAL IS A CORPORATION:

Secretary
Correct Name of Corporation

(Affix Corporate Seal) By: _____
President or Vice-President

Attest:

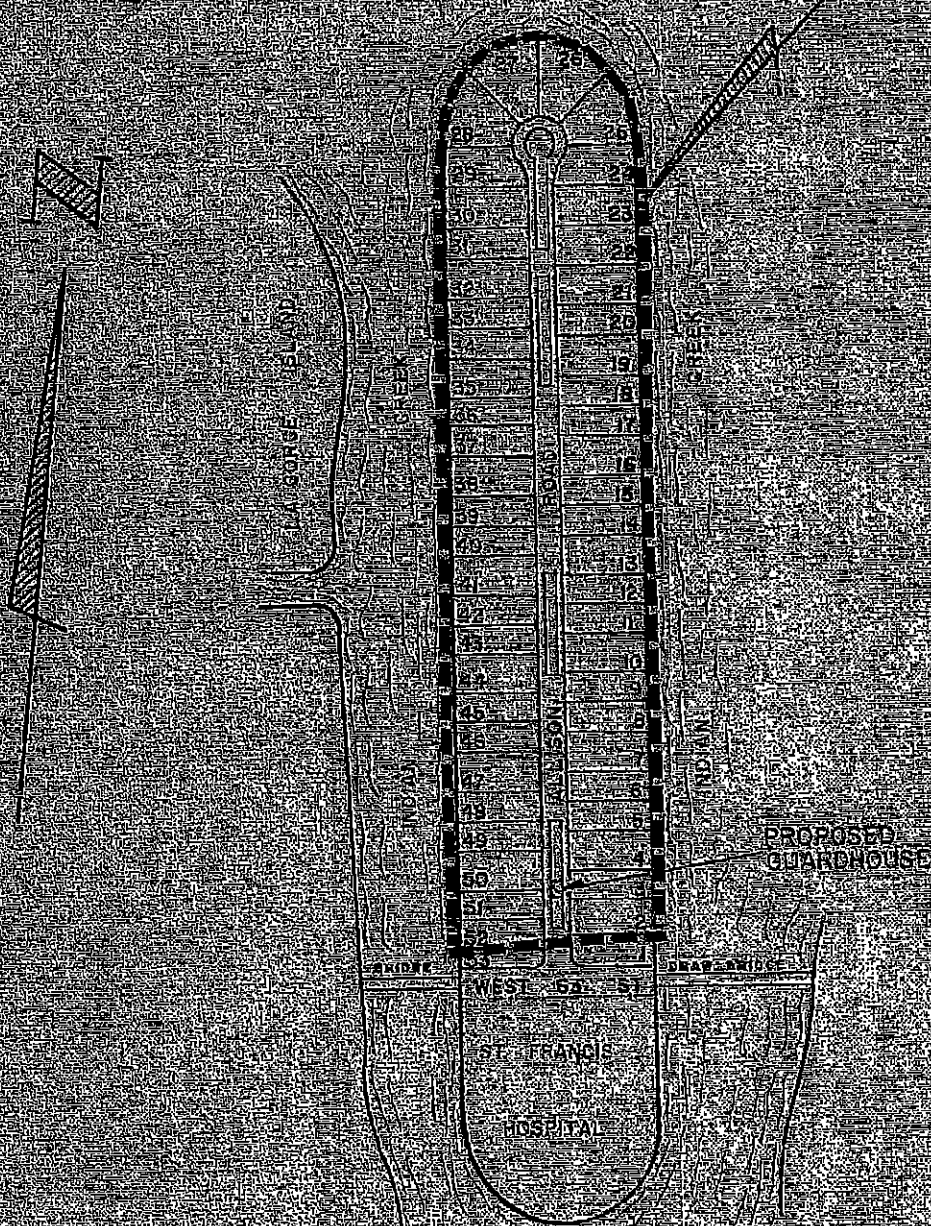
Corporate Surety

Countersigned: _____
Business Address

Florida Resident Agent By: _____
Corporate Seal

Exhibit A

PROPOSED DISTRICT BOUNDARIES



"ALLISON ISLAND SECURITY GUARD IMPROVEMENT SPECIAL TAXING DISTRICT"

SECTION 11-55-42

EXHIBIT A

7/12/2019 9:58 AM

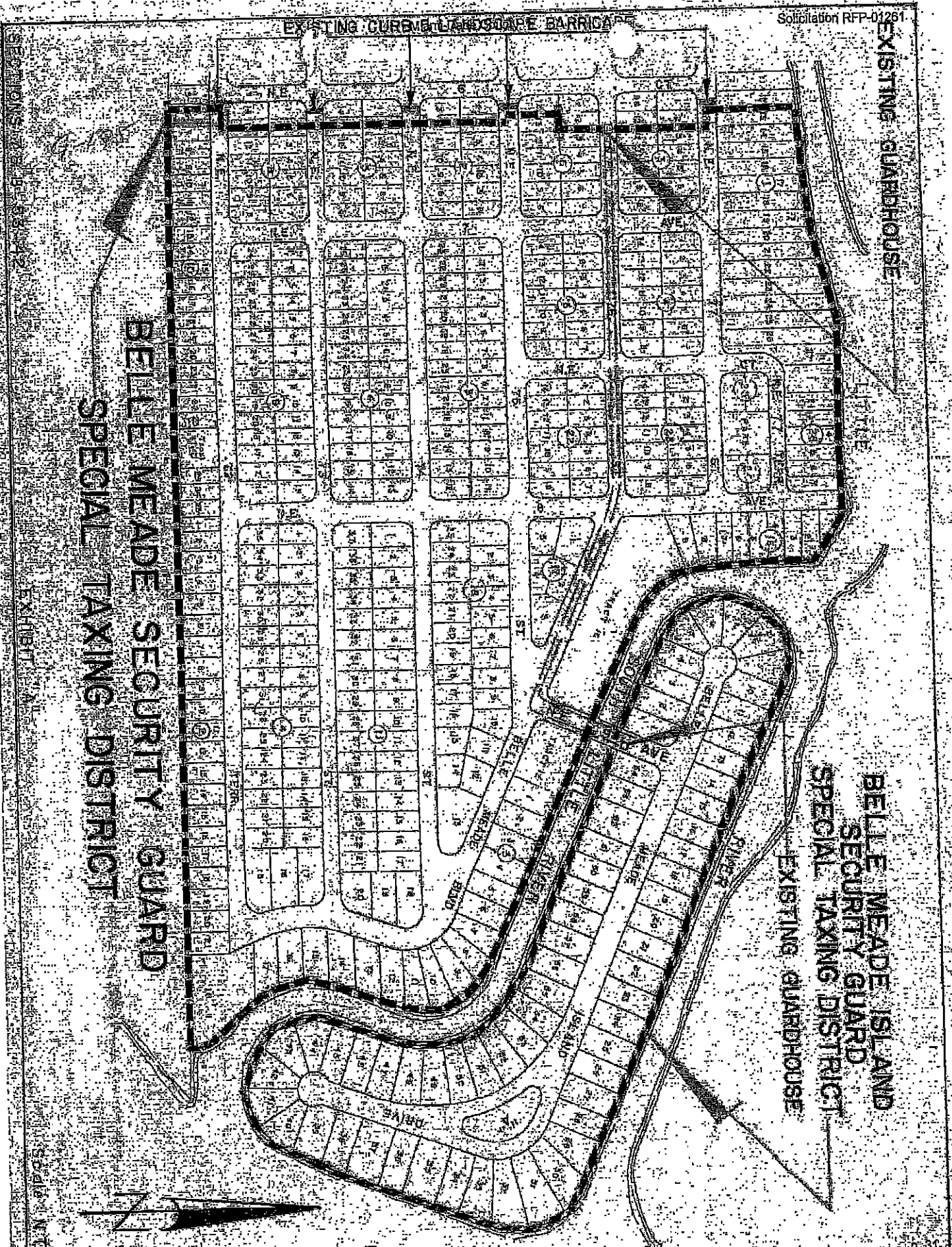
EXISTING GUREME LANDSCAPE BARRICADE

EXISTING GUARDHOUSE

BELLE MEADE SECURITY GUARD
SPECIAL TAXING DISTRICT

BELLE MEADE ISLAND
SECURITY GUARD
SPECIAL TAXING DISTRICT

EXISTING GUARDHOUSE

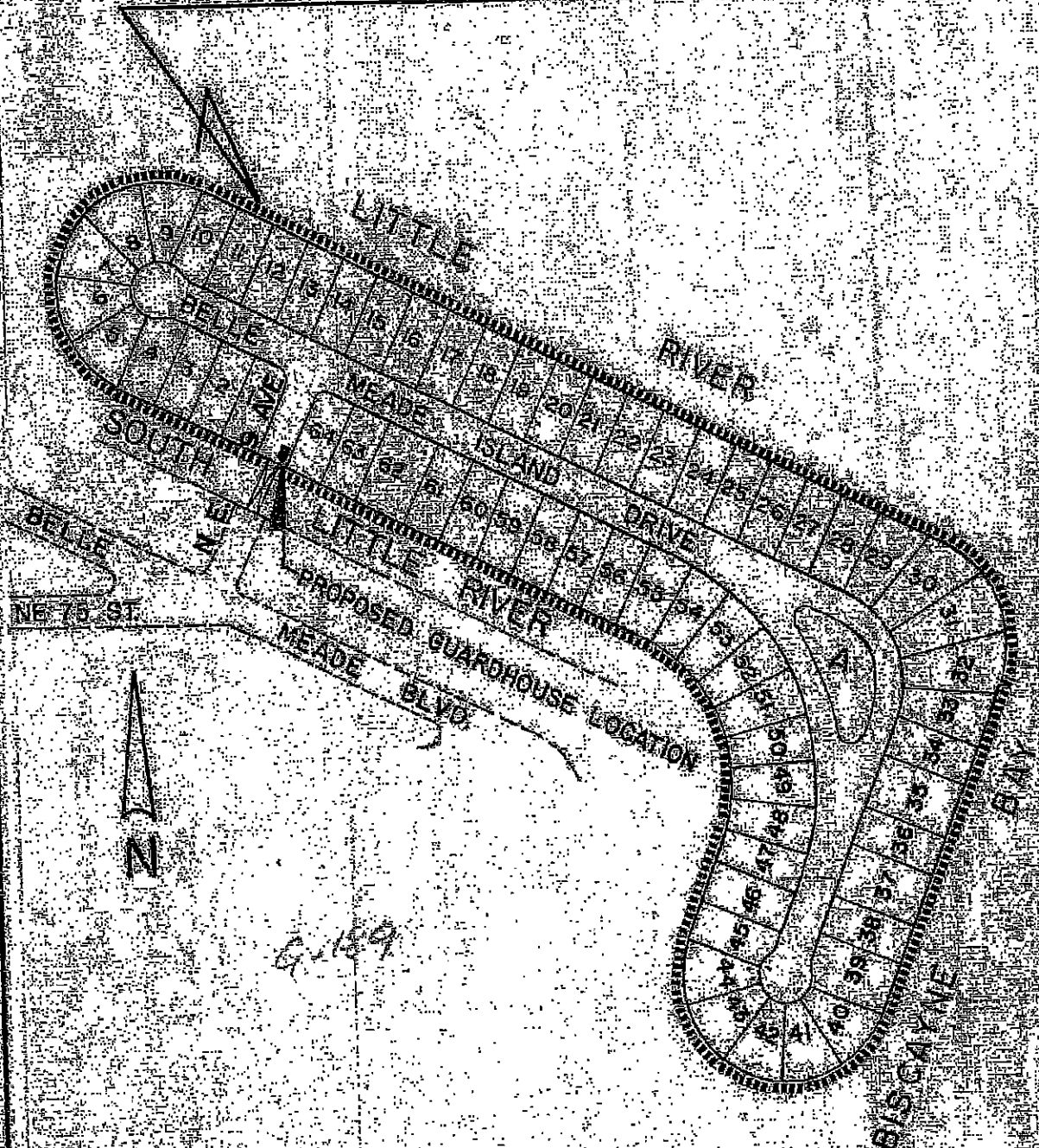


SECTIONS 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

EXHIBIT

SCALE

PROPOSED DISTRICT BOUNDARIES



"BELLE MEADE ISLAND SECURITY GUARD SPECIAL TAXING DISTRICT"

SECTION 7 B.E. 53-42

EXHIBIT "B"

SCALE: N.T.S.

PROPOSED DISTRICT BOUNDARIES



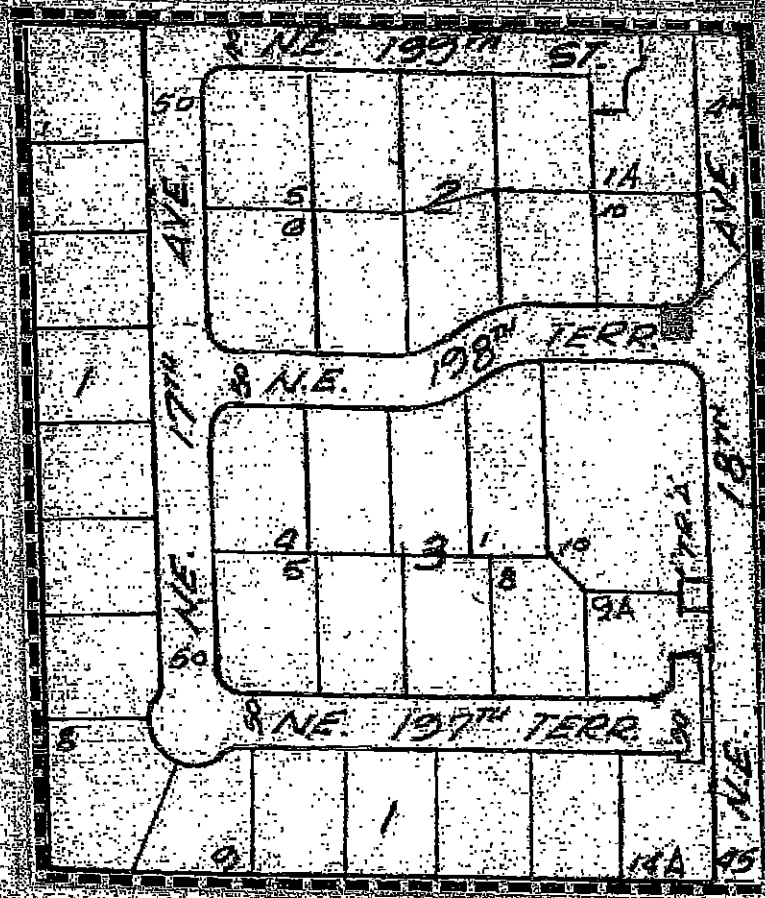
PROPOSED
 GUARDHOUSE LOCATIONS
 PROVIDED BY
 PROPERTY OWNERS

BISCAYNE BEACH SECURITY GUARD IMPROVEMENT
 SPECIAL TAXING DISTRICT

SECTION 3-69-42

EXHIBIT B

DISTRICT BOUNDARIES



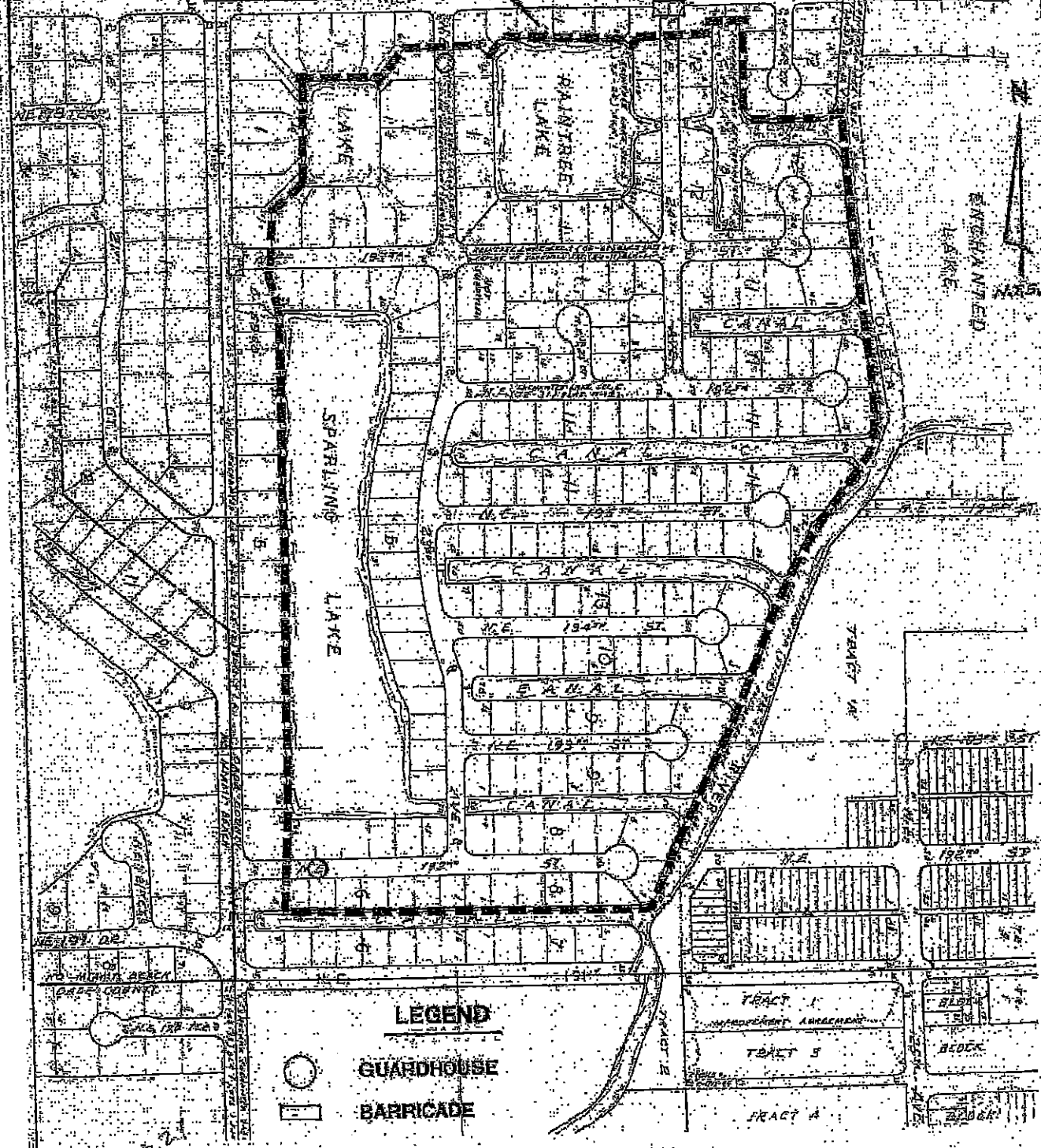
GUARDHOUSE LOCATION

COVENTRY SECURITY GUARD SPECIAL TAXING DISTRICT

SECTION 5-52-42

EXHIBIT A

PROPOSED DISTRICT BOUNDARIES



ENCHANTED LAKE SECURITY GUARD SPECIAL TAXING DISTRICT

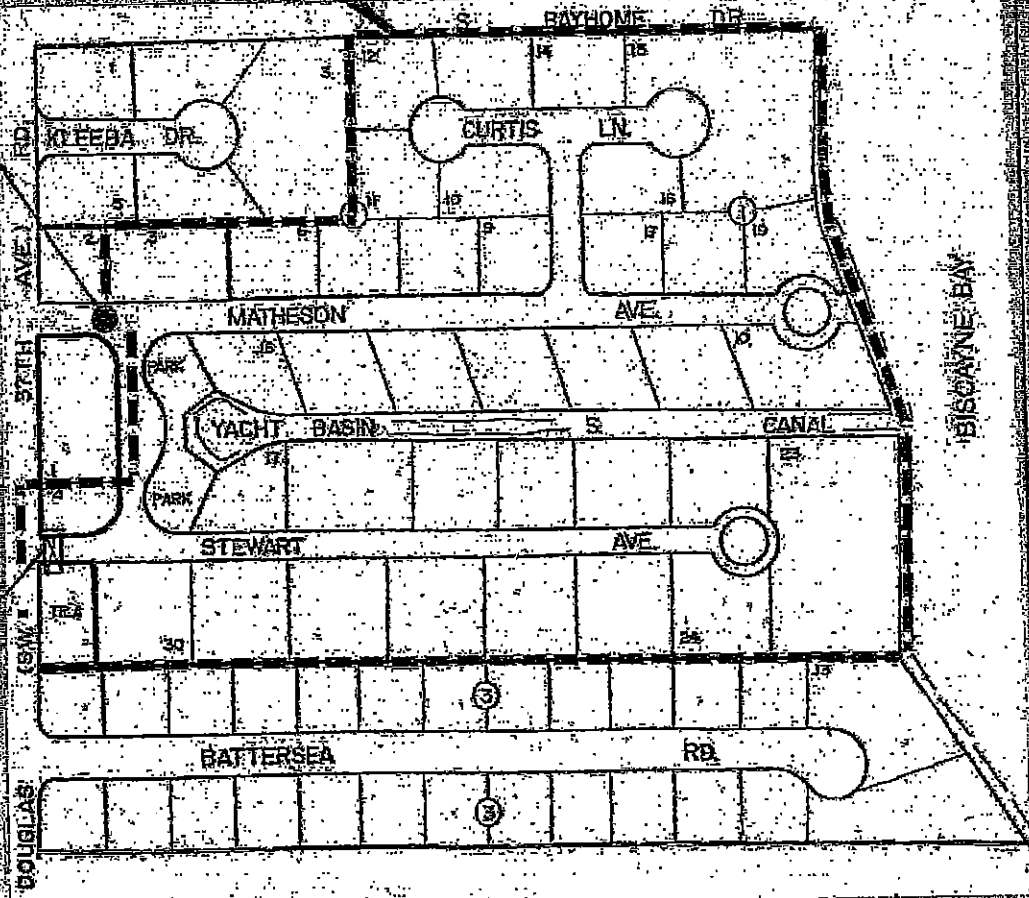
SECTION: 4-52-42

EXHIBIT "A"

PROPOSED DISTRICT BOUNDARIES

PROPOSED
GUARDHOUSE

PROPOSED
BARRICADE



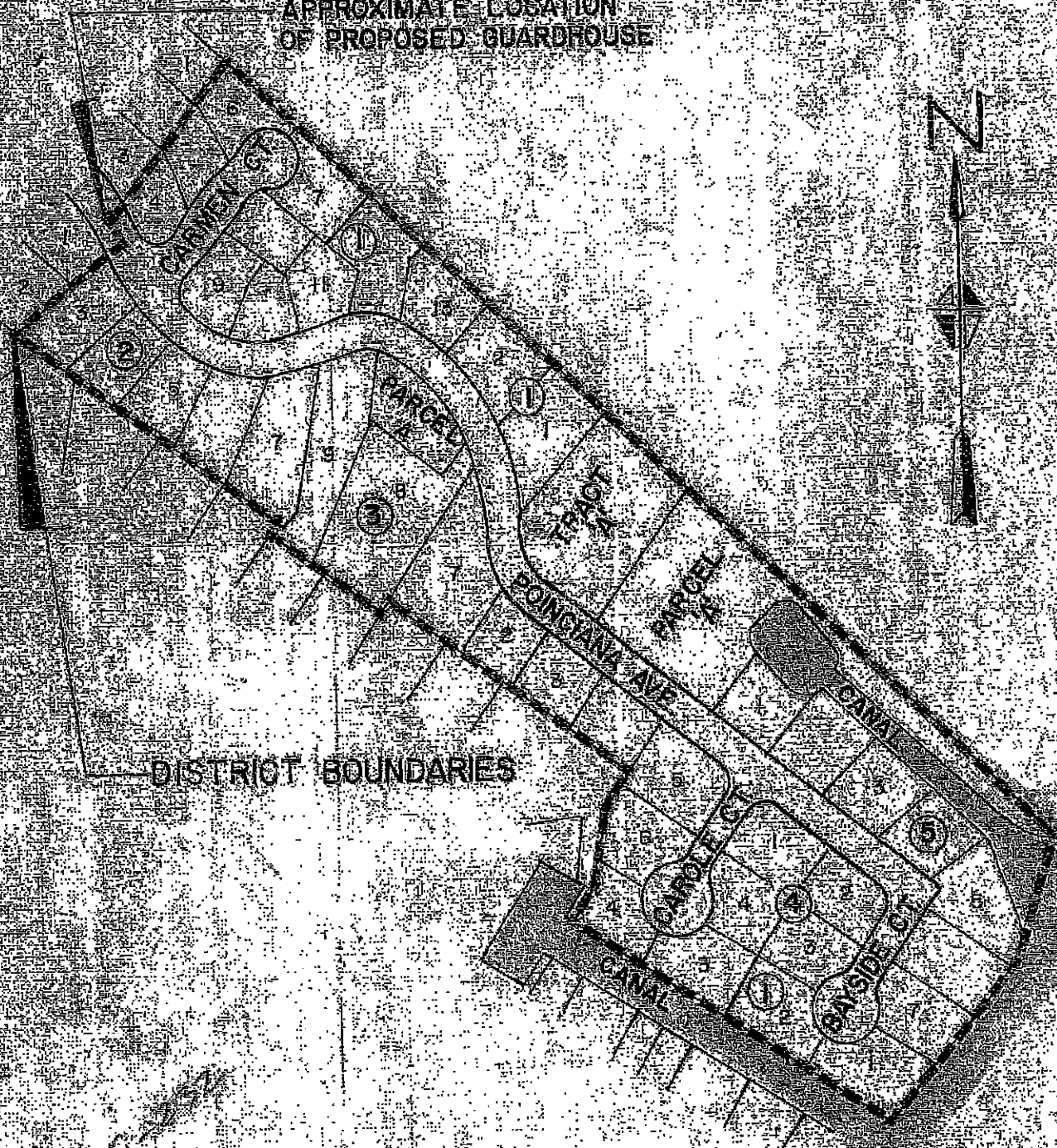
ENTRADA SECURITY GUARD SPECIAL TAXING DISTRICT

G-241 (COMM 0007)
SECTION 26-54-41

EXHIBIT "A"

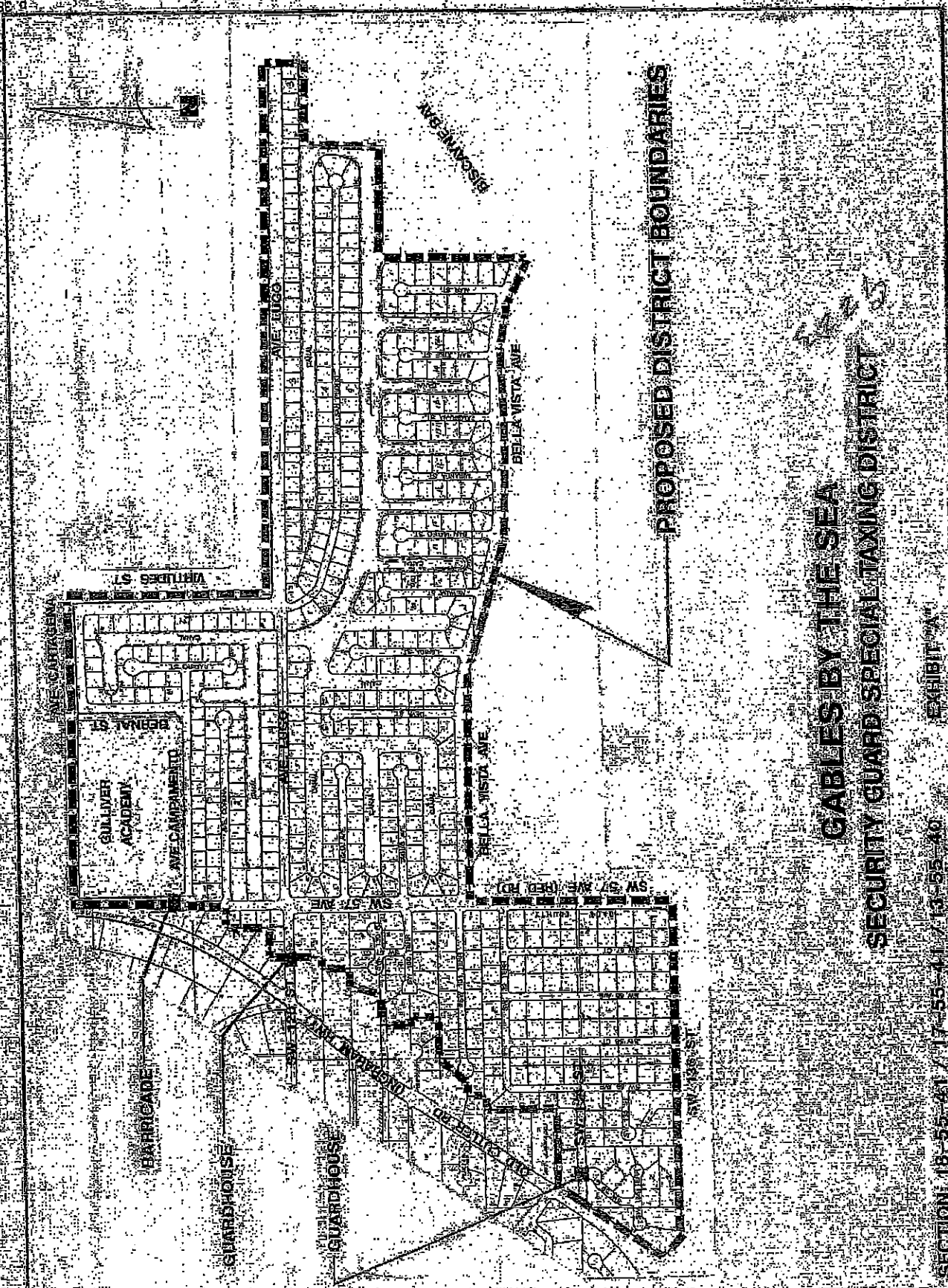


APPROXIMATE LOCATION
OF PROPOSED GUARHOUSE



DISTRICT BOUNDARIES

FOUR WAY LODGE ESTATES SECURITY GUARD
SPECIAL TAXING DISTRICT



CABLES BY THE SEA
SECURITY GUARD SPECIAL TAXING DISTRICT

PROPOSED DISTRICT BOUNDARIES

EXHIBIT 'A'

SECTION 19-55-061 / 17-55-1 / 07-25-10

PROPOSED DISTRICT BOUNDARIES

BROWARD

MIAMI DADE



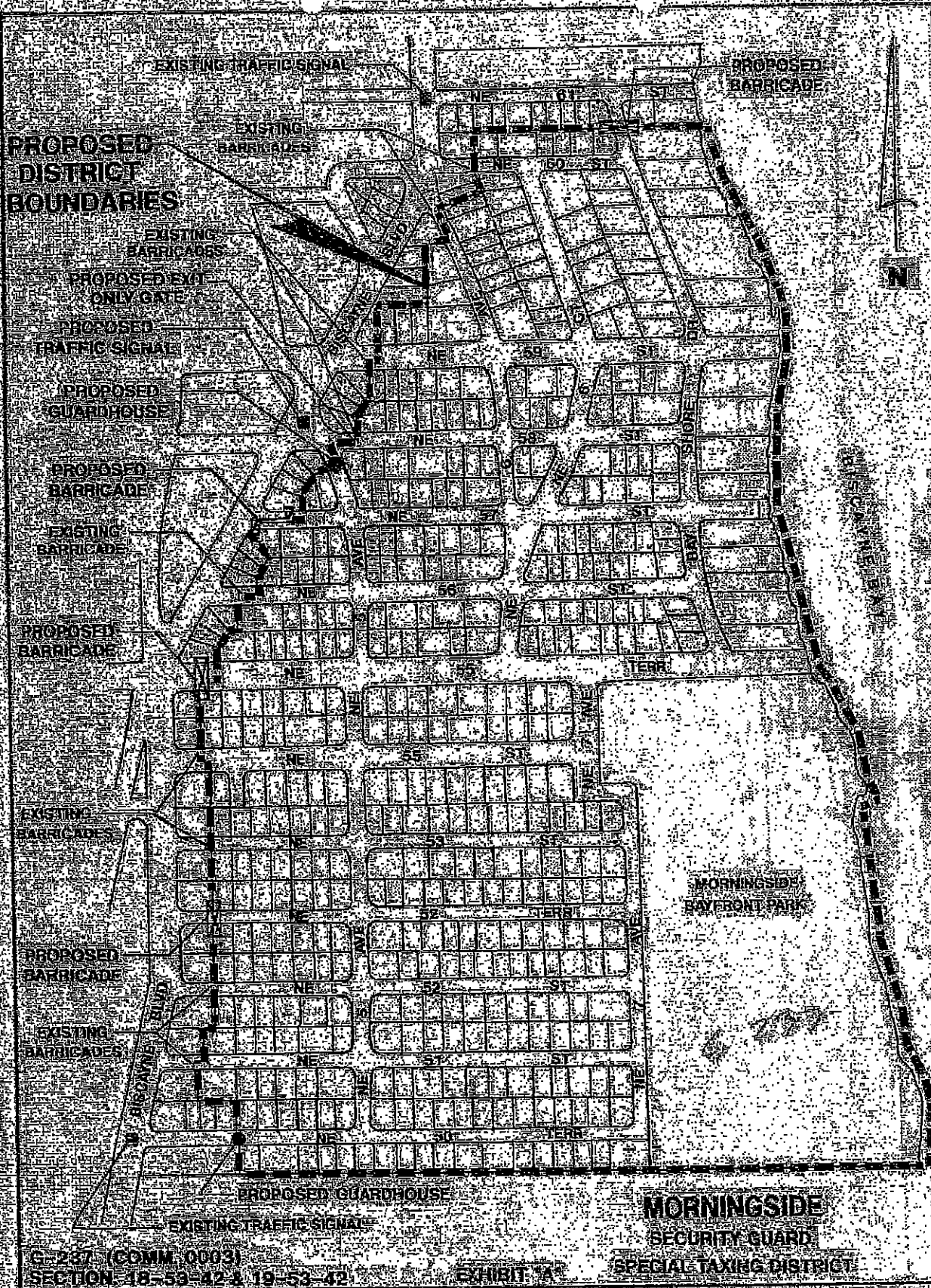
GUARDHOUSE

HIGHLAND GARDENS SECURITY GUARD SPECIAL TAXING DISTRICT

SECTION 33-51-12

EXHIBIT B

Scale: N.T.S.



PROPOSED DISTRICT BOUNDARIES

EXISTING BARRICADES

PROPOSED EXIT ONLY GATE

PROPOSED TRAFFIC SIGNAL

PROPOSED GUARDHOUSE

PROPOSED BARRICADE

EXISTING BARRICADE

PROPOSED BARRICADE

EXISTING BARRICADES

PROPOSED BARRICADE

EXISTING BARRICADES

PROPOSED GUARDHOUSE

EXISTING TRAFFIC SIGNAL

C-237 (COMM 0003)
SECTION 18-59-42.1 19-53-42

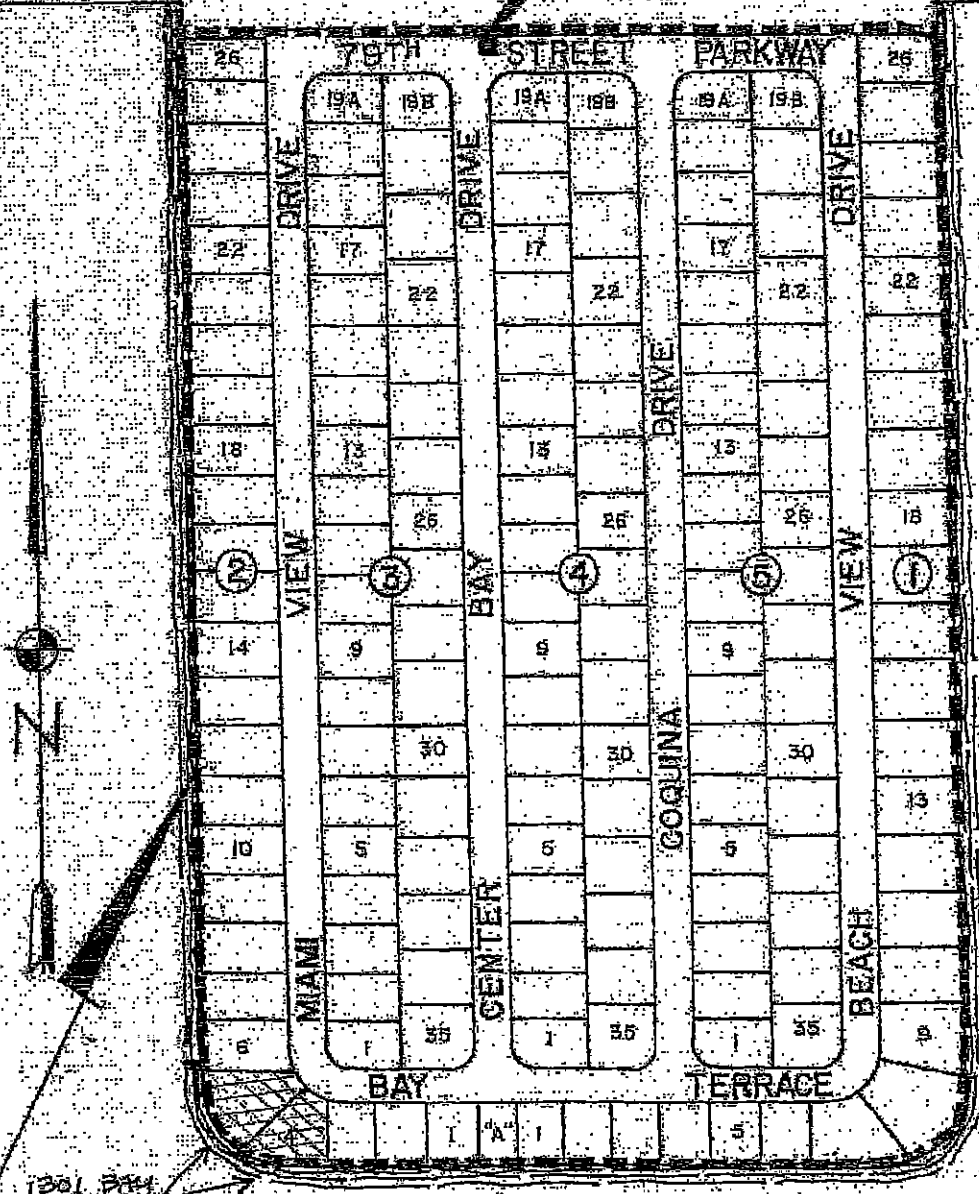
EXHIBIT A

MORNINGSIDE SECURITY GUARD SPECIAL TAXING DISTRICT



APPROXIMATE LOCATION OF PROPOSED GUARDHOUSE

JOHN F. KENNEDY CAUSEWAY

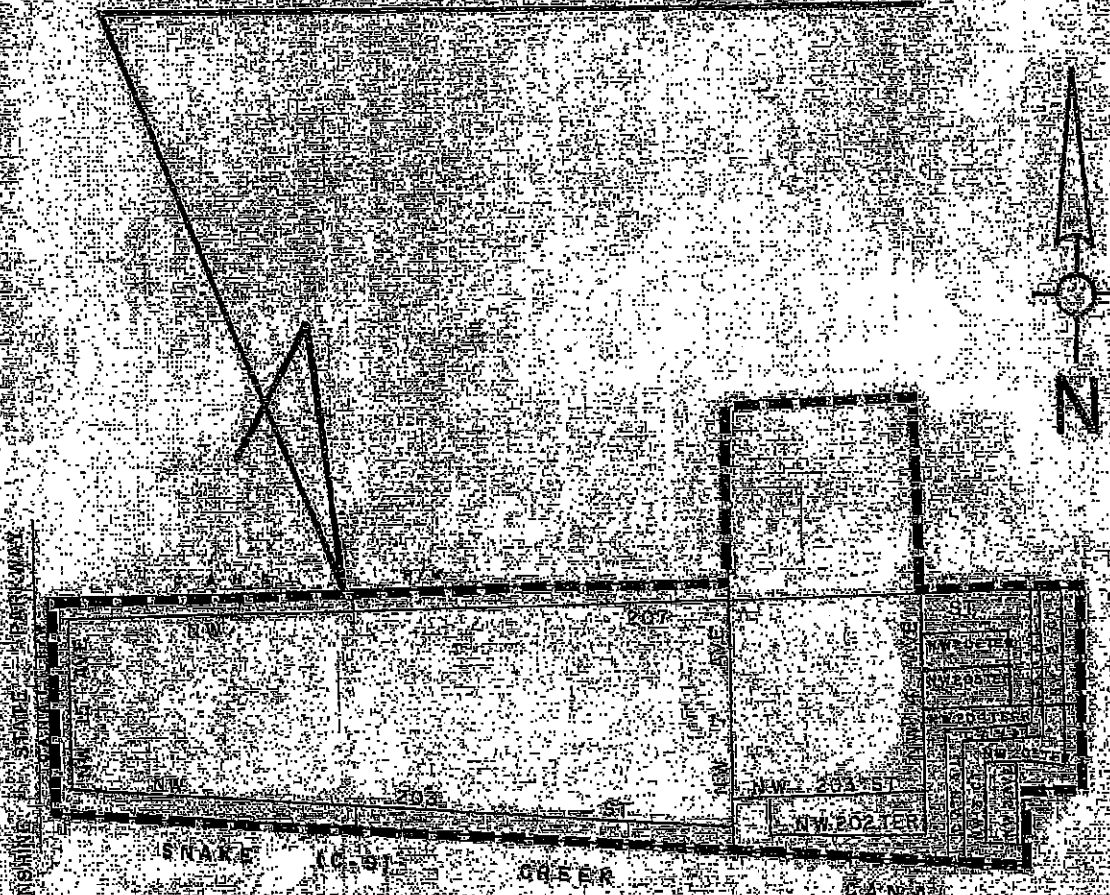


1201 BAY TERRACE

DISTRICT BOUNDARIES

NORTH BAY ISLAND SECURITY GUARD
SPECIAL TAXING DISTRICT

PROPOSED DISTRICT BOUNDARIES



NORTH DADE COUNTRY CLUB/ANDOVER

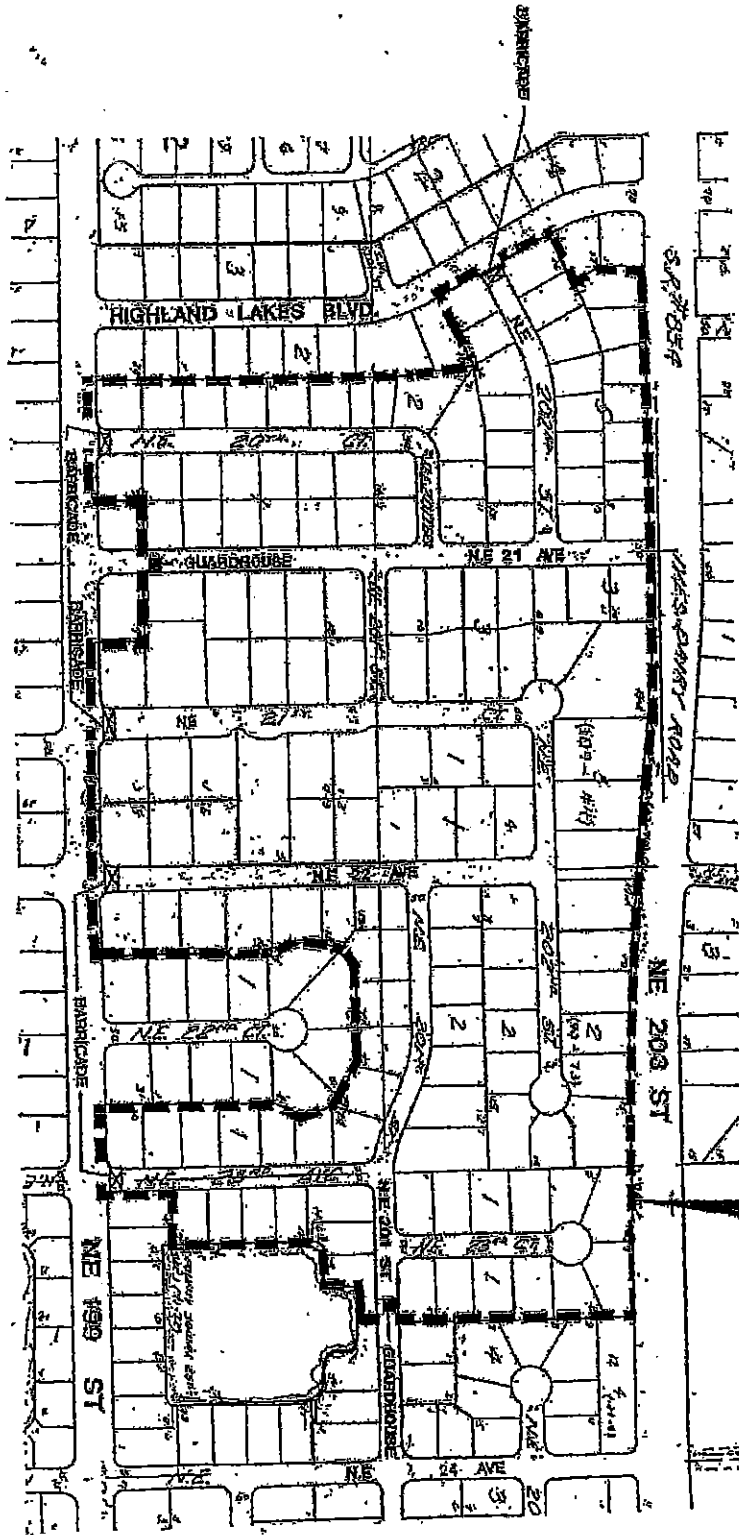
SECURITY GUARD

SPECIAL TAXING DISTRICT

SECTIONS 35-8-36-51-41

EXHIBIT "B"

DISTRICT BOUNDARIES

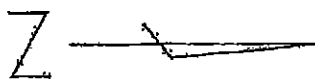


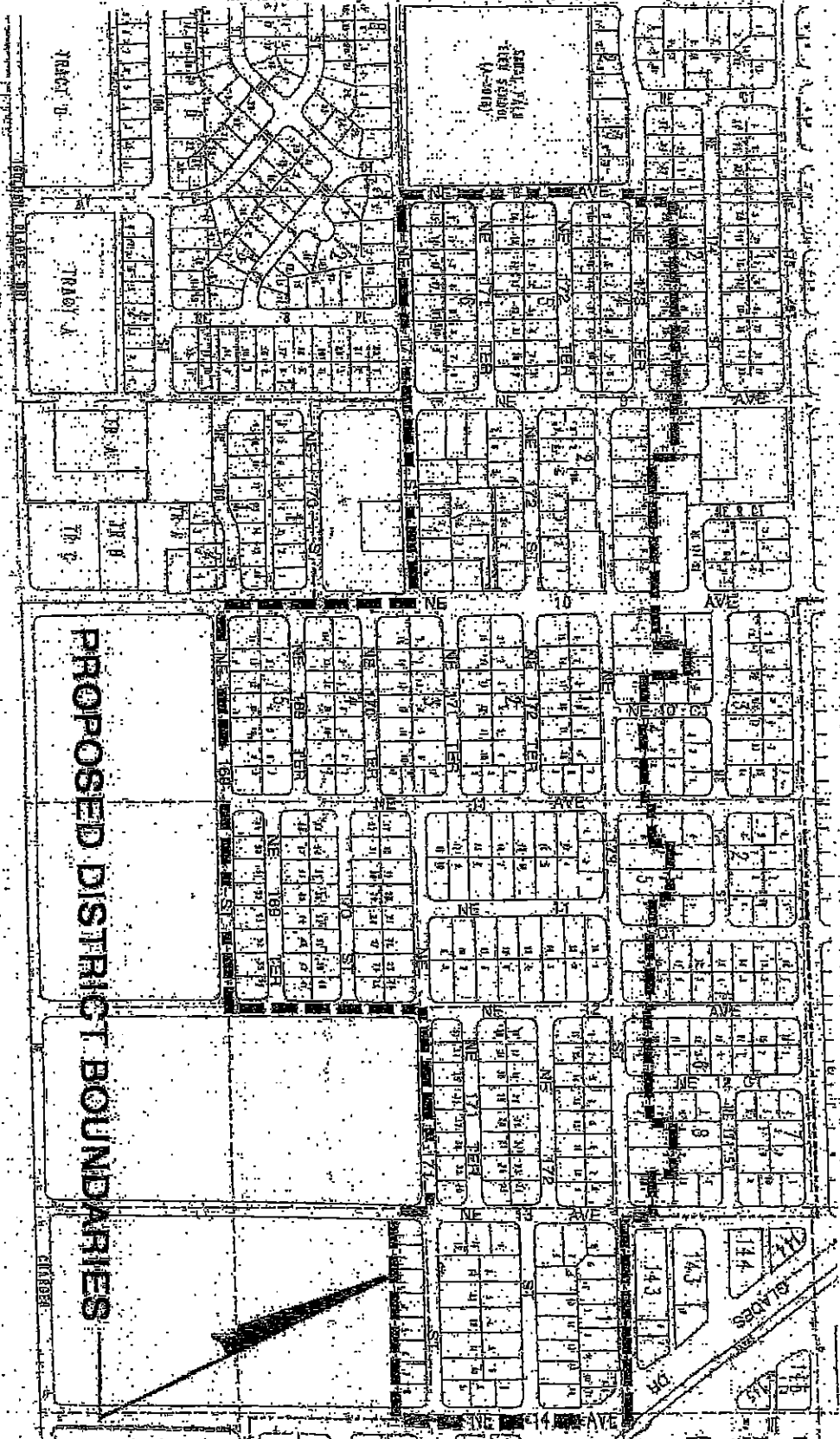
**OAK FOREST STATIONARY SECURITY GUARD
SPECIAL TAXING DISTRICT**

SECTION 33 - 51 - 42

EXHIBIT 'A'

9-217





SABAL PALM
HOVING PATROL SPECIAL TAXING DISTRICT
PROPOSED DISTRICT BOUNDARIES

G-258
 SECTION 7-52-42-01-52-42
 COMM. 060

EXHIBIT A
 (Revised 07/2020)

PROPOSED DISTRICT BOUNDARIES

STAR ISLAND

SECURITY GUARD SPECIAL TAXING DISTRICT

S-152

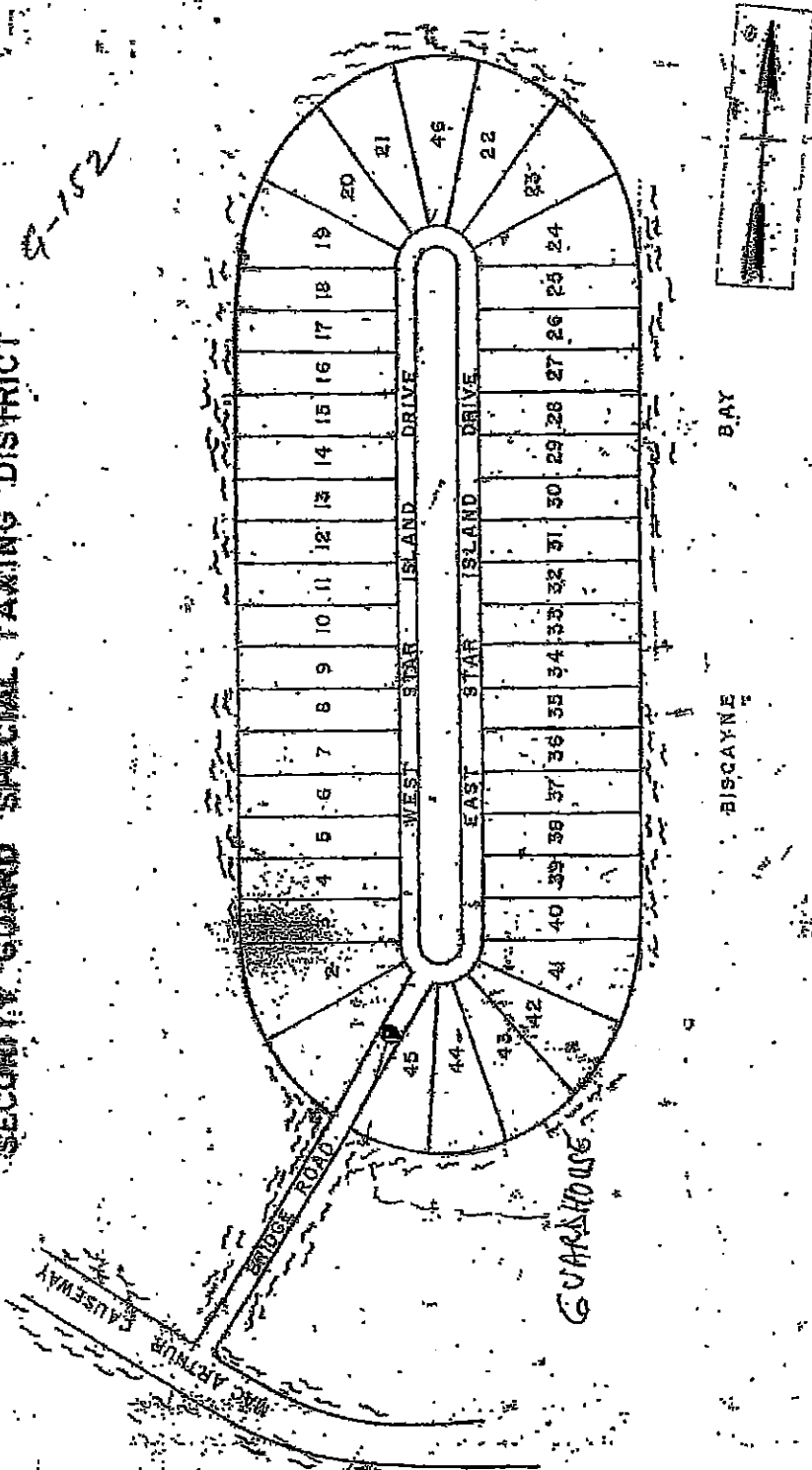


EXHIBIT A

SECTION 4-54-42