

# Memorandum



**Date:** May 19, 2020

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

**From:** Carlos A. Gimenez  
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over the printed name of the Mayor.

**Subject:** Recommendation for Approval to Award Contract RFP No. 01071, Bus Passenger Shelter Program

Agenda Item No. 8(F)(1)

Resolution No. R-469-20

## Recommendation

It is recommended that the Board of County Commissioners (Board) approve a competitive contract award, *Contract RFP No. 01071, Bus Passenger Shelter Program ("Program")*, to Outfront Media Group, LLC. ("Outfront") for the Department of Transportation and Public Works (DTPW). The prior contract was awarded as a permit agreement until October 31, 2019. The current contract is a short term contract and will expire on May 31, 2020.

Specifically, this recommended replacement contract will provide the following services:

- (1) cleaning, maintaining and repairing of all existing bus shelters and new bus shelters installed under this contract, located in Unincorporated Miami-Dade County ("County") and ensuring that the bus shelters are in a safe, repaired, and operational condition at all times with an attractive appearance, and with safe and proper illumination at night;
- (2) furnishing and installation of 10 full-size bus shelters, 10 enhanced full-size bus shelters, 10 slim-size bus shelters, 330 cantilever bus shelters, and 200 bicycle racks, each with the capacity for four bicycles; and
- (3) annual Participation Revenue sharing with the County throughout the 15 year-term of the contract.

This contract will replace the existing contract, Contract No. RFP-01071B. The Contractor will pay all costs required to perform contract services using proceeds from the advertising revenue received, except for the cost to furnish and install new shelters and bicycle racks, which will be directly paid by the County on a unit price basis. Advertising revenue will be considered as the Contractor's sole compensation for performing maintenance and repair work. The Contractor will pay the County Annual Participation Revenue, as a percentage of gross advertising revenue for advertising on the bus shelters or a Minimum Annual Guarantee in the form of quarterly payments, whichever is greater, for each year of this Agreement.

This item is placed for Board review pursuant to Miami-Dade County Code Section 29-124(f). The Board may only consider this item if the Citizens' Independent Transportation Trust (CITT) has forwarded a recommendation to the Board prior to the date scheduled for Board consideration or 45 days have elapsed since the issuance of this recommendation. If CITT has not forwarded a recommendation and 45 days have not elapsed since the issuance of this recommendation, a withdrawal of this item will be requested.

## Background

DTPW currently owns and maintains 975 full-size shelters and 47 slim-size shelters in the County that require routine maintenance and repairs. The County seeks to enhance bus passenger comfort and convenience by furnishing and installing new bus shelters in compliance with the Americans with Disabilities Act at bus stops sites where bus shelters currently do not exist.

Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners  
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On December 21, 2018, a Request for Proposals was advertised and two proposals were received from Outfront and Focus Media Group, Inc. The proposal submitted by Focus Media Group, LLC. was deemed non-responsive by the County Attorney's Office (attached). The Competitive Selection Committee completed the evaluation of the remaining responsive and responsible proposal submitted by Outfront, following the guidelines published in the solicitation.

Outfront demonstrated the ability to meet all aspects of the project requirements and to provide Bus Passenger Shelter Program services supporting the County's needs. Outfront has past experience in providing the specified Program services for the County, as well as in metropolitan areas for MARTA in Atlanta, PalmTran in West Palm Beach, TARC in Louisville, SamTrans in San Mateo, and Golden Gate Transit in San Francisco.

**Scope**

The scope of this item is countywide in nature.

**Fiscal Impact/Funding Source**

The anticipated fiscal impact for the fifteen-year term is \$9,491,920. The County will pay \$12,705,720 to furnish and install new shelters and bicycle racks, less \$3,213,800 of estimated income to the County (Annual Participation Revenue).

Department	Allocation	Funding Source	Project Manager
Transportation and Public Works	\$9,491,920	DTPW Operating	Raonel Rodriguez
<b>Total:</b>	<b>\$9,491,920</b>		

**Track Record/Monitor**

Vanessa Stroman of the Internal Services Department is the Procurement Contracting Manager. The County is supervising, monitoring, and inspecting all aspects of the Program services. Mr. Raonel Rodriguez, Transit Passenger Amenities Manager, DTPW is responsible for this project.

**Delegated Authority**

If this item is approved, the County Mayor or County Mayor's designee will have the authority to exercise all provisions of the contract, including any cancellation or extension provisions, pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38.

**Vendor Recommended for Award**

A Request for Proposals was issued under full and open competition. Two proposals were received in response to the solicitation.

Vendor	Principal Address	Local Address*	Number of Employee Residents	Principal
			1) Miami-Dade 2) Percentage*	
Outfront Media Group, LLC	405 Lexington Avenue New York, NY	8530 NW 23 Street Doral, FL	46	Damian Gutierrez
			2%	

\*Provided pursuant to Resolution No. R-1011-15. Percentage of employee residents is the percentage of vendor's employees who reside in Miami-Dade County as compared to the vendor's total workforce. Outfront Media Group, LLC. is a wholly owned subsidiary of Outfront Media, Inc.

**Vendors Not Recommended for Award**

Vendor	Local Address	Reason for Not Recommending
Focus Media Group, Inc.	No	*Deemed non-responsive by the County Attorney's Office (opinion attached)

\* Focus Media Group proposed the creation of a local corporate entity, Focus Media Group Florida, Inc. that would perform the work. Therefore, it would be impossible for the Competitive Selection Committee to evaluate the qualifications, experience, etc. of an entity that does not exist.

**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 were no adverse findings relating to vendor responsibility.

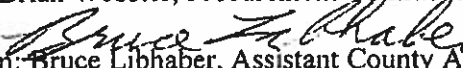
**Applicable Ordinances and Contract Measures**

- The two percent User Access Program provision does apply.
- The Small Business Enterprise Selection Factor does not apply.
- The Local Preference does not apply.
- Responsible Wages shall apply to the installation of the new Bus Shelters.



Jennifer Moon  
Deputy Mayor

To: Brian Webster, Procurement Contracting Officer

From:   
Bruce Libhaber, Assistant County Attorney

Date: February 13, 2020

Re: Responsiveness Determination RFP 01071 "Bus Passenger Shelter Program"

You have asked for a responsiveness opinion concerning the proposal submitted by Focus Media Group, Inc. (or perhaps Focus Media Group Florida, Inc.). On page 3 of the proposal, the proposer states, "For this particular project, Focus Media Group would create a corporate entity, Focus Media Group Florida, Inc. or something similar (hereinafter referred to as Focus Media Group FL to facilitate the capital structure of the company and yet leverage the unparalleled experience of Focus Media Group, Inc. " Over 60 additional references in the proposal are made as to what Focus Media Group FL is offering. It is not clear who the actual proposer is- Focus Media Group – the entity purporting to submit the proposal or Focus Media Group FL- the entity apparently that will be offering the shelters and making the payments to the County. Moreover, Focus Media Group FL has yet to even be formed. Therefore, it would be impossible to evaluate the qualifications, experience, etc. of an entity that does not exist. As a result, since it is not clear which entity is proposing to enter into a contractual relationship with the County and no reasonable evaluation of an entity that does not exist can be conducted, the proposal must be rejected as non-responsive. Of additional concern is that the financial proposal submitted by this "proposer" does not include a minimum annual guarantee.

Since it is unclear who the actual proposer is, the County lacks adequate assurance that the contract would be entered into, performed, and guaranteed according to its specific requirements. As such, this deviation or irregularity on the part of the proposal submitted by Focus Media Group, Inc. (or perhaps Focus Media Group Florida, Inc.) is material and may not be waived. Thus, the proposal from Focus Media Group, Inc. (or perhaps Focus Media Group Florida, Inc.) may not be considered for award pursuant to this procurement.



**MEMORANDUM**  
(Revised)

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

**DATE:** May 19, 2020

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No. 8(F)(1)

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

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

Agenda Item No. 8(F)(1)  
5-19-20

RESOLUTION NO. R-469-20

RESOLUTION APPROVING AWARD OF CONTRACT NO. RFP-01071 TO OUTFRONT MEDIA GROUP, LLC. FOR PURCHASE OF BUS PASSENGER SHELTER PROGRAM FOR THE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS WITH AN ESTIMATED FISCAL IMPACT TO THE COUNTY IN AN AMOUNT OF \$9,491,920.00 FOR THE FIFTEEN-YEAR TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME AND EXERCISE ALL PROVISIONS CONTAINED THEREIN, INCLUDING ANY CANCELLATION, RENEWAL AND EXTENSION PROVISIONS, PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-38

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board approves the award of Contract No. RFP-01071 to Outfront Media Group, LLC. for purchase of Bus Passenger Shelter Program for the Department of Transportation and Public Works with an estimated fiscal impact to the County in an amount of \$9,491,920.00 for the fifteen-year term; and authorizes the County Mayor or County Mayor's designee to execute same for and on behalf of Miami-Dade County and exercise all provisions contained therein, including any cancellation, renewal and extension provisions, pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38.

The foregoing resolution was offered by Commissioner **Rebeca Sosa**

who moved its adoption. The motion was seconded by Commissioner **Daniella Levine Cava**

and upon being put to a vote, the vote was as follows:

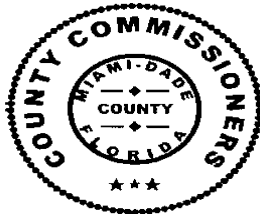
Audrey M. Edmonson, Chairwoman	<b>aye</b>		
Rebeca Sosa, Vice Chairwoman	<b>aye</b>		
Esteban L. Bovo, Jr.	<b>aye</b>	Daniella Levine Cava	<b>aye</b>
Jose "Pepe" Diaz	<b>aye</b>	Sally A. Heyman	<b>aye</b>
Eileen Higgins	<b>aye</b>	Barbara J. Jordan	<b>aye</b>
Joe A. Martinez	<b>aye</b>	Jean Monestime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

The Chairperson thereupon declared this resolution duly passed and adopted this 19<sup>th</sup> 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: **Melissa Adames**  
Deputy Clerk



Approved by County Attorney as  
to form and legal sufficiency.

Bruce Libhaber

**BUS PASSENGER SHELTER PROGRAM  
CONTRACT RFP-01071**

THIS AGREEMENT made and entered into between Outfront Media Group LLC, a corporation organized and existing under the laws of the State of Delaware, having its principal office at 405 Lexington Avenue, New York, NY 10174 (hereinafter referred to as the "Contractor"); and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 N.W. 1st Street, Miami, Florida 33128 (hereinafter referred to as the "County"),

**WITNESSETH:**

WHEREAS, the Contractor has offered to manage and expand the Bus Passenger Shelter Program in unincorporated Miami-Dade County, on an exclusive basis, that shall conform to the Scope of Work (Appendix A); Miami-Dade County's Request for Proposals (RFP) No. 01071 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 March 21, 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 Bus Passenger Shelter Program services for the County, in accordance with the terms and conditions of this Agreement;

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

**ARTICLE 1. DEFINITIONS**

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

- a) The words "Confidential Information" means all non-public information furnished by a Disclosing Party to a Receiving Party under this Agreement, including but not limited to all materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods.
- b) The words "Contract" or "Agreement" to mean collectively these terms and conditions, the Scope of Work (Appendix A), all other appendices and attachments hereto, all amendments issued hereto, RFP No. 01071 and all associated addenda, and the Contractor's Proposal.
- c) The words "Contract Date" to mean the date on which this Agreement is effective.
- d) The words "Contract Manager" to mean Miami-Dade County's Director, Internal Services Department, or the duly authorized representative designated to manage the Contract.
- e) The word "Contractor" to mean Outfront Media Group LLC and its permitted successors.
- f) The words "Contract term" or "Term" to mean fixed duration that the contract will be in effect.
- g) The word "Days" to mean Calendar Days.
- h) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the County's Project Manager for review and approval pursuant to the terms of this Agreement.
- i) The words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the County's Project Manager; and similarly the words "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the County's Project Manager.
- j) The words "Disclosing Party" means a Party who provides Confidential Information to the other Party under this Agreement.
- k) 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.
- l) The word "Party" means the County or the Contractor and the word "Parties" means collectively, County and Contractor.
- m) The words "Project Manager" to mean the County Mayor or the duly authorized representative designated to manage the Project.
- n) The words "Receiving Party" means a Party who receives the Confidential Information of the other Party under this Agreement.
- o) The words "Scope of Work" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.

- p) 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.
- q) 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.
- r) The word "Worksites" to mean all locations where the Contractor performs work and services, in accordance with Scope of Work.

## ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of the Contract, the order of precedence is as follows: 1) the Form of Agreement; 2) agreed upon Scope of Work (as may be negotiated); 3) addenda to the RFP; 4) attachments and exhibits to the Request for Proposal; 4) the Request for Proposal; and 5) the Contractor's Proposal.

## ARTICLE 3. RULES OF INTERPRETATION

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

## ARTICLE 4. NATURE OF THE AGREEMENT

- A. This 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 hereto or their authorized representatives.
- B. The Contractor shall provide the services set forth in the Scope of Work and render full and prompt cooperation with the County in all aspects of the Work performed hereunder. The Work specified in this Agreement is exhaustive, absent a written amendment otherwise that is signed by both Parties.
- 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. In the event the scope of work materially deviates from the stated requirements of the contract, the County will

bear the cost of additional work performed that was not reasonably contemplated at the time of contract award.

- D. The County acknowledges that deadlines for completion of Work and performance of Services, such as bus shelter installations, are expressly predicated on prompt and timely performance by the County, and the absence of circumstances outside of Contractor's reasonable control that may act to delay the performance of Contractor's obligations under the Agreement. As such, all deadlines for Contractor's performance under this Agreement are hereby expressly made contingent upon the absence of circumstances outside of Contractor's reasonable control that may act to delay the performance of Contractor's obligations under the Agreement, in accordance with Article 21, Excusable Delay.
- E. 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 performed as set forth in this Agreement to the reasonable satisfaction of the County's Project Manager.
- F. The Contractor acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Work. 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.
- G. In the event that a policy change results in or may result in (i) an increase in Contractor's costs for performing the Scope of Work; and/or (ii) a decrease in Contractor's anticipated revenue under this Agreement; and/or (iii) any delays in the performance of the Scope of Work; and/or (iv) a material change to the Scope of Work, then Contractor shall be entitled to a pro rata reduction in the MAG and APR hereunder, a pro rata extension of the Term and such other relief as may be just and equitable under the circumstances.

#### ARTICLE 5. CONTRACT TERM

The Contract shall become effective on \_\_\_\_\_, 2020 and shall continue through the last day of the fifteenth (15th) Year. The County reserves the right to exercise its option to extend this Contract for up to one hundred-eighty (180) calendar days beyond the current Contract period and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners.

#### ARTICLE 6. NOTICE REQUIREMENTS

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via 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:

Raonel Rodriguez  
Transit Passenger Amenities Manager  
Miami-Dade County Department of Transportation and Public Works  
701 NW 1st Court, Suite 1200  
Miami, Florida 33136  
Phone: 786-469-5328  
E-mail: [raonelr@miamidade.gov](mailto:raonelr@miamidade.gov)

b) To the Contract Manager:  
Miami-Dade County  
Chief Procurement Officer, ISD, Strategic Procurement Division  
111 N.W. 1<sup>st</sup> Street, Suite 1375  
Miami, FL 33128-1974  
Phone: (305) 375-4900  
E-mail: [uppaln@miamidade.gov](mailto:uppaln@miamidade.gov)

(2) To the Contractor

P. Damian Gutierrez  
Vice President, Transit, East  
Outfront Media Group LLC  
405 Lexington Avenue  
New York, NY 10174  
Phone: 212-297-6557  
E-mail: [damian.gutierrez@outfrontmedia.com](mailto:damian.gutierrez@outfrontmedia.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 AND PAYMENT BOND**

- A. Prior to commencing the Work, Contractor shall obtain and deliver to the County, at its sole cost and expense, both a payment bond and performance bond, or such other alternate form of security, any or all of which meets the requirements of Section 255.05, Florida Statutes, as set forth below, not less than ten (10) business days prior to the anticipated commencement date of the construction. Said payment and performance bonds shall be in favor of the County, the form of such bonds shall be as provided by Section 255.05, Florida Statutes, and each shall be in the amount of the entire cost of the construction of the Project, or any addition thereto, or in instances of repair, the total cost associated with the repair project regardless of the source of funding. The cost of construction shall equal the total amount of Table 13.1, Unit Price Schedule. The Payment and Performance Bonds shall name the County as an obligee on the multiple obligee rider attached to the Payment and Performance Bonds, and shall be issued by a surety insurer authorized to do business in the State of Florida. The bonds shall be subject to review and approval by Miami-Dade County, Internal Services Department, Risk Management Division, as well as the Miami-Dade Department of Transportation and Public Works. The Contractor shall be responsible for recording the bonds in the public records of Miami-Dade County and providing notice to subcontractors and suppliers, as required by Section 255.05 of the Florida Statutes. Said Payment and Performance Bonds shall be maintained in full force and effect for the duration of construction. See Attachment F "Form of Payment and Performance Bonds".
- B. Bonds must be obtained from guarantee or surety companies acceptable to the U.S. Government and authorized to do business in the state where the work is to be performed. U.S. Treasury Circular Number 570, published annually in the Federal Register, lists companies approved to act as sureties on bonds securing Government contracts, the maximum underwriting limits on each contract bonded, and the States in which the company is licensed to do business. Use of a company listed in this circular is mandatory. Free copies of the circular may be obtained by writing directly to: U.S. Department of Treasury, Financial Management Service, Surety Bond Branch, 401 14th Street, SW, 2nd Floor, West Wing, Washington, D.C. 20226.
- C. Each bond shall clearly state the rate of premium and the total amount of premium charged. The current power of attorney for the person who signs for the surety company must be attached to the bond. The effective date of the power of attorney shall not precede the date of the bond. The effective date of the bond(s) shall be prior to the issuance of the Notice to Proceed. The County may negotiate the amount of the bond(s) depending on the stage of the Project.

- D. Failure by the Contractor and its subcontractors to obtain the required Performance and Payment bonds within the time specified, or within such extended period as the County may grant based upon reasons determined adequate by the County, shall be deemed an event of default, and the contract, and any other ancillary agreement and/or documentation related to the contract shall be subject to termination at the sole discretion of the County:
- E. Bonds shall be in place for the duration of the construction work, terminating upon completion and County acceptance of the construction work.

**ARTICLE 8. IRREVOCABLE LETTER OF CREDIT**

- A. An Irrevocable Letter of Credit (LOC) will be accepted as a substitution of security for the performance of work, in lieu of providing Payment and Performance Bonds. The Contractor shall, within ten (10) business days after contract award and before the County issues the Notice to Proceed, provide to the County a LOC in the amount of 100% of the value of construction, which shall equal the total amount of Table 13.1, Unit Price Schedule. The LOC shall be accessible such that the County may, at its convenience, withdraw funds from the LOC in the event the Contractor fails to execute its payment and performance obligations in a timely manner. The LOC shall be refreshed within five (5) days if drawdowns are made by the County, such that the amount of the LOC is continual at the amount equal to 100% of the cost of construction. The LOC shall remain in full force for the Term, except that on each anniversary of the Effective Date, the Contractor may cause the amount of the LOC to decrease to reflect 100% of the then-outstanding amount for construction.
- B. The LOC shall be in an acceptable form to the County, and shall be executed by a financial institution acceptable to the County, authorized to issue surety LOC's in the State of Florida. Provisions of the LOC shall not limit, in any way, any liability of the Contractor to the County. The LOC shall be drawn on a financial institution which is federally insured and authorized to do business and with offices in the State of Florida.
- C. The Letter of Credit shall be in place for the duration of the construction work, terminating upon completion and County acceptance of the construction work.

**ARTICLE 9. RESPONSIBLE WAGES**

The Contractor is advised that Pursuant to Section 2-11.16 of the County Code, Responsible Wages, applies to competitively bid County contracts in excess of \$100,000 for the construction of public buildings or public works, whether on publicly-owned or privately-owned land. Responsible Wages also applies to privately-funded construction of buildings, whether privately-owned or publicly-owned, located on County-owned land where the construction cost is equal to or greater than \$1 million. Responsible Wages shall apply to all work related to and required for the installation of new bus shelters.

**ARTICLE 10. SMALL BUSINESS ENTERPRISE PROGRAM**

Pursuant to Sections 10-33.02 and 2-10.4.01 of the code of Miami-Dade County ("the Code") which governs the procurement of Construction, Architecture and Engineering Services, all privately funded design and or construction with a total value over \$200,000 must comply with the Code, which governs the County's Small Business Enterprise Program. A Trade Set-Aside for concrete related activities of work shall be performed by a Miami-Dade County Certified Small Business for the installation of; concrete footings, concrete curbs, concrete gutters, concrete sidewalks, concrete handicap ramps, concrete pads, concrete sidewalk, etc.

**ARTICLE 11. PAYMENT FOR SERVICES/AMOUNT OBLIGATED**

The Contractor warrants that it has reviewed the County's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order to determine the price the Contractor will charge to provide the Work and Services to be performed under this Contract. In accordance with Article 13(B), the obligation of the County to provide compensation for Work and Services performed under this Contract, shall be in the total not-to-exceed amount of \_\_\_\_\_ (\$\_\_\_\_\_). 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. The awarded contract amount may be amended in accordance with the Extra Work provisions (Article 25) of the Agreement.

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

With respect to travel costs and travel-related expenses, the Contractor agrees to adhere to Section 112.061 of the Florida Statutes as they pertain to out-of-pocket expenses, including employee lodging, transportation, per diem, and all miscellaneous cost and fees. The County shall not be liable for any such travel-related expenses that have not been approved in advance, in writing, by the County.

**ARTICLE 12. 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.

**ARTICLE 13. UNIT PRICE SCHEDULE AND MINIMUM ANNUAL GUARANTEE**

- A. The Contractor will pay all costs required to perform services specified in Appendix A, Scope of Services with the exception of the cost to furnish and install new shelters and bicycle racks, in accordance with Section 20 "Bus Shelter and Bicycle Rack Criteria and Installation" and Section 22 "New Bus Shelter and Bicycle Rack Quantities".

- B. The amounts of compensation to the Contractor, to be paid by the County, to furnish and install new shelters and bicycle racks shall be in the amounts as identified by Table 13.1, Unit Price Schedule.

Table 13.1 Unit Price Schedule

Cost per Unit to Furnish New Bus Shelters and Bicycle Racks					
Item No.	Item Description (Price to Furnish)	Unit	Estimated Quantity	Unit Price	Total
1.1	Model 1 (Full-Size w/advertising panel)	EA	5	\$26,437.00	\$132,185.00
1.2	Model 1 (Full-Size w/o advertising panel)	EA	5	\$23,937.00	\$119,685.00
1.3	Model 2 (Slim-Size)	EA	10	\$18,104.00	\$181,040.00
1.4	Model 3 (Cantilever/Bus Stop Protective Roof Structure)	EA	330	\$13,640.00	\$4,501,200.00
1.5	Model 4 (Enhanced Full-Size Model)	EA	10	\$29,066.00	\$290,660.00
1.6	Bicycle Rack	EA	800	\$124.00	\$99,200.00
Cost to Install New Bus Shelters					
Item No.	Item Description (Price to Install)	Unit	Estimated Quantity	Unit Price	Total
2.1	Civil Work - Model 1 (Full-Size)	EA	10	\$19,107.00	\$191,070.00
2.2	Civil Work - Model 2 (Slim-Size)	EA	10	\$15,721.00	\$157,210.00
2.3	Civil Work - Model 3 (Cantilever/Bus Stop Protective Roof Structure)	EA	330	\$18,855.00	\$6,222,150.00
2.4	Civil Work - Model 4 (Enhanced Full-Size Model)	EA	10	\$19,107.00	\$191,070.00
2.5	Civil Work - Bicycle Racks (w/new concrete pad)	EA	150	\$3,975.00	\$596,250.00
2.6	Civil Work - Bicycle Racks (using existing concrete surface)	EA	50	\$480.00	\$24,000.00
<b>Total Amount:</b>					<b>\$12,705,720.00</b>

- C. With respect to any unit price item as to which an estimated quantity is set forth in the Contractor's Proposal, such unit price shall apply regardless of the actual quantity of such item ultimately utilized in, or required by, the Work; except that, if the actual quantity for a unit price item differs from the estimated quantity in the Price Schedule by more than fifteen percent (15%), then the County may review whether application of the Unit Price would cause a substantial inequity to either party, and, if so, the Unit Price for such item may be equitably adjusted, upward or downward, as determined by the County.
- D. The Contractor shall pay the County an Annual Participation Revenue ("APR"), as a percentage of gross advertising revenue for advertising on the bus shelters or a Minimum Annual Guarantee ("MAG") as identified in this Article, whichever is greater, for each year of this Agreement and any extension thereof, as set forth below.

The amounts for the MAG and APR shall be set forth by the Contractor's proposal, as the amounts may have been amended during negotiations, in accordance with Table 13.2 "Revenue Schedule".

**Table 13.2 Revenue Schedule**

Term	Minimum Annual Guarantee (MAG)*	Quarterly MAG Payment	% of Gross Revenue for Annual Participation Revenue	Projected Gross Revenue**	Projected Annual Participation Revenue (APR) - Payment to the County
Year 1	\$100,000.00	\$25,000.00	5.00%	\$3,210,000.00	\$160,500.00
Year 2	\$102,000.00	\$25,500.00	5.00%	\$3,338,000.00	\$166,900.00
Year 3	\$104,000.00	\$26,000.00	5.00%	\$3,472,000.00	\$173,600.00
Year 4	\$106,000.00	\$26,500.00	5.00%	\$3,611,000.00	\$180,550.00
Year 5	\$108,000.00	\$27,000.00	5.00%	\$3,755,000.00	\$187,750.00
Year 6	\$110,000.00	\$27,500.00	5.00%	\$3,905,000.00	\$195,250.00
Year 7	\$112,000.00	\$28,000.00	5.00%	\$4,062,000.00	\$203,100.00
Year 8	\$114,000.00	\$28,500.00	5.00%	\$4,224,000.00	\$211,200.00
Year 9	\$116,000.00	\$29,000.00	5.00%	\$4,393,000.00	\$219,650.00
Year 10	\$118,000.00	\$29,500.00	5.00%	\$4,569,000.00	\$228,450.00
Year 11	\$120,000.00	\$30,000.00	5.00%	\$4,752,000.00	\$237,600.00
Year 12	\$122,000.00	\$30,500.00	5.00%	\$4,942,000.00	\$247,100.00
Year 13	\$124,000.00	\$31,000.00	5.00%	\$5,139,000.00	\$256,950.00
Year 14	\$126,000.00	\$31,500.00	5.00%	\$5,345,000.00	\$267,250.00
Year 15	\$128,000.00	\$32,000.00	5.00%	\$5,559,000.00	\$277,950.00
<b>Total:</b>	<b>\$1,710,000.00</b>	<b>\$427,500.00</b>	<b>Totals:</b>	<b>\$64,276,000.00</b>	<b>\$3,213,800.00</b>

All MAG and APR payments shall be payable quarterly to the County no later than the 10th working day from April 1st, July 1st, October 1st, and January 1st, regardless of the effective date of this Agreement. If payment is not made by the date specified herein, the payment shall be deemed late. Payment shall be for all amounts due to the County for the preceding quarter and shall be based on the compensation schedule set forth above. Quarterly payments shall be accompanied by a schedule showing the advertisements displayed, and a statement of the gross revenue earned and the amount of future revenue to be earned under existing contracts. In an effort to allow the Contractor reasonable time to secure advertisement agreements, the first quarterly payment of the MAG shall be received by County for the second quarterly payment due after contract award (April 1st, July 1st, October 1st, and January 1st).

- E. In the event the County Project Manager determines to decrease or increase the number of Approved Bus Shelters, the MAG and APR shall be adjusted downward or upward proportionately to the percentage decrease or increase of the number of approved bus shelters. The percentage of gross advertising revenue, as it applies to the APR, shall remain the same regardless of any change in the number of shelters. Adjustments to the MAG shall be pro-rated from the date of the written notice from the County Project Manager adjusting the number of shelters.

- F. For purposes of this Agreement, the term "gross advertising revenue" means all monies, remuneration and consideration of every kind received from the sale of advertising space by the Contractor on bus shelters, bike racks and other assets as set forth under this Agreement.
- G. Gross advertising revenue shall be calculated based on collections (i.e., amounts are prorated on the time periods which correlate to the time periods during which the advertising is displayed).
- H. Contractor shall keep and maintain accurate records of all revenue Contractor collects from the sale or lease of advertisements or advertising space at the bus shelters authorized under this Agreement. The County shall have the right to audit such records. If the County elects to conduct an audit, Contractor shall make all appropriate books, records and accounts, including records maintained for payments, made available to the County, or its duly authorized representative, within ten (10) days of a written request by the County. Contractor must preserve all appropriate books, records, and accounts generated during the term of this Agreement, and any extension thereof, for the current year plus three (3) years.
- I. Late payments shall be subject to a five percent (5%) penalty and accrue interest at the rate of one and one-half percent 1½% interest per month. Arrears in excess of ninety (90) days shall be grounds for termination of this Agreement and removal of advertising materials from the shelters by the County.
- J. Contractor shall use commercially reasonable efforts to maintain advertising at a level not below seventy percent (70%) of the total number of advertising-ready shelters.
- K. The County's payment to the Contractor will be based on actual quantities of Work accepted by the County as being complete. The amounts due for payment shall be in accordance with Table 13.1, Unit Price Schedule. All prices shall remain fixed for a five (5) year term. In the event the County requires costed items beyond the five (5) year period and once the initial quantities in Table 13.1, Unit Price Schedule are exhausted, completed and installed, the costs identified on Table 13.1 shall be amended by the Contractor by means of a cost proposal that will be evaluated for the written approval of the County. All unit prices shall be inclusive of all applicable labor, material, equipment, overhead, and profit.
- L. The Contractor will be responsible, for the provision of the following services set forth in the Scope of Work, as defined below:
- Design and testing of new bus shelter models including enhanced full-size bus shelters;
  - Cleaning, maintaining, repairing and painting bus shelters;
  - Cleaning, removing trash and debris from areas surrounding bus shelters;
  - Maintaining, repairing, removing and replacing bus shelter components;
  - Providing customer service, phone call system/answering service, and call center services;
  - Creating, producing, installing and removing advertising materials and other related services;
  - Obtaining all necessary approvals and permits and paying for fees required by the County and any other agency for installing, maintaining, repairing and upgrading bus shelters; and
  - Program managing services.

#### ARTICLE 14. METHOD AND TIMES OF PAYMENT

The Contractor agrees that under the provisions of this Agreement, as reimbursement for those actual, reasonable and necessary costs incurred by the Contractor, which are directly attributable or properly allocable to the Work, the Contractor may bill the County periodically, but not more than once per month, upon invoices certified by the Contractor pursuant Table 13.1, Unit Price Schedule. All invoices shall be taken from the books of account kept by the Contractor, shall be supported by copies of payroll distribution, receipt bills or other documents reasonably required by the County, shall show the County's contract number, and shall have a unique invoice number assigned by the Contractor. It is the policy of Miami-Dade County that payment for all purchases by County agencies and the Public Health Trust shall

be made in a timely manner and that interest payments be made on late payments. 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 directed by the County's Project Manager. The County may at any time designate a different address and/or contact person by giving written notice to the other party.

#### **ARTICLE 15. INDEMNIFICATION AND INSURANCE**

Contractor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including reasonable attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of third party claims, demands, suits, causes of actions or proceedings of any kind or nature to the extent arising directly from the Contractor's negligent acts, omissions, or willful misconduct in the performance of this Agreement by the Contractor or its employees, agents, servants, partners principals or subcontractors, except to the extent such actions, claims, damages to persons or property, penalties, obligations, or liabilities arise from the negligent acts, omissions, or willful misconduct of the County, its officers, employees and agents. 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. Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

Upon County's notification, the Contractor shall furnish to the Internal Services Department, Strategic Procurement Division, Certificates of Insurance that 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 \$1,000,000 per occurrence. Coverage must include Advertising 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 in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

D. Professional Liability Insurance in an amount not less than \$1,000,000 per claim.

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

OR

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

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

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

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

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

The Contractor shall 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 term, 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, then, subject to all notice and cure periods set forth in this Agreement, County may, at its sole discretion, terminate the Contract.

**ARTICLE 16. 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 Work described herein and to full and prompt cooperation by the Contractor in all aspects of the Work. At the request of the County, the Contractor shall promptly remove from the project any Contractor's employee, subcontractor, or any other person performing Work hereunder. A request by the County for the removal an employee or subcontractor of the Contractor shall only be for cause, arising from a failure to satisfactorily perform all Work, and shall be reasonably documented by the County. The Contractor agrees that such removal at the request of the County of any of its employees does not require the termination or demotion of any employee by the Contractor under this Agreement.

- 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 Work 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 Work 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 Work.
- 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 17. 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. Miami-Dade County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the County. Each employee shall have and wear proper identification.

#### **ARTICLE 18. 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 19. AUTHORITY OF THE COUNTY'S PROJECT MANAGER**

- A. The County's Project Manager has the authority and responsibility to exercise all powers, rights, and/or privileges that have been lawfully delegated to the Project Manager by the County in all matters relating to or affecting the Work and this Contract. Except as expressly specified in this Contract, the Project Manager may delegate, in writing, specifically described authority and responsibility within the scope of its authority and responsibility to Authorized Representatives.
- B. The County's Project Manager is the County's primary Authorized Representative, and is the only person authorized to delegate authority to any other Authorized Representative(s).

- C. The County's Project Manager's delegation of responsibility and authority to other Authorized Representative(s) shall be limited to specifically-defined authority and responsibilities. The authority, responsibilities and limitations of any Authorized Representative shall be described in the Project Manager's notice to the Contractor designating the Authorized Representative.
- D. Nothing in this Contract shall be construed to bind the County for acts of any the County employee or any other person, or for the acts of the County's Project Manager or any other Authorized Representative, including its Contract Manager, that exceed the authority delegated to them herein or in any other written delegation.
- E. The Contractor hereby acknowledges that the County's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Contractor's Proposal; questions as to the interpretation of the Scope of Work; and claims for damages, compensation and losses. All determinations by the County's Project Manager under this Article must be reasonable and made in good faith in accordance with the Contract Documents and provided within the earliest practicable time.
- F. The Contractor shall be bound by all determinations or orders and shall promptly comply with every reasonable order of the Project Manager, in accordance with the scope of the Agreement, 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. The Project Manager shall provide all necessary explanations as to the meaning and intention of the Scope of Work or Contract Drawings within a reasonable time, approximated to equal ten (10) Days, after the Contractor's written inquiry to ensure timely completion of the Work. In the event of a delayed response by the County's Project Manager, any resulting delay of Work shall constitute an Excusable Delay in accordance with Article 21.
- G. The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the County's Project Manager. In the event that the Contractor and the County's Project Manager are unable to resolve their difference, and/or Contractor disagrees with any interpretation(s) and/or determination(s) of the County's Project Manager, then Contractor may initiate a dispute in accordance with the procedures set forth in Article 21. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.

#### ARTICLE 20. DISPUTES

- A. In the event of a dispute, the parties to this Agreement authorize the County Mayor or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Mayor's purview as set forth above shall be conclusive, the final determination of the County. 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.
- B. In resolving a dispute, 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 non-binding decision of others, which prior non-binding 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 must be fair and impartial when exercised or taken. The County Mayor, as appropriate, must render a decision in writing and deliver a copy of the same to the Contractor.

- C. If the Dispute is not resolved to Contractor's satisfaction by the foregoing process, then Contractor may, by the giving of written notice, cause the matter to be referred to mediation. Mediation shall be held within thirty (30) days of the date of such notice, or such later date as may be mutually agreed upon. The parties agree to submit the dispute to settlement proceedings under the International Chamber of Commerce Alternative dispute Resolution ("ADR") Rules. If the dispute has not been settled within a period of two (2) months following the filing of a request for ADR pursuant to said Rules, such dispute, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules. The arbitration shall be held in Miami, FL. The arbitral award shall be final and binding upon the Parties. The Parties agree if the dispute is of a technical nature then to be qualified, the selected mediator and arbitrator, must have, at a minimum, experience in construction, [and/or] project disputes involving public infrastructure.

#### ARTICLE 21. EXCUSABLE DELAY

- A. Upon providing the County notice and reasonably full particulars of an event of force majeure (as described below) in writing, within a reasonable time after the occurrence of such event of force majeure, the Contractor shall not be liable for any delay or failure to perform to the extent caused by fire, flood, severe weather conditions, explosion, labor disputes, strike, shortage of utilities, compliance with any laws, regulations, orders, acts or requirements from the County, government, civil authorities, government-mandated facility shutdowns or limitations, acts of God or the public enemy, or any other act or event of any nature reasonably beyond the Contractor's control. In such circumstances, the County may, at its option, elect to cancel or reschedule the portion of any order subject to such delay by providing to the Contractor prompt written notice of its election, provided that, such cancellation or rescheduling shall apply only to that portion of the order affected by the foregoing circumstances and the balance of the order shall continue in full force and effect.
- B. The Contractor shall not be liable for any delay or failure to perform the Work in the event that the Contractor is actually and necessarily delayed in the progress of the Work as a result of the act, neglect or failure of the County, another County contractor, a utility, governmental entity, local agency (which act, neglect or failure occurs for reasons outside of the Contractor's control), hereinafter referred to as "Excusable Delay".
- C. The Contractor is expected to timely request its permits with the permitting agency within a timeframe that will allow the permitting agency its normal processing time to review a permit request, as reasonably determined by the Contractor. A schedule delay due to the processing time of a permitting agency would only be deemed excusable if the Contractor demonstrated to the satisfaction of the County, through documented evidence, the permitting agency exceeded its standard time to review such permit.

#### ARTICLE 22. COORDINATION MEETINGS

Contractor's Project Manager or designated representative shall attend such meetings and conferences, including a pre-work meeting, arranged by the County for the purpose of coordinating the Work. Attendance to such meetings and conferences by Contractor's Project Manager or designated representative is considered a basic part of the Work, and thus Contractor shall not be entitled to any additional compensation from the County for such attendance.

#### ARTICLE 23. CLEAN UP

- A. Throughout all phases of contracted work, and until the end of the contract term, Contractor shall keep the Worksites, including storage and public areas used by Contractor, clean and free from rubbish and debris.

- B. Before completing the Work, Contractor shall remove from the Worksite any rubbish, tools, and equipment that are not the property of the County.

#### ARTICLE 24. DISPOSAL OF WASTE

Unless otherwise specified in the Contract, Contractor shall make its own arrangements for disposing of waste and excess substances generated from Contractor's performance of the Work at a legal disposal site outside the Worksites, and shall pay all associated costs and obtain necessary permits, if any.

#### ARTICLE 25. EXTRA WORK

- A. The County reserves the right to order changes or direct work that may result in additions to or reductions from the amount, type or value of the Work shown in the Contract and are within the general scope of the Contract, in accordance with this Article. Any such changes which result in additions to the Work will be known as "Extra Work."
- B. No Extra Work shall be performed except pursuant to a written Change Order issued by the County expressly authorizing the performance of such Work and explicitly declaring the intention of the County to treat the Work described therein as Extra Work. In the absence of such a Change Order, if the County Project Manager shall direct, order or require any work, whether orally or in writing, which the Contractor deems to be Extra Work, the Contractor shall nevertheless comply therewith, but shall within five (5) days, or such additional time that may be reasonable under the circumstances, of the County Project Manager's order or directive give written notice to the County Project Manager stating why the Contractor deems it to be Extra Work. Such notice is required to afford an opportunity to the County to: (1) cancel promptly such order, direction or requirement; (2) keep an accurate record of the materials, labor and other items involved; and (3) take such action as may be deemed advisable in light of the Contractor's claim. The failure of the Contractor to give written notice within the time limit stated therefor may be deemed a conclusive and binding acceptance on the Contractor's part that the direction, order or requirement of the County Project Manager does not involve the performance of Extra Work.
- C. Within thirty (30) days of the Contractor's submission of written notice that an order, direction or requirement of the County Project Manager is deemed by the Contractor to involve Extra Work, the Contractor and each Subcontractor shall submit in a form satisfactory to the County a detailed proposal ("Change Order Proposal") (including the elements of cost identified in Article 26, "Change Order Basis for Payment," Paragraphs A., B., C., D, and E.) which shall include adjustments to the Contract price, to the extent permitted under Article 26 to the delivery schedule, or to any other provisions of the Contract necessary to accomplish the Extra Work. Upon written request of the Contractor, within the thirty (30) day period set forth above, for good cause shown, the County Project Manager may grant the Contractor additional time in which to submit a Change Order Proposal. The failure of the Contractor to submit a detailed proposal within the time limit stated therefor, or within such additional time as is granted by the County Project Manager at its sole discretion, may be deemed a waiver of any claim for compensation that the Contractor may have with respect to the claimed Extra Work.
- D. The provisions of the Contract relating to the Work and its performance shall apply without exception to Extra Work and the performance thereof, except as otherwise provided in a written Change Order between the Contractor and the County.

#### ARTICLE 26. CHANGE ORDER BASIS FOR PAYMENT

If Extra Work requires the provision of items of Work or material of the same type as those for which unit prices are quoted in the Proposal, compensation for such Extra Work shall be computed on the basis of the unit price in Article 13(B) for such items.

If Extra Work requires the provision of items of Work or material for which compensation cannot be computed on the basis of unit prices identified by Article 13(B) and the scope and extent of the Extra Work can be determined before the Extra Work is performed, the County will perform a cost analysis of the Contractor's proposal and negotiate a lump sum amount with the Contractor as compensation for such Work. The County Project Manager may in such case direct the Contractor to proceed with the Extra Work pending performance of the cost analysis and negotiation of the amount of compensation for such Extra Work.

If it is not possible beforehand to estimate the extent and duration of the Extra Work or to estimate costs with any degree of certainty, such Extra Work shall be compensated on a time and material basis, limited to the following amounts only:

- A. The sum of plant, field and engineering labor hours performed by the Contractor's or Subcontractor's own employees, and deemed by the County Project Manager to be reasonably required for such Extra Work, plus 21% for overhead, administrative expenses, and profit, plus actual increase in insurance premiums, not included above, for insurances required by the Contract. Where Extra Work is performed on overtime or premium basis the 21% additive shall not apply to the premium portion of such costs.
- B. The actual reasonable cost of materials, together with the actual reasonable cost of the rental of equipment or use of Contractor or Subcontractor owned equipment, required by the Contractor or Subcontractor for performance of such Extra Work, plus material handling costs (inclusive of general and administrative expenses) of 10% of the cost of the material actually incorporated into the Extra Work.
- C. The actual reasonable cost of permitted Subcontract Work, as enumerated above, incorporated in such Extra Work, plus an amount for the Contractor's own administration, overhead and supervision, of 10% of the cost of such permitted Subcontract Work. A single allowance of 5% will be allowed notwithstanding that more than one tier of Subcontractors is employed with respect to such subcontract Work.
- D. For any machinery or special equipment (other than small tools), including fuel and lubricant, the Contractor will receive 100% of its actual incurred cost.
- E. Fees or other costs for required Bonds, and increases thereto, are deemed to be included in the overhead rates enumerated above, and in no event shall additional sums be allowed for such costs in connection with Extra Work under this Contract.

The County will allow for the cost of transporting the equipment to and from the location at which it will be used. If the equipment requires assembly or disassembly for transport, the Department will pay for the time to perform this work at the rate for standby equipment. Equipment may include vehicles utilized only by Labor, as defined above.

For all Work or materials required to be done or furnished under the provisions of this Article, the Contractor shall furnish to the County upon request such documentation as the County may require for substantiating all costs of the Extra Work.

#### **ARTICLE 27. NOTICE OF DISCOVERY OF DIFFERING SITE CONDITIONS**

Contractor shall, before any of the existing conditions are disturbed, provide immediate oral and/or electronic mail notice of the discovery of such conditions to the County's Authorized Representative, followed by written notice to the County's Project Manager of the discovery within forty-eight (48) hours thereafter, of any of the following subsurface conditions:

- A. Type 1 Condition: Subsurface or latent physical conditions at the Worksite differing materially from those indicated in the Contract;

- B. Type 2 Condition: Unknown physical conditions at the Worksite of any unusual nature that differ materially from those ordinarily encountered in and generally recognized as inherent in Work of the character provided for in the Contract.
- C. Type 3 Condition: Substances that Contractor believes may be Hazardous Substances that are required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of Law.

If Contractor encounters substances or conditions during performance of the Work that it reasonably believes to be a Type 1 Condition or Type 2 Condition, Contractor shall not disturb the condition or interfere with the County's right or ability to investigate, but may continue Work in the area. The Contractor shall document and submit such conditions in a written field report (including photographs) within five (5) Days of the initial notice to the County, and include a recommendation how to safely proceed with Work at the area.

If Contractor encounters substances during performance of the Work that it reasonably believes to be a Hazardous Substance, a Type 3 Condition, Contractor shall not disturb the condition and shall suspend Work in the immediate area of the suspected Hazardous Substances until the County authorizes it to resume. The Contractor shall document and submit such conditions in a written field report (including photographs) within five (5) Days of the initial notice to the County, and include a recommendation how to safely proceed Work at the area.

The County will promptly investigate the conditions, and if it finds the conditions do materially differ, or do involve previously unknown Hazardous Substances. The County may make an adjustment in accordance with Article 25 "Extra Work" and Article 26 "Change Order Basis for Payment".

#### ARTICLE 28. 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 29. 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 Work. The Contractor and its subcontractors and suppliers, shall retain such records, and all other documents relevant to the Work furnished under this Agreement for a period of three (3) years from the expiration date of this Agreement and any extension thereof.

#### ARTICLE 30. 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 Contract. 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 contract 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 revenues, payments, and the allowability and allocability of costs.

#### **ARTICLE 31. 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 32. 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 33. SUBCONTRACTUAL RELATIONS**

- A. If the Contractor will cause any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.
- B. The Contractor, before making any subcontract for any portion of the services, will state in writing to the County the name of the proposed Subcontractor, the portion of the Work 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 Work to be performed. Such Work 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 Work in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.
- E. The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the subcontract will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's and County's proprietary and confidential information. Upon the written request of the County, the Contractor shall furnish to the County copies of all subcontracts between Contractor and Subcontractors and suppliers hereunder.

#### **ARTICLE 34. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS**

The Contractor understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the County were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the County

makes no representations or guarantees; and the County shall not be responsible for the accuracy of the assumptions presented; and the County shall not be responsible for conclusions to be drawn therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

#### ARTICLE 35. 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 36. TERMINATION AND SUSPENSION OF WORK

- A. The County may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the County through fraud, misrepresentation or material misstatement.
- B. The County may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.
- C. The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the Code of Miami-Dade County.
- D. In addition to cancellation or termination as otherwise provided in this Agreement, the County may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Contractor.
- E. In the event that the County exercises its right to terminate this Agreement, the Contractor shall, upon receipt of such notice, unless otherwise directed by the County:
- i. stop work on the date specified in the notice ("the Effective Termination Date");
  - ii. take such action as may be necessary for the protection and preservation of the County's materials and property;
  - iii. cancel orders;
  - iv. assign to the County and deliver to any location designated by the County any non-cancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Work;
  - 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 Work 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 Work.

- iii. all unreimbursed costs, fees and expenses incurred and/or expended by Contractors in connection with the performance of the Work and Services and any other obligations of Contractor under this Agreement, which can be substantiated as a non-recoverable cost within three (3) months after the Effective Termination Date.

G. All compensation pursuant to this Article are subject to audit.

**ARTICLE 37. EVENT OF DEFAULT**

A. An Event of Default shall mean a breach of this Agreement by the Contractor. Without limiting the generality of the foregoing, and in addition to those instances referred to herein as a breach, an Event of Default shall include the following:

- i. the Contractor has not delivered Deliverables on a timely basis;
- ii. the Contractor has refused or failed to supply enough properly skilled staff personnel;
- iii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any Work;
- iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
- v. the Contractor has failed to obtain the approval of the County where required by this Agreement;
- vi. the Contractor has failed to provide "adequate assurances" as required under subsection b below;
- vii. the Contractor has failed in the representation of any warranties stated herein.

B. When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Work or any portion thereof, the County may request that the Contractor, within the timeframe set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with the terms of this Agreement. Until the County receives such assurances, the County may request an adjustment to the compensation received by the Contractor for portions of the Work which the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances within the prescribed timeframe, the County may:

- i. treat such failure as a repudiation of this Agreement; and
- ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Work or any part thereof either by itself or through others.

C. In the event the County shall terminate this Agreement for default, the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

**ARTICLE 38. 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 within a reasonable time frame, which will be based on the nature of the required corrective action, 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 Work upon the Termination Date.

#### **ARTICLE 39. REMEDIES IN THE EVENT OF DEFAULT**

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

- A. the difference between the cost associated with procuring Work hereunder and the amount actually expended by the County for re-procurement of Work, including procurement and administrative costs; and
- B. 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 40. 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 by Contractor hereunder do not infringe upon or violate any U.S. 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 by a third-party for infringement of any U.S. 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 caused by the Work.
- D. The indemnification obligation is conditioned upon the following: (i) the County gives prompt written notice to Contractor of the claim, (ii) the County promptly and in writing grants to the Contractor sole control over defenses and settlement, (iii) the County provides all reasonable assistance in defense of the claims, and (iv) the County does not acknowledge the claims. The Contractor shall not be liable with respect to any claim arising out of or relating to either (i) use or incorporation in any product not supplied by the Contractor under this Contract, (ii) any design, technique, modification or specification not originating with or furnished by Contractor; (iii) the combination with or incorporation into the Work and/or Deliverables supplied by the Contractor with any other product not supplied by the Contractor if such infringement would not have occurred without such combination; (iv) the modification of the Work and/or Deliverables supplied by the Contractor under this Agreement by the County or any person or entity other than the Contractor; (v) the use of the Work and/or Deliverables supplied by the Contractor under this Agreement other than as permitted under this Agreement; or (vi) use or distribution of other than the most current update, upgrade or version of the Work and/or Deliverable supplied by the Contractor under this Agreement (if such infringement or claim would have been prevented by the use of such update, upgrade or version).
- E. In the event any Deliverable or anything provided to the County hereunder, is held during the Term to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation to, at the Contractor's option to either (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) so its

use is non-infringing, (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the item(s); or (iii) replace it with substantially equivalent non-infringing item(s).

- F. 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 reasonably believes to be the subject of any such litigation or injunction, or if, in the County's reasonable judgment, use thereof would delay the Work or be unlawful.

#### ARTICLE 41. CONFIDENTIALITY

Contractor and County each agree to treat all Confidential Information, which is adequately identified as such, furnished to it by the other Party under or in connection with this Agreement as confidential and shall not disclose the Confidential Information of the other Party hereto without the written consent of the Disclosing Party except: (a) as necessary or appropriate to facilitate the performance of the Receiving Party's obligations hereunder; (b) to such Receiving Party's directors, officers, partners, employees, legal counsel, accountants, and similar professionals and consultants to the extent such Receiving Party deems it necessary or appropriate to facilitate the performance of the Receiving Party's obligations hereunder or to exercise the Receiving Party's rights hereunder (and such Receiving Party shall inform each of the foregoing parties of such Receiving Party's obligations under this Article and shall secure the agreement of such parties to be bound by the terms hereof), (c) to parties under any advertising contracts, subcontracts, and vendor agreements as necessary or appropriate to facilitate the performance of the Receiving Party's obligations hereunder or to exercise the Receiving Party's rights hereunder, or (d) as otherwise required by law or regulation. Each Party shall take commercially reasonable steps to secure and maintain the confidentiality of the other Party's Confidential Information. In the event that either Party or any of its representatives is required or requested by law to disclose any Confidential Information of the Disclosing Party, the Receiving Party shall, to the extent practical and permitted by law, provide to the Disclosing Party prompt written notice of such request or requirement in order to enable such Disclosing Party, at the Disclosing Party's sole cost and expense, (1) to seek an appropriate protective order or other remedy, (2) to consult with the Receiving Party with respect to such party taking steps to resist or narrow the scope of such request or legal process, or (3) to waive compliance, in whole or in part, with the terms of this Article. In any such event, the Receiving Party shall use commercially reasonable efforts to ensure that all Confidential Information of the Disclosing Party that is disclosed by the Receiving Party shall be accorded confidential treatment and the Receiving Party shall furnish only that portion of the Disclosing Party's Confidential Information that is legally required to be disclosed. Upon the expiration or earlier termination of this Agreement, the Receiving Party will return to the Disclosing Party all material containing or reflecting the Receiving Party's Confidential Information and will not retain any copies, extracts, or other reproductions; provided, however, that the Receiving Party and each of its representatives may retain on a confidential basis one copy of such Confidential Information in order to comply with legal or regulatory requirements and/or internal document retention policies as well as any and all (i) e-mails and any attachments contained in such e-mails, and (ii) any electronic files, each of which are automatically saved. Any Confidential Information that is not returned or destroyed, including, without limitation, any oral information, shall remain subject to the confidentiality obligations set forth in this Letter. In respect of the foregoing, both County and Contractor hereby acknowledge and agree that the Disclosing Party's Confidential Information that is retained by it pursuant to the terms of this Article shall be destroyed by such retaining party upon the expiration of such period of time to comply with legal or regulatory requirements and/or internal document retention policies. Notwithstanding the foregoing, nothing herein shall require either Party to destroy documents on computers and other electronic databases, provided that they continue to take reasonable steps to secure the Confidential Information.

**ARTICLE 42. PROPRIETARY INFORMATION**

- A. As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of Florida's Public Records Law.
- B. The Contractor acknowledges that all computer software supplied by the County (the "County Software") 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.
- C. Except as otherwise set forth in this Agreement, during the Term of the Agreement, 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 County Software. All third-party license agreements for the County Software must also be honored by the contractors and their employees, except as authorized by the County and, if the County 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.
- D. 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 County Software and will take such steps as are within the Contractor's authority to prevent improper use, disclosure or removal.

**ARTICLE 43. 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 (the "County Materials"). The Contractor shall not, without the prior written consent of the County, use such County Materials on any other project in which the Contractor or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution of County Materials by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Work under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.
- B. For the avoidance of confusion, this Agreement is not a work-made-for-hire Agreement. As between County and Contractors, Contractor is and shall remain the sole owner of all Intellectual Property (as hereinafter defined) in connection with any software, hardware, devices, equipment, Work, Services and/or goods furnished by, through or on behalf of Contractor under or in connection with this Agreement, whether or not such Intellectual Property was authored, conceived, reduced to practice or otherwise first generated prior to or after the Effective Date of this Agreement; except when the Contractor is furnished with Intellectual Property by the County that belongs to the County. The County hereby acknowledges and agrees that the Intellectual Property will not embody or constitute County Materials nor will such Intellectual Property be assigned or transferred to the County under or in connection with this Agreement. "Intellectual Property" means any and all rights arising in the United States or any other jurisdiction throughout the world in and to (i) patents, patent disclosures and inventions (whether patentable or not), (ii) trademarks, service marks, trade dress, trade names, logos, corporate names and domain names, and other designations of source, sponsorship, affiliation or origin, together with all related goodwill, (iii) copyrights, copyrightable works and other works of authorship (including computer programs), mask works, data, data collections and databases, and software (iv) trade secrets, know-how and other confidential or proprietary information, (v) moral rights, and (vi) any and all other intellectual property rights, in each case whether registered or unregistered and including all related rights of priority under international conventions, all pending and future applications and registrations and continuations, divisions, continuations-in-part, reissues, extensions, substitutions, re-examinations and renewals thereof, and all similar or equivalent rights or forms of protection in any part of the world.

For the Term of this Agreement, Contractor hereby grants to the County a royalty-free, revocable to use software provided by, through or on behalf of Contractor solely to enable the delivery of County content to advertising displays on County bus shelters pursuant to the terms of this Agreement. No rights are granted or transferred to County in or with respect to any of Contractor's Intellectual Property.

#### ARTICLE 44. 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 Miami-Dade County, the Contractor confirms its knowledge of and commitment to comply with the following:

1. *Miami-Dade County Ownership Disclosure Affidavit*  
(Section 2-8.1 of the 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 (8), 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 Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first request a conflict of interest opinion from the County's Ethics Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. 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 45. INSPECTOR GENERAL REVIEWS****A. 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.

**B. 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 46. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS**

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

- a) Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.
- b) Miami-Dade County Small Business Enterprises Development Participation Provisions, as applicable to this Contract.
- c) Environmental Protection Agency (EPA), as applicable to this Contract.
- d) Section 2-11.1 of the Code of Miami-Dade County, "Conflict of Interest and Code of Ethics."
- e) Section 10-38 of the Code of Miami-Dade County, "Debarment of Contractors from County Work."
- f) Section 11A-60 - 11A-67 of the Code of Miami-Dade County, "Domestic Leave."
- g) 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.
- h) The Equal Pay Act of 1963, as amended (29 U.S.C. 206(d)).
- i) Section 448.07 of the Florida Statutes "Wage Rate Discrimination Based on Sex Prohibited."

- j) Chapter 11A of the Code of Miami-Dade County (§ 11A-1 et seq.) "Discrimination."
- k) Chapter 22 of the Code of Miami-Dade County (§ 22-1 et seq.) "Wage Theft."
- l) Chapter 8A, Article XIX, of the Code of Miami-Dade County (§ 8A-400 et seq.) "Business Regulations."
- m) 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 "h" through "m" 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, 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 47. NONDISCRIMINATION**

- A. 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.
- B. 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 48. CONFLICT OF INTEREST**

The Contractor represents that:

- A. No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the award of this Agreement.
- B. There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate

family or household of any of the aforesaid:

- i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or
  - ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.
- C. Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.
- D. The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- E. In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the County's Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Contractor receives from the Project Manager in regard to remedying the situation.

#### ARTICLE 49. 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.
- D. Notwithstanding anything to the contrary set forth in this Article, however in consideration of Section 12 of the Scope of Work "Advertising Standards", nothing in this Article shall be construed or interpreted as (i) preventing or restricting the marketing of advertising space on any bus shelter or other asset that Contractor has the right and/or obligation to sell advertising on or in connection therewith; and/or (ii) requiring the review and/or approval by the County or otherwise for the marketing of advertising space on any bus shelter or other asset that Contractor has the right and/or obligation to sell advertising on or in connection therewith.

#### ARTICLE 50. BANKRUPTCY

The County reserves the right to terminate this Agreement, if, during the Term, 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 51. 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 52. 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 24 of this Contract.

#### ARTICLE 53. FIRST SOURCE HIRING REFERRAL PROGRAM

Pursuant to Section 2-2113 of the Code of Miami-Dade County, for all contracts for goods and services, the Contractor, prior to hiring to fill each vacancy arising under a County contract shall (1) first notify the South Florida Workforce

Investment Board ("SFWIB"), the designated Referral Agency, of the vacancy and list the vacancy with SFWIB according to the Code, and (2) make good faith efforts as determined by the County to fill a minimum of fifty percent (50%) of its employment needs under the County contract through the SFWIB. If no suitable candidates can be employed after a Referral Period of three to five days, the Contractor is free to fill its vacancies from other sources. Contractor will be required to provide quarterly reports to the SFWIB indicating the name and number of employees hired in the previous quarter, or why referred candidates were rejected. Sanctions for non-compliance shall include, but not be limited to: (i) suspension of contract until Contractor performs obligations, if appropriate; (ii) default and/or termination; and (iii) payment of \$1,500/employee, or the value of the wages that would have been earned given the noncompliance, whichever is less. Registration procedures and additional information regarding the FSHRP are available at <https://fiapps.careersourcesfl.com/firstsource/>.

**ARTICLE 54. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF THE 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 1<sup>st</sup> STREET, SUITE 1300, MIAMI, FLORIDA 33128**


**ARTICLE 55. SURVIVAL**

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

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

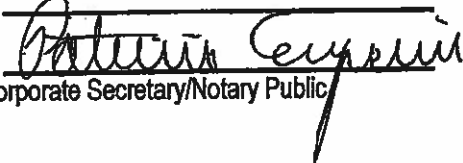
Outfront Media Group LLC

Miami-Dade County

By:   
Name: Andrew Srubas

Title: Chief Commercial Officer

Date: November 13<sup>th</sup>, 2019

Attest:   
Corporate Secretary/Notary Public

By: \_\_\_\_\_

Name: Carlos A. Gimenez

Title: Mayor

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Clerk of the Board

Corporate Seal/Notary Seal  
Patricia F. Engracia  
Notary Public, State of New York  
No. 01EN6318360  
Qualified in Queens County  
Commission Expires January 26, 2023

Approved as to form  
and legal sufficiency

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

Attachments:

- Appendix A Scope of Work
- Appendix B Living Wage Supplement
- Exhibit A County's Current Bus Shelters Inventory
- Exhibit B Existing Bus Shelter Designs
- Exhibit C County Required Shelter Cleaning and Maintenance Procedures
- Exhibit D County Required Bus Shelter Components
- Exhibit E Painting of Existing Bus Shelters Scope of Services
- Exhibit F Replacement Trash Receptacles
- Exhibit G Cantilever and Enhanced Full-Size Shelter Design Spec
- Exhibit H LED Lighting System Components
- Exhibit I Part 1 County Current Bus Stop Inv with No Shelter and Daily Ridership (Excel)
- Exhibit I Part 2 County Current Bus Stop Inv with No Shelter and Daily Ridership (PDF)
- Exhibit J Bike Rack Model Drawing

SCOPE OF WORK



**BUS PASSENGER SHELTER PROGRAM**

Issued by Miami-Dade County:

DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS

SCOPE OF WORK

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**SCOPE OF WORK****1. Background**

Miami-Dade County, hereinafter referred to as the "County", as represented by Miami-Dade County's Department of Transportation and Public Works ("DTPW"), requires a Contractor to manage and expand the Bus Passenger Shelter Program ("Program") in unincorporated Miami-Dade County (hereinafter referred to as the "UMSA") and in any municipalities which may opt to participate in this contract. The Contract provides for the ongoing cleaning, maintaining, and repairing of all bus shelters located in UMSA and participating municipalities, and expands the Program through furnishing and installing new bus shelters in compliance with ADA (Americans with Disabilities Act) at bus stops sites where bus shelters currently do not exist in UMSA and in any participating municipalities.

**2. Project Requirements**

The Contract includes the following tasks:

- A. Cleaning, maintaining and repairing all existing bus shelters, enhanced full-size shelters and new bus shelters installed under this contract, as located in UMSA, to ensure that the bus shelters are in a safe, repaired and operational condition at all times with an attractive appearance, and with safe and proper illumination at night.
- B. Expanding the bus passenger shelter program through the design, manufacturing, and installation of an innovative, cost effective, and aesthetically pleasing cantilever bus shelter/bus stop protective roof structure model. (*Exhibit G, Cantilever and Enhanced Full-Size Shelter Design Specifications, Bus Shelter Connector Detailed Sketch with Backup Documentation*).
- C. Expanding the bus shelter program through the design, manufacturing, and retrofit of existing full-size shelters with partial coverage on all four walls when possible as directed by the County. Bus shelter designs shall be for outdoor public spaces in tropical climate. (*Exhibit G, Cantilever and Enhanced Full-Size Shelter Design Specifications, Bus Shelter Connector Detailed Sketch with Backup Documentation*).
- D. Furnishing and installing bicycle racks with concrete pads at 200 bus shelter sites in UMSA. Each site/location consists of one concrete pad and four bicycle racks (total of 800 racks). Bicycle racks are specified in accordance with *Exhibit J, Bike Rack Model Drawing*. Sites for bicycle racks to be determined by the County, post award.
- E. Creating a business plan for generation of revenue. This will be considered as the Contractor's sole compensation for performing work.

**3. Performance of Work**

- A. Contractor shall perform all Work in a skillful and workmanlike manner. All workers shall have sufficient skill and experience to perform the Work assigned to them.
- B. The Contractor shall coordinate the Work performed by its Subcontractor and Suppliers, and be fully responsible to the County for all acts and omissions of Subcontractor, Suppliers and their employees. Any provision of the Contract referring to the acts or omissions of the Contractor shall also refer to and include the acts and omissions of all Subcontractors and Suppliers.
- C. If any portion of the subcontracted Work is not performed in accordance with the Contract, or if a Subcontractor or Supplier commits or omits any act that would constitute a breach of the Contract, the Contractor shall cure the breach, and at the direction of the Project Manager, shall replace the Subcontractor or Supplier. The Subcontractor or Supplier shall not be employed again on the Work.

**SCOPE OF WORK****4. Contractor's Representative**

Contractor shall have a Representative (or Project Manager) with full authority to represent and act for the Contractor. Contractor's Representative shall act for the Contractor in all matters concerning the Work, and, subject to all requirements of this Contract, shall have the following authority and obligations:

- A. Ability to so organize the Work, and the Work of its Subcontractor, to complete the Work in accordance with the Contract and the Contractor's bar chart, as accepted by DTPW.
- B. Ability to delegate defined authority to other Contractor personnel (who thus also become Contractor's Representatives, as provided in this Contract, to the extent specified), subject to written notice to, and approval by, the Project Manager.
- C. During performance of the Work, Contractor's Representative shall be present at the Worksite(s), or have its fully-empowered delegate present at the Worksite, at all times that any Work is in progress or at any time any employee or Subcontractor of the Contractor is present at the Worksite.

**5. Not Used in Contract****6. Contractor's Responsibilities**

A. The Contractor will be responsible for the following:

- Furnishing and installation of new bus shelter units;
- Enhancement of existing full-size bus shelters;
- Civil work related to the installation of new bus shelters and enhanced full-size shelters; and
- Furnishing and installing 200 bicycle concrete pads, with four bicycle racks at each pad, at bus shelter sites.

B. Bus Stop and Bus Shelter Network

Metrobus (County's bus service) serve approximately 8,000 bus stops countywide. About 3,000 of the bus stops are in UMSA, and 1,047 of the bus stops in UMSA have a bus passenger shelter. The designs of the County's existing bus shelters are full-size model and slim-size model:

- **Full-size model:** There are 998 full-size bus shelters in UMSA. A total of 850 full-size bus shelters have backlighted, two-sided advertising box, for a total of 1,700 advertising faces available. There are 148 bus shelters without advertising box but with a back wall that can be used for advertising wrapping, upon approval from the County.
- **Slim-size model:** There are 49 slim-size bus shelters in UMSA. This model does not provide an advertising box, but the back wall of the shelter can be used for advertising wrapping purposes, upon approval from the County.

Table 6 below shows the number of bus shelters by model in UMSA and their advertising capacity. The County's inventory of existing bus shelters is provided in *Exhibit A, Passenger Amenities at Bus Stops in UMSA*. The number of bus shelters identified by Table 6 is for the purpose of project planning estimates. The actual number of bus shelters in service may increase or decrease at any time during the term of the contract, based on the County's bus service requirements. The bus shelter designs are approved by the County through Notice of

**SCOPE OF WORK**

Acceptance ("NOA") No. 15-0818.15 and NOA No. 15-0818.16, as provided in *Exhibit B, Existing Bus Shelter Designs*.

**Table 6: Total Bus Shelters in UMSA and in Metrorail Stations  
— Bus shelter data available as of May 2018**

Bus Shelter Model		Total Bus Shelters	Total Number of Advertising Panels
Full-Size	Shelters with Advertising Box (two sides)	850	1,700
	Shelters without Advertising Box (back panel available for advertising)	148	148*
Slim-Size	(back panel available for advertising)	49	49*
<b>Total</b>		<b>1,047</b>	<b>1,897</b>

\* Subject to County approval

In addition to the 1,047 bus shelters available for advertisement, the County will allow, under this contract, in-app mobile advertising at all bus stops Countywide for a total of approximately 8,000 locations.

**C. Municipal Access to the Resultant Contract**

Municipalities in Miami-Dade County may also access the resultant contract through a partnership with the County, in which the municipality's governing board authorizes the County to assume all rights, title, and interests to existing bus shelters currently located within the jurisdiction of the municipality, as well as any new bus shelters installed within their jurisdiction as part of this contract, should the Board authorize such a partnership, and upon the effectuation of a fully executed agreement between the Municipality and the Board.

**7. Maintenance Standards**

- A. The Contractor shall maintain all bus shelters, at its cost, in a clean, repaired and operational state at all times with an attractive appearance following the County's Maintenance Standards, as detailed in *Exhibit C, Required Shelter Cleaning and Maintenance Procedures*, and repair all damaged, missing or non-operational bus shelter components within 48 hours of its discovery by the Contractor, or after receipt of such bus shelter maintenance concerns from the County or the public.
- B. The Contractor shall maintain safe and proper illumination at all bus shelters, in terms of lighted visibility at the bus shelter, from dusk until dawn, at all times, and repair all non-illuminated bus shelters within 48 hours of its discovery by the Contractor, or after receipt of such non-illumination concerns at the shelter from the County or the public.
- C. The area surrounding each bus shelter shall be kept free of graffiti, overgrown grass and/or weeds, overflowing trash, litter and debris, and other rubbish for a radius of ten feet from the outer edge of the bus shelter at all times. The Contractor shall prepare a maintenance schedule for bus shelters that complies with the maintenance provision herein. Additionally, such items shall be removed within 24 hours of its discovery, or after receipt of a removal request from the County, or the public.
- D. The Contractor shall ensure that every bus shelter has a County-specified or County-approved trash receptacle as provided in *Exhibit F, Replacement Trash Receptacle*.

**SCOPE OF WORK**

- E. The Contractor shall ensure that the Contractor's name and contact information is posted on all existing and new bus shelters, including enhanced full-size shelters.
- F. The Contractor shall be responsible for obtaining all necessary approvals and permits and for paying for fees as required by the County and any other agencies to install, maintain, repair, and upgrade bus shelters as set forth in the Agreement.

The following County entities should be contacted to obtain Permits prior to any shelter installations:

- DTPW Building Permit Section  
Located at: 11805 S.W. 26 Street  
Miami, Florida 33175-2474  
786-315-2221 (Office)  
786-315-2907 Fax  
<http://www.miamidade.gov/building>
- DTPW Public Work Permit Section  
Located at: SPCC Building 111 NW 1st Street, 14th Floor  
Miami, Florida 33128-1970  
[pws@miamidade.gov](mailto:pws@miamidade.gov)  
305-375-4602 (Office)

Regarding the Contractor responsibilities stated in Sections 18, 21, and 23, the following County entities must be contacted:

- DTPW Transit Passenger Amenities Section  
Located at: 701 NW 1st Court, Suite 1200  
Miami, Florida 33136  
786-469-5328 (Office)  
[raonelr@miamidade.gov](mailto:raonelr@miamidade.gov)  
or  
701 NW 1st Court, Suite 1700  
Miami, Florida 33136  
786-442-5248 (Office)  
[cruzcz@miamidade.gov](mailto:cruzcz@miamidade.gov)

- G. The Contractor hereby agrees that the County may collect funds, as detailed in accordance with Section 16 "Fee for Failure to Perform" of the Scope of Work, for failure to perform required bus shelter maintenance for the County according to the timeframe as set forth in this section.

**8. Repair of Damaged or Vandalized Bus Shelters**

The Contractor shall:

- A. Repair any vandalized/damaged bus shelters, remove graffiti at bus shelters within 48 hours of its discovery by the Contractor, or after receipt of notice of such vandalism or damage from the County or the public. In the event that a shelter location is being repeatedly vandalized, the County will permit Contractor to relocate such bus shelter to a mutually agreeable location (at the Contractor's expense).

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- B. To the extent reasonably possible, remove/reinstall damaged bus shelters that cannot be repaired on-site within 48 hours:
1. To the extent reasonably possible, reinstall repaired bus shelters within 30 calendar days of removal or provide written notice to the County's Project Manager within 14 calendar days of removal, if the damaged bus shelter cannot be repaired and reinstalled.
  2. Ensure that reinstalled bus shelters comply with all requirements for bus shelter installation standards.
  3. The Contractor shall be responsible for the lawful removal of the bus shelter and any associated disposal fees of destroyed shelter components.
- C. To the extent reasonably possible, repair bus shelter damages that are hazardous (posing danger to the public), repair/replace malfunctioning bus shelter lighting systems caused by damage or vandalism, and replace damaged or missing trash receptacles within 24 hours of discovery by Contractor or upon notice from the County or the public.
- D. Provide a written monthly report to DTPW or County's Project Manager of bus shelters that have been subject to repeated vandalism.
- E. Obtain all necessary approvals and permits and be responsible for paying for fees as required by the County and any other agencies to properly remove/reinstall bus shelters.
- F. The Contractor hereby agrees that the County may collect a fee as detailed in Section 16 "Fee for Failure to Perform" of the for failure to perform required bus shelter services for the County, in accordance with the timeframe as set forth in this section.

## 9. Phone Number

The Contractor shall:

- A. Provide a toll-free phone number, available 24 hours a day, 7 days a week, to receive customer service calls from the public and the County related to the Program. The phone number shall be displayed on the front of each shelter in letters large enough to be easily visible by pedestrians from 10 feet away in a manner that will not cause damage upon removal.
- B. Provide a phone system/answering service for incoming calls to never get a busy signal. Questions, requests, and complaints received by the County from the public will be transferred to the Contractor's toll-free phone number for attention.
- C. Have a representative authorized to make decisions on behalf of the Contractor available at all times to answer or immediately return calls from the County or the public regarding emergency and urgent situations, during and after business hours.
- D. The County will issue each bus shelter a separate distinct identification number corresponding to the bus stop district location, as specified in Chapter 21, Article XII of the Code, and the County's designated inventory number. The Contractor shall post the distinct identification number on each bus shelter in a manner that will not cause damage upon removal.

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**SCOPE OF WORK****10. Bus Shelter Components and Parts**

The Contractor shall ensure the availability of bus shelter components/spare parts to make expedient repairs of damaged bus shelters for the term of the resultant contract. The components for the existing bus shelter design models are provided in *Exhibit D, County Required Bus Shelter Components*.

**11. Painting of Existing Bus Shelters**

- A. The Contractor shall provide professional painting service to re-paint the dark green horizontal roof trim and grey solar panel frame and outer facing exposures of all existing bus shelters in UMSA, as detailed in *Exhibit E, Painting of Existing Bus Shelters Scope of Services*, at its expense.
- B. The painting service shall be performed in accordance with the paint manufacturer's instructions and include:
  - 1. Surface preparation before painting for proper application of paint. Not painting over dirt, rust, scale, grease, moisture, decals, or conditions otherwise detrimental to the formation of durable paint film.
  - 2. Removal and subsequent replacement of all existing bus shelter surface decals.
- C. The Contractor shall take necessary precautions and provide barricades for the bus shelter at all times when painting services are performed to ensure the protection of persons and property.
- D. The Contractor shall complete the painting of all existing bus shelters in UMSA, as specified and detailed in *Exhibit E, Painting of Existing Bus Shelters Scope of Services*, within 4 years from the Contract Date (Notice to Proceed, NTP), or sooner at specific bus shelters and along specific route corridors as directed by the County, and at the Contractor's expense.

**12. Replacement Trash Receptacles**

- A. The Contractor shall furnish and install replacement trash receptacles, as specified in *Exhibit F, Replacement Trash Receptacle*, at the existing bus shelters, including any enhanced full-size shelters, and any new bus shelters installed under this contract.
- B. The Contractor shall install the replacement trash receptacles at existing bus shelters where the original County-specified bus shelter trash receptacle is missing; where the existing trash receptacle base unit has become rusted or damaged; and where the stainless steel lid to the original trash receptacle is missing among others.
- C. The replacement trash receptacles shall be installed within 5 calendar days of its discovery by the Contractor, or after receipt of such trash receptacle concerns from the County or from the public, and at the Contractor's expense. The Contractor hereby agrees that the County may collect funds, or deduct from any monies owed, as detailed in Section 16 "Fee for Failure to Perform" of the Agreement, for failure to replace missing or damaged trash receptacle components for the County according to the timeframe as set forth in Section 12 "Replacement Trash Receptacles". In the event of force majeure, the County will work closely with the Contractor to coordinate and prioritize maintenance and repair activities.

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**SCOPE OF WORK****13. Advertising Standards**

The Contractor shall engage in activities specifically related to the selling of advertising on bus shelters in UMSA.

- A. The Contractor shall provide, install and maintain high quality, expertly designed commercial advertising displays on bus shelters designated by the County. The Contractor shall adhere to generally accepted principles of advertising in relation to good taste and truth in advertising. Whenever a question arises as to the propriety of an advertisement, the Contractor is required to submit the advertisement work to the DTPW Director, or County's Project Manager, for review and approval prior to installation.
- B. The Contractor shall provide no more than one advertisement per side of the advertising box. In the case of bus shelters without advertising box, one advertising wrap design will be allowed per shelter. The County's Project Manager may allow the Contractor to advertise a larger and/or more than one advertisement, within limits, on a case-by-case basis, by written notice with specific stipulations thereto.
- C. The Contractor is required to remove non-complaint bus shelter advertisement panels, as detailed below, within 48 hours after receipt of official notice from the DTPW Director or County's Project Manager.
- D. The Contractor shall comply with the following:
1. No advertising shall contain the words "STOP", "LOOK", "DRIVE IN", "DANGER" or any other word, symbol, or displays designed to distract vehicular traffic.
  2. No advertising shall contain material that is immoral, lascivious, or obscene as defined in Section 847.001 Florida Statutes.
  3. No advertising shall be for businesses engaged in any activity that requires the exclusion of minors pursuant to Chapter 847, Florida Statutes.
  4. Tobacco advertising or electronic cigarette advertising shall not be allowed.
  5. Political or political campaign advertising shall not be allowed.
  6. Advertising of alcoholic beverages, as defined by Section 561.01, Florida Statutes, shall be permitted with the following restrictions:
    - No advertising for alcoholic beverages shall be within one-quarter mile of any type of public or private school including pre-schools, elementary schools, middle schools, high schools, colleges and universities;
    - No advertising for alcoholic beverages shall be within one-quarter mile of houses of worship, including churches, synagogues, temples, and mosques;
    - No advertising for alcoholic beverages shall be within one-quarter mile of Hospitals or addiction treatment centers;
    - All advertising for alcoholic beverages will require approval from the DTPW Director or County's Project Manager;
    - All advertising for alcoholic beverages must include the disclaimer below as mandated by the Alcoholic Beverage Labeling Act ("ABLA") of 1988. Government warning disclaimer must be equal to at least 10% of the size of the ad:

"GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems."
  7. No advertising shall contain libelous material or material detrimental to the operation or goals of the County.

**SCOPE OF WORK****14. Advertising Removal**

- A. Notwithstanding the provisions of Section 13 "Advertising Standards", approval by the County of advertising materials, advertisements, and manner of presentation is not required.
- B. The DTPW Director or County's Project Manager will require the Contractor to remove any advertising that fails to comply with Section 13 "Advertising Standards". The Contractor shall remove advertising within 48 hours upon issuance of a written requirement from the DTPW Director or County's Project Manager to remove said advertising.
- C. In the event the Contractor fails to remove the advertising as specified herein, the County may take necessary actions to remove the advertisement. The Contractor is obligated to reimburse the County for actions taken under this provision. The County is not liable for any damages in connection therewith.
- D. In the event the County determines that an advertisement that was previously required to be removed is later advertised again or not removed, the Contractor hereby agrees that the County may collect funds as detailed in Section 16 "Fee for Failure to Perform", where such advertising is discovered by the County and not removed within the timeframe as set forth in this section. The County will take necessary actions to remove the advertisement and deduct the costs incurred from the Contingency Fund, or deduct from any monies owed.

**15. County Self-Promotional Space**

- A. From time to time, the County will have a need to advertise public service announcements promoting County sponsored facilities, events, or activities. The Contractor shall provide the County with exclusive access to, at minimum, 3% of the bus shelters with an advertising box for County self-promotional announcements. The Contractor shall avail itself to DTPW or the County's Project Manager upon request as the County decides the best strategy for self-promotional announcements. The County will determine the location of bus shelters for self-promotional announcements.
- B. The County will provide the finished artwork for the County's self-promotional announcement bus shelter posters to the Contractor for final production, printing and installation by the County's deadline for installation.
- C. The Contractor shall pay for the printing cost for the County's self-promotional announcement posters, and install, maintain and remove these posters at the Contractor's expense.

**16. Fee for Failure to Perform**

- A. In accordance with the service requirements of the contract, the Contractor shall be liable for damages resulting from its failure to meet contractual requirements or standards. The County's assessment of all fees will be final. The County will facilitate the fee assessment by invoicing the amount assessed or deducting the amount of the fee from the Irrevocable Letter of Credit, as described in Article 8 "Irrevocable Letter of Credit" of the Agreement, or by deducting the amount from any monies owed.
- B. The fee shall be interpreted as failure to maintain the existing bus shelters, as directed by the County and as specified in the following sections, and as may be deducted as outlined in Sections: 7 "Maintenance Standards"; 8 "Repair of Damaged or Vandalized Bus Shelters"; 12 "Replacement Trash Receptacles"; 14 "Advertising Removal"; 23 "Existing Bus Shelter Removals and Installations"; 24 "Installation and Maintenance of Bus Shelter Lighting System; and 34 "Failure to Report".

**SCOPE OF WORK**

C. A written notice of a violation and intent to impose a fee shall be provided to the Contractor in the form of a written report. These Fee reports will be issued to the Contractor by the County or County's Project Manager, in order to afford the Contractor time to notify the County of extenuating circumstances. Fee shall result in the following per diem fees:

- Level 1: Fee in the amount of \$100 per day
- Level 2: Fee in the amount of \$200 per day
- Level 3: Fee in the amount of \$400 per day
- Level 4: Fee in the amount of \$100 per day per uninstalled bus shelter.

The only violations that may result in the assessment of a Fee are the following:

Level 1 Fee:

- a) Failure to empty trash receptacle at a specific shelter site in accordance with Section 7 "Maintenance Standards"
- b) Failure to remove graffiti at a specific shelter site in accordance with Section 7 "Maintenance Standards"
- c) Failure to replace missing trash receptacle at specific shelter site in accordance with Section 12 "Replacement Trash Receptacles"

Level 2 Fee:

- a) Failure to remove advertising poster as directed by the County or County's Project Manager, in accordance with Section 14 "Advertising Removal"
- b) Failure to remove and/ or reinstall existing bus shelter within the required timeframe for completion of the project and in, accordance with Section 8 "Repair of Damaged or Vandalized Bus Shelters"
- c) Failure to maintain proper illumination at a specific shelter site, in accordance with Section 24 "Installation and Maintenance of Bus Shelter's Lighting System"
- d) Failure to replace any missing/ vandalized/ non-operational component associated with the operation of the solar-power illumination system at a specific shelter site, in accordance with Section 24 "Installation and Maintenance of Bus Shelter's Lighting System"
- e) Failure to comply with the Report requirements, as specified in Section 32 "Incident Report"

Level 3 Special Fee:

- a) Failure to repair a specific damaged shelter caused by vehicular accident, act of vandalism, or theft in accordance with Section 8 "Repair of Damaged or Vandalized Bus Shelters"
- b) Failure to remove a specific damaged shelter that cannot be repaired on site in accordance with Section 8 "Repair of Damaged or Vandalized Bus Shelters"

Level 4 Failure to install new bus shelters as stipulated in Section 2.21-17

D. Upon providing the County notice and reasonably full particulars of an event of force majeure (as described below) in writing, within a reasonable time after the occurrence of such event of force majeure, the Contractor shall not be liable for any delay or failure to perform to the extent caused by fire, flood, severe weather conditions, explosion, labor disputes, strike, shortage of utilities, compliance with any laws, regulations, orders, acts or requirements from the government, civil authorities, government-mandated facility shutdowns or limitations, acts of God or the public enemy, or any other act or event of any nature reasonably beyond the Contractor's control.

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**SCOPE OF WORK****17. New Bus Shelter Design, Manufacturing and Installation**

The Contractor shall be responsible for designing, manufacturing and installing the new bus shelter models as directed by the County. The new bus shelter model designs are:

- Cantilever bus shelter/bus stop protective roof structure, and
- Enhanced full-size bus shelter.

**18. New Bus Shelter Designs, Manufacturing, Installation and Maintenance**

- A. Within 45 calendar days following award by the County of the Contract, the Contractor shall submit to the County the design for an innovative, cost effective, and aesthetically-pleasing cantilever bus shelter model/bus stop protective roof structure model, with the possibility of being installed at bus stops in UMSA where public right-of-way available is 5 and 6 feet, and as detailed in Section 19 "Bus Shelter Model Specification" and in *Exhibit G, Cantilever and Enhanced Full-size Shelter Design Spec.*
- B. Within 60 calendar days following award by the County of the Contract, the Contractor shall submit to the County the design for an innovative, cost effective, and aesthetically-pleasing enhanced full-size bus shelter model with partial coverage on its four walls, by modifying the design of existing full-size shelter as indicated by *Exhibit G, Cantilever and Enhanced Full-size Shelter Design Spec.*, and the possibility of being installed at bus stops in UMSA where public right-of-way available.
- C. The design of the new bus shelter models shall meet the following requirements:
1. Provide passengers with protection from angled sun and rain.
  2. The units shall be designed to have a limited footprint in order to provide for the required ADA wheelchair accessible path in front of the bus shelter/roof structure unit support posts. See *Exhibit G, Cantilever and Enhanced Full-size Shelter Design Spec.*
  3. Provide either a seating unit or a leaning rail for the comfort of passengers at the bus stop site, and to be dependent on the available space in the public right-of-way that ensures the ADA-required wheelchair accessible path in front of the shelter/roof structure support posts is provided.
  4. Provide proper and effective illumination at the bus stop through the use of a solar-powered LED lighting system. Solar-powered, LED-illuminated advertising panels may also be used to provide the required illumination at the bus stop site.
  5. Within 30 calendars days following the presentation of the final design for the new bus shelter models (the cantilever bus shelter model/bus stop protective roof structure model and the enhanced full-size bus shelter model), the County shall approve or not the design.
  6. Within 120 calendar days following the County's approval of the final design for the new bus shelter models, the Contractor shall, for each new bus shelter model design, develop, manufacture and test a full-scale prototype model, of which the final design for the model shall be permitted by the County for installation in the public right-of-way, at the Contractor's expense, for review by the County.
  7. Within 30 calendars days following the successful review of the prototype model, the Contractor shall apply to the County's Department of Regulatory and Economic Resources ("RER") for a Notice of Acceptance ("NOA")

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- for the cantilever bus shelter model/bus stop protective roof structure, whichever is chosen by the County, and for the enhanced full-size bus shelter model.
8. The Contractor shall copy the County's Project Manager on all written communications with RER regarding application of the NOAs.
  9. The Contractor shall respond expeditiously and within a reasonable timeframe to all requests from RER regarding the NOA request to ensure successful NOA issuance by RER.
  10. Within 30 calendar days of receiving the County's NOA approval of its designs for the new bus shelter models, the Contractor shall commence with the manufacture of the units by a qualified metal fabrication company; conduct the required bus stop site surveys; and prepare the required engineering site drawings to obtain permitting approval for the installation of the new bus shelter models.
  11. The Contractor shall obtain all required approvals and permits, and shall be responsible for paying all fees as required by the County or other agencies, for any instance, to properly and effectively install the new bus shelter models as directed by the County.
  12. Within 10 calendar days of receipt of a written notice of complete assembly by the Contractor, the County will conduct an inspection of the manufactured new bus shelter models. Within 48 hours of the inspection, the County will provide written notice to the Contractor, identifying the acceptance of the new bus shelter models as manufactured for the County, or notifying the Contractor of any changes/clarification required for the manufactured units. The Contractor shall retain sole and exclusive ownership of each manufactured bus shelter until the manufactured units are installed and accepted by the County.
  13. The Contractor shall warehouse manufactured bus shelter units until they are installed. The Contractor shall be responsible for the bus shelter while warehoused, in transit, and prior to any installation, and shall be responsible for any loss or damage up to the end of installation and the closing of the open building permit by the County for construction of the bus shelter.
  14. Any new bus shelter model unit manufactured and installed by the Contractor under this contract shall become the sole property of the County at the conclusion of this contract.
  15. All installations of new bus shelters shall be completed within 36 months following Notice to Proceed (NTP).
  16. Fee for failure to perform will be applied in accordance with Section 16 "Fee for Failure to Perform".

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**19. Bus Shelter Model Specification**

There are 4 models of bus shelters to be installed, identified by Table 19:

**Table 19: Shelter Models**

Bus Shelter Model	Description (Specifications)
Model 1	Full-size bus shelter ( <i>Exhibit B, Existing Bus Shelter Designs</i> )
Model 2	Slim-size bus shelter ( <i>Exhibit B, Existing Bus Shelter Designs</i> )
Model 3	Cantilever bus shelter/bus stop protective roof structure ( <i>Exhibit G, Cantilever and Enhanced Full-Size Shelter Design Specifications, Bus Shelter Connector Detailed Sketch with Backup Documentation</i> )
Model 4	Full-size bus shelter with partial coverage on its four walls. This model, which is an enhancement to the existing full-size bus shelter model (Model 1), shall be for retrofitting existing full-size bus shelters as directed by the County. ( <i>Exhibit G, Cantilever and Enhanced Full-size Shelter Design Spec</i> )

**20. Bus Shelter and Bicycle Rack Criteria and Installation**

**A. Bus Shelter Model Installation and Requirements**

The following primary scenarios, based on site-specific criteria, will dictate the bus shelter model that may be installed at locations. There are limitations based on available right-of-way that might pursuant specific bus shelter model installation.

1. The Contractor shall be responsible for the design and the installation of all shelter models and civil work necessary to install or reinstall new or existing bus passenger shelters, as set forth in the Agreement. Furthermore, all shelters shall be installed meeting ADA requirements. Please see Exhibit G (Bus Shelter Connector detail sketch for details and guidelines). Contractor will be responsible to provide approved plans signed and sealed by Fla P.E. Contractor may require a design variation for final approval based on available right of way due to field conditions and shall make all provisions to assure plans and permits approval.
2. Civil work needed to install new shelters and bicycle concrete pads may include the installation of the following items at the shelter installation site, to be reimbursed by the County in accordance with Table 13.1 of the Agreement:
  - a) Installation of shelter concrete pad.
  - b) Installation of 10 ft. x 7 ft. bicycle concrete pad, 200 total, with four bicycle racks per site.
  - c) Bicycle racks are specified in accordance with *Exhibit J, Bike Rack Model Drawing*.
  - d) Installation of the curb and gutter in front of the shelter as specified in the curb and gutter installation guidelines provided in the Exhibit G and includes the new installation of Curb and gutter, 15 feet on the side of the upcoming traffic and 5 feet in the outgoing side per Exhibit G.
  - e) Installation of the 5 ft. x 8 ft. concrete landing pad.
  - f) Installation of an ADA accessibility ramp 1% up to the shelter concrete pad.
  - g) Installation of new sidewalks and adjustment of elevation in existing sidewalks as needed to accommodate connector slope.

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3. See Exhibit G for detailed information and guidelines.

**B. Bus Shelter Model Selection Criteria:**

The following are the available right-of-way requirements for the selection of the bus shelter model that may be installed at locations. Table 20 below shows the available right-of-way requirements by bus shelter model.

1. **Bus Shelter Model 1:** The full-size bus shelter model may be installed if the measurement of the right-of-way available at that site, from the end of the curb to the end of the right-of-way is 11', as detailed in *Exhibit B, Existing Bus Shelter Designs, Footing Schedule (page 3 of 33)*. The full-size bus shelter model will require a minimum footing space of 7' 0" width X 14' 6" length.
2. **Bus Shelter Model 2:** The slim-size shelter model may be installed if the measurement of the right-of-way available at that site from the end of the curb to the end of the right-of-way is 8', as detailed in *Exhibit B, Existing Bus Shelter Designs, Footing Schedule (page 3 of 15)*. This bus shelter model will require a minimum footing space of 4'- 6' 7/8" width X 14' 6" length.
3. **Bus Shelter Model 3:** The cantilever bus shelter/bus stop protective roof structure may be installed if the measurement of the right-of-way available at that site from the end of the curb to the end of the right-of-way is 6' or less, as provided in *Exhibit G, Cantilever and Enhanced Full-size Shelter Design Spec.*

**Table 20: Available Right-of-Way Area Requirements for Bus Shelter Selection**

Bus Shelter Model	Available Right-Of-Way Requirement (ft.)	Requirement for Installation
Model 1 (Full-Size)	11	Min. footing space = 7' 0" width X 14' 6" length
Model 2 (Slim-Size)	8	Min. footing space = of 4' 0"- 6' 7/8" width X 14' 6" length
Model 3 (Cantilever/Bus Stop Protective Roof Structure)	6 or less	1' 0" width X 14' 6" length
Model 4 (Enhanced Full-Size Model)	11	Min. footing space = 7' 0" width X 14' 6" length

**21. Additional Installation Criteria**

- A. The Contractor shall manufacture and install the Bus Shelter Model 1 and Bus Shelter Model 2 under the two (2) existing Miami-Dade County NOAs, as stipulated in the order, and at the Contractor's expense, and as detailed in *Exhibit B, Existing Bus Shelters Designs*.

The Contractor shall:

1. Within 90 calendar days, obtain all required approvals and permits, and shall be responsible for paying all fees as required by the County or other agencies, for any instance, to properly and effectively install the new bus shelters as directed by the County.

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- 2. Manufacture the bus shelters as ordered by the County at the Contractor's expense.
  - 3. Install the bus shelters as specified under the County's existing NOAs at the Contractor's expense.
- B. Within 10 calendar days of receipt of a written notice of complete fabrication by the Contractor, the County will conduct an inspection of the manufactured bus shelter components. Within 48 hours of the inspection, the County will provide written notice to the Contractor, identifying the acceptance of the bus shelter components, as manufactured for the County, or notifying the Contractor of any changes/clarification required for the acceptance of the manufactured bus shelter components. The Contractor shall retain sole and exclusive ownership of the components for each manufactured bus shelter until the manufactured bus shelter is installed and accepted by the County.
- C. The Contractor shall warehouse manufactured bus shelters and install the bus shelters as directed by the County. The Contractor shall be responsible for the bus shelter while warehoused, in transit, and prior to any installation, and shall be responsible for any loss or damage up to the end of installation and the closing of the open building permit by the County for construction of the shelter.
- D. Any new bus shelter unit manufactured and installed by the Contractor under this contract shall become the sole property of the County at the conclusion of this contract.

**22. New Bus Shelter and Bicycle Racks Quantities**

The number of bus shelter units by model to be designed, manufactured, installed and furnished by the Contractor, as directed by the County, is shown in table 22 below. The number of bus shelter units by model and the number of bicycle concrete pads with four bicycle racks may vary based on service requirements as directed by the County.

**Table 22: Existing Units and Total Units to be Furnished and Installed by Bus Shelter Model/Bicycle Racks**

Bus Shelter Model	Total Existing Units	Total Units to be Installed
Model 1 (Full-Size)	998	10
Model 2 (Slim-Size)	49	10
Model 3 (Cantilever/Bus Stop Protective Roof Structure)	0	330
Model 4 (Enhanced Full-Size Model)	0	10
<b>Total</b>	<b>1,047</b>	<b>360</b>
Concrete Pads with Four Bicycle Racks	0	200
<b>Total</b>	<b>0</b>	<b>200</b>

Exhibit I lists the locations where shelters installations are needed. The Contractor shall install shelters in order of highest to lowest ridership as provided in this Exhibit I. Aerials maps of a 51 sample locations shown available Right of Way (ROW) are provided in the Exhibit I also for informational purposes. The Contractor shall notify the Department for Right of Way identification as the installation progresses. The Department will provide the remaining Right of Way information to the Contractor as the work progresses.

In the event that Bus Shelter Model 1 or Bus Shelter Model 2 cannot be installed at a site due to insufficient right-of-way space to install them and meeting ADA compliance at the same time, Bus Shelter Model 3 should be installed. See Exhibit I for detailed information.

**SCOPE OF WORK****23. Existing Bus Shelter Removals and Installations**

- A. In the event a bus stop having a bus shelter is eliminated or removed due to impending roadway construction projects, discontinuance of a bus route, actions or requirements of other agencies, or for any other reason deemed necessary by the County, the County will require, via written notification, that the Contractor remove the affected/designated bus shelter at the Contractor's expense. The County may also require that the Contractor remove a bus shelter if it is subject to repeated vandalism. Removal of a bus shelter may include removal of the bus shelter's foundation, if specified in the County's written notice. The cost to be paid by the Contractor.
- B. The Contractor shall properly remove the bus shelter within 30 calendar days from issuance of the County's written request, unless additional time is specified by the County's Project Manager. The Contractor shall be responsible for the lawful removal and delivery of the bus shelter components to the Contractor's storage facility or to a County's facility, as specified in the County's written notice.
- C. The Contractor may be responsible for the removal and/or relocation of up to 24 bus shelters per contract year.
- D. The Contractor shall install the bus shelter within 45 calendar days from issuance of the County's written notice, unless the timeframe is modified by the County's Project Manager.
- E. The Contractor shall obtain all approvals and permits and shall be responsible for paying fees as required by the County and any other agencies, for any instance, to properly remove/install bus shelters.
- F. In the event the Contractor fails to remove a bus shelter as specified herein, the County may take necessary actions to remove the bus shelter. The Contractor is obligated to reimburse the County for actions taken under this provision.

**24. Installation and Maintenance of Bus Shelter's Lighting System**

- A. The Contractor shall install LED courtesy lamps at all 197 existing bus shelters (shelters without advertising box), and at all future bus shelters or protective roof structure units, not having a backlighted advertising box in order to properly illuminate the interior space; the entire upgrade project shall be completed within the first year that commences from the Contract Date (NPT), or sooner at specific bus shelters and specific route corridors as directed by the County, and at the Contractor's expense.
- B. The Contractor shall ensure a sufficient stock of LED lighting system/solar system components in order to make expedient repairs to bus shelter and be able to repair or replace all non-operational bus shelters within 48 hours of its discovery by the Contractor, or after receipt of such bus shelter illumination concerns from the County or the public.
- C. The output from the LED lighting system shall provide safe and proper illumination at the bus shelter, in terms of lighted visibility, from dusk until dawn.
- D. The Contractor hereby agrees that the County may collect funds as detailed in Section 16 "Fee for Failure to Perform" of the Agreement, or deduct from any monies owed, for failure to perform required upgrades and repairs to bus shelter illumination for the County in accordance with the timeframe as set forth in this section.

**SCOPE OF WORK****25. Program Records**

The Contractor shall maintain all books of accounts and records of gross revenues, hereinafter referred to as Records, customarily used in this type of advertising program. Records shall be in conformity with generally accepted accounting principles, and Records shall be kept at all times within the geographical boundaries of Miami-Dade County. The Records shall be kept by the Contractor for a period as specified in the attached Agreement, Article 30 "Quality Assurance/Quality Assurance Record Keeping", unless otherwise required by the County. The Miami-Dade County Audit and Management Services Department, the external auditing firm of the County, and all appropriate state and federal auditing personnel shall be permitted to audit and examine all such Records relating to the resultant contract, without cost and limitation as to time or frequency. All information obtained by the County or its authorized representatives from the Contractor's books and records will be kept confidential by the County and all such representatives, except in connection with the requirements of Florida Public Records Act.

**26. Audited Financial Report**

- A. Within 90 calendar days from a one-year period from the effective date for the Contract, and for each one-year period thereafter, and within 30 calendar days following termination of the resultant contract the Contractor shall provide to the County's Project Manager an annual audited financial report.
- B. The audited financial report shall, at minimum, consist of the Contractor's schedule of gross amount received from advertising, by calendar quarters, to fund its operations under the resultant contract.
- C. The audited financial report shall also consist of any other such related data as the County may request related to the resultant contract.
- D. The report shall be prepared in conformance with the United States Generally Accepted Accounting Principles requirements for reports. The report shall contain an opinion of accuracy, prepared and attested to by an independent certified public accountant licensed in the state of Florida.

**27. Billings and Collections Report**

- A. The Contractor shall provide the County's Project Manager, a semiannual Billings and Collections Report on or before the 20th calendar day of each reporting period. This report shall provide an account of gross billings, net billings, and all collections for the previous period for advertising activities. This report shall be in the format prescribed by the County and affirmed by the Contractor certifying the accuracy of such billings and collections.
- B. At a minimum, the Billings and Collections Report shall contain the following information:
  1. Semiannual gross sales and billings of advertising space sold, itemized per each bus shelter.
  2. Advertising agency commissions paid, if applicable.
  3. Monthly rate sheet for bus shelter advertising for the previous six (6) month period.
  4. Number of bus shelter advertising space sold.
  5. Number of monthly trade contracts, if applicable.
  6. Year-to-date information for all of the above items.
- C. Upon request from the County's Project Manager, the Contractor shall provide all active customer contracts.

**SCOPE OF WORK****28. Optional Smart Shelter Technology**

- A. The option to propose and implement the incorporation of Smart Shelter Technology shall be exercisable at any time during the contract term. Either the Contractor or the County may propose Smart Shelter Technology, without limitations on the number of requests that may be submitted, as work to be performed by the Contractor on an exclusive basis. The terms and conditions, scope, and cost of Smart Shelter Technology shall be subject to the mutual approval of the parties. The parties shall give reasonable consideration of the proposal(s) and negotiate in good faith, in accordance with the terms and conditions of this section.
- B. Smart Shelter Technology devices include, but are not limited, to the following:
1. An interactive advertising panel capable of displaying a County provided real-time predictive bus arrival information feed.
  2. Low cost and low energy consumption real-time passenger information signs.
  3. Shelter security lighting. LED type. Day light. Minimum of 5000K.
  4. Built-in hotspots for public free Wi-Fi access with unlimited data.
  5. Two-way communication allowing for current operational status of all shelter digital devices.
  6. Dual Port USB ruggedized charging station.
  7. Content management solution, allowing the County to approve respective ads.
  8. Built in wireless connectivity via supporting the latest LTE generation modem with an unlimited data plan at no cost to the County.
  9. Smart waste collection sensors.
- C. The Contractor shall ensure a method to properly and effectively accommodate the Smart Shelter Technology components to all shelter models.
- D. Any components designed, developed, tested and installed by the Contractor, shall remain in place and become the sole property of the County at the conclusion of this contract.
- E. Within 45 calendar days following the election of this option, the Contractor shall submit to the County a schedule for the deployment of new technology, as approved by the parties.

**29. Optional Smart Bus Stop Technology**

- A. The option to propose and implement the incorporation of Smart Bus Stop Technology shall be exercisable at any time during the contract term. Either the Contractor or the County may propose Smart Bus Stop Technology ("the Technology"), without limitations on the number of requests that may be submitted, as work to be performed by the Contractor on a nonexclusive basis.

The County shall grant to the Contractor the first right of refusal to furnish, install, and maintain the Technology. The County shall notice Contractor of its proposal for the Technology and the Contractor shall have 60 days to reach an agreement with the County to provide the Technology. The terms and conditions, scope, and cost of such technology shall be subject to the mutual approval of the parties. The parties shall give reasonable consideration of the proposal(s) and negotiate in good faith, in accordance with the terms and conditions of this section. If the parties are unable to reach an agreement within 60 days the County may, at its sole discretion, contract with a third party to provide the Technology.

**SCOPE OF WORK**

- B. Smart Bus Stop Technology devices include, but are not limited to, the following:
1. Low cost and low energy consumption real-time passenger information signs.
  2. Mobile device beacons for data gathering and provide Estimated Time of Arrival information.
  3. Bluetooth low energy (BLE) beacons to transmit bus stop information (location, routes, next bus arrivals, etc.) to the smart phones of riders with visual impairments, shall comply with the following:
    - a. The installation of Bluetooth Beacons.
    - b. This is an opportunity to augment the digital advertising footprint beyond the bus stops within UMSA. Not all 7,000+ bus stops need will need Bluetooth Beacons. The Contractor will identify the means and methods to retrofit the existing bus stop signs, if necessary.
    - c. The Contractor will be responsible for the maintenance of Bluetooth Beacons, and the monetization of potential data to be collected.
  4. Smart stickers with NFC and QR codes at bus stops Countywide to enable travelers to access real-time schedules via their smartphone.
  5. Mobile device beacons to consult real-time availabilities and location of near-by bike-sharing stations and others services.
  6. Contractor must provide an open data platform using Application Programming Interface (API) technologies that enable bi-directional data sharing. This functionality enhances the integration capabilities to leverage system data for other applications and facilitate various integration with other systems.
  7. This technology must integrate to Miami-Dade County's Smart Mobility Platform.
  8. All data shall be made accessible via the open API.
  9. The Contractor shall facilitate business intelligence, analysis and trending.
- C. The Contractor shall ensure a method to properly and effectively accommodate the Smart Bus Stop Technology components.
- D. Any components designed, developed, tested and installed by the Contractor shall remain in place and become the sole property of the County upon expiration of the contract.
- E. Within 45 calendar days following the election of this option, the Contractor shall submit to the County a schedule for the deployment of new technology, as approved by the parties.

**30. Offset Amount of Smart Bus Shelter and Bus Stop Technology**

The amount due to the Contractor for work performed, in accordance with Sections 28 and 29 above, shall represent the full amount to due to the Contractor. The County shall have the right to offset the amount of Smart Bus Shelter and Bus Stop Technology, fully or in part, from the amount(s) payable by the Contractor that the Contractor owes to the County, in accordance with Article 13(D) of the Agreement.

**31. Bus Shelter Program Sales Report**

The Contractor shall provide the County's Project Manager, a semiannual Bus Shelter Program Sales Report on or before the 20th calendar day of each reporting period.

This report shall contain the following information:

1. List of each bus passenger shelter location.
2. Total gross advertising sales for the period.
3. Total net advertising sales for the period.

**SCOPE OF WORK**

4. Total number of available advertising boxes/ faces (to include possible available digital ad spaces).
5. Total number of advertising faces sold, itemized by bus shelter.
6. Total number of advertising faces not sold.
7. Total spaces sold, itemized by bus shelter location.
8. Total spaces used for public service advertisement.
9. Total number of new bus passenger shelters/removed.

**32. Smart Bus Stop and Shelter Technologies Report**

The Contractor shall provide the County's Project Manager, a monthly Smart Technology Report on or before the 20th calendar day of each reporting period. This report shall contain the following information:

1. List of bus stops and bus shelters with Smart Bus Stop technology and/or Smart Bus Shelter technologies.
2. Synopsis of the status and operation of the Smart Bus Shelter technologies.
3. Synopsis of the status and operation of Smart Bus Stop technologies.

**33. Incident Report**

The Contractor shall provide the County's Project Manager, a monthly Incident Report on or before the 20th calendar day of each reporting period. This report shall contain the following information:

1. List of bus shelters damaged/vandalized with the date the incident was discovered or reported and the date the Contractor responded to the incident.
2. Synopsis of the type of damage and the Contractor's response to each incident, to include if the LED lighting system components within the advertising boxes was damaged.
3. Synopsis of the type of damage and the Contractor's response to each incident, to include if the smart technology components for bus stop and bus shelters have been damaged.
4. Customer service calls report of calls received from the County and/or public regarding repair, damage, and maintenance issues.

**34. Changes to Report Information**

The Contractor or the County's Project Manager may change the required reporting information herein upon prior written consent from the County's Project Manager at least 30 calendar days in advance of the reporting deadline date.

**35. Failure to Report**


- A. If the Contractor fails to submit the contractually-required reports as specified, the County may take action necessary, such as to hire an independent certified public accountant to conduct a financial audit and prepare a report. The Contractor is obligated to reimburse the County for actions taken under this provision.
- B. The Contractor hereby agrees that the County may assess a fee, as specified by Section 16 "Fee for Failure to Perform" of the Agreement, for each day a required report is not provided to the County according to the timeframe and/or content requirements herein, from the deadline date to the County's receipt of the complete report. The Contractor is obligated to reimburse the County for actions taken under this provision.



## Memorandum



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

**From:** Javier A. Betancourt, Executive Director 

**Date:** May 4, 2020

**Re: CITT AGENDA ITEM 5C:**  
RESOLUTION BY THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST  
RECOMMENDING THE BOARD OF COUNTY COMMISSIONERS (BCC) APPROVE  
AWARD OF CONTRACT NO. RFP-01071 TO OUTFRONT MEDIA GROUP, LLC. FOR  
PURCHASE OF BUS PASSENGER SHELTER PROGRAM FOR THE DEPARTMENT  
OF TRANSPORTATION AND PUBLIC WORKS WITH AN ESTIMATED FISCAL IMPACT  
TO THE COUNTY IN AN AMOUNT OF **\$9,491,920.00** FOR THE FIFTEEN-YEAR  
TERM; AND AUTHORIZE THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE  
TO EXECUTE SAME AND EXERCISE ALL PROVISIONS CONTAINED THEREIN,  
INCLUDING ANY CANCELLATION, RENEWAL AND EXTENSION PROVISIONS,  
PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING  
ORDER 3-38 **(DTPW – BCC Legislative File No. 200448) NO SURTAX FUNDS  
REQUESTED**

On April 30, 2020, the CITT voted (11-0) to forward a favorable recommendation to the Board of County Commissioners (BCC) for the approval of the above referenced item, CITT Resolution No. 20-011. The vote was as follows:

Joseph Curbelo, Chairperson – Aye  
Alfred J. Holzman, 1<sup>st</sup> Vice Chairperson – Aye  
Oscar J. Braynon, 2<sup>nd</sup> Vice Chairperson – Aye

Glenn J. Downing, CFP® – Aye  
Jose Jimenez – Aye  
Hon. Anna E. Lightfoot-Ward, Ph.D. – Absent  
Miles E. Moss, P.E. – Aye  
Marilyn Smith – Absent  
Robert Wolfarth – Aye

Ashley V. Gantt, Esq. – Aye  
Prakash Kumar – Aye  
Jonathan Martinez – Absent  
Paul Schwiep, Esq. – Aye  
L. Elijah Stiers, Esq. – Aye

c: Jennifer Moon, Deputy Mayor  
Bruce Libhaber, Assistant County Attorney