

Memorandum



Date: November 12, 2020

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

From: Carlos A. Gimenez
Mayor

Agenda Item No. 8(F)(3)
(11-19-20)

Resolution No. R-1186-20

Subject: Recommendation for Approval to Award a Designated Purchase Contract: Liquid Chromatograph Tandem Quadrupole Mass Spectrometer and Related Products, Supplies and Accessories

Recommendation

It is recommended that the Board of County Commissioners approve this request for a designated purchase, *Contract No. SS-10082, Liquid Chromatograph Tandem Quadrupole Mass Spectrometer and Related Products, Supplies and Accessories*, to Shimadzu Scientific Instruments Inc. for the Medical Examiner Department. Approval of a designated purchase is being requested pursuant to Section 2-8.1(b)(3), by a two-thirds vote of the Board members present, to authorize the purchase of a liquid chromatograph tandem quadrupole mass spectrometer (LC-MS/MS) to be used by the Medical Examiner for drug and poison screening in postmortem fluids. There is no existing contract for the purchase of this equipment as this is a grant funded, one-time purchase.

This contract will provide for a fast screening and an advanced testing procedure for the detection and identification of new drugs and poisons in Medical Examiner cases. The department will have an advanced tool to screen more accurately, efficiently, and in a cost-effective manner. Additionally, the department can use the LC-MS/MS for the identification of a large scope of new drugs, including fentanyl analogs and other opioids. The Medical Examiner's Toxicology Laboratory uses 15 instruments daily for different tests to cover the range of drugs and poisons in their cases. The laboratory caseload includes both Miami-Dade cases as well as an additional 700 cases from outside clients. Approximately 300 Miami-Dade cases are backlogged for processing, an increase of 20 percent over last year. The increased caseload results from not only the growing number of cases but the increased complexity of each case (new opioids and psychoactive substances), thereby requiring more test procedures per case (over 600 individual tests from the 300 cases mentioned above). Consequently, the Medical Examiner's costs and turnaround time have increased. The capabilities of the LC-MS/MS will improve efficiency by reducing the number of tests, reduce costs by eliminating some expensive test reagents, and reduce turnaround time by using more accurate methods.

The Medical Examiner was awarded a National Institute of Justice (NIJ) grant to improve drug and poison screening in postmortem fluids using a fast scanning LC-MS/MS. The NIJ grant document details the necessity for an LC-MS/MS instrument capable of scanning 400 targeted substances at a higher scanning speed to generate a detailed composite spectra scan. This composite spectra scan will significantly improve the identification of targeted drugs and poisons using library matching software.

The Medical Examiner evaluated other manufacturers, but only Shimadzu equipment was deemed to meet the requirements of the NIJ grant. The NIJ has approved a sole source purchase of the fast scanning Shimadzu Model 8060 LC-MS/MS instrument. Competition is not practicable at this time as Shimadzu Corporation maintains all copyright privileges for their products and these products must be purchased directly from the company's subsidiary dealer network representing the different regions of the world. Proceeding with this purchase will allow the Medical Examiner to improve drug and poison screening in postmortem fluids using a fast scanning LC-MS/MS, improve case processing, turnaround time and accuracy, reduce cost, and fulfill the grant requirements.

Accordingly, it is in the County's best interest to authorize this designated purchase for a one-time purchase pursuant to Section 2-8.1(b)(3) of the County Code for the acquisition of a Shimadzu Model

8060 liquid chromatograph tandem quadrupole mass spectrometer and related products, supplies, and accessories.

Scope

The scope of this item is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact for the one-year term is \$364,709. There is no current contract in place for the purchase of LC-MS/MS.

Department	Allocation	Funding Source	Contract Manager
Medical Examiner	\$364,709	Federal Funds	Angel Watson-Billingslea
Total:	\$364,709		

Track Record/Monitor

Pearl Bethel of the Internal Services Department is the Procurement Contracting Manager.

Delegated Authority

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

Vendor Recommended for Award

Pursuant to Resolution No. R-477-18, the vendor is recommended as the sole provider of the LC-MS/MS that meets the requirements of the NIJ grant and is non-local.

Vendor	Principal Address	Local Address*	Number of Employee Residents	Principal
			1) Miami-Dade 2) Percentage*	
Shimadzu Scientific Instruments, Inc.	7102 Riverwood Drive Columbia, MD	None	0	Patrick Fromal
			0%	

*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.

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 contractor responsibility, including verifying corporate status and that there are no performance or 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 contractor responsibility.

Applicable Ordinances and Contract Measures

- The two percent User Access Program provision does not apply.
- The Small Business Enterprise measures and Local Preference do not apply.
- The Living Wage does not apply.



Maurice L. Kemp
Deputy Mayor



MEMORANDUM (Revised)

TO: Honorable Vice Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: November 19, 2020

FROM: 
Geri Bonzon-Keenan
Successor County Attorney

SUBJECT: Agenda Item No. 8(F)(3)

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)(3)
11-19-20

RESOLUTION NO. R-1186-20

RESOLUTION AUTHORIZING DESIGNATED PURCHASE PURSUANT TO SECTION 2-8.1(B)(3) OF THE COUNTY CODE BY A TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT; AUTHORIZING AWARD OF CONTRACT NO. SS-10082 FOR PURCHASE OF LIQUID CHROMATOGRAPH TANDEM QUADRUPOLE MASS SPECTROMETER AND RELATED PRODUCTS, SUPPLIES AND ACCESSORIES TO SHIMADZU SCIENTIFIC INSTRUMENTS INC. IN AN AMOUNT NOT TO EXCEED \$364,709.00 FOR A ONE-YEAR TERM FOR THE MEDICAL EXAMINER DEPARTMENT; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE CONTRACT AND EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION, RENEWAL, AND EXTENSION, 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:

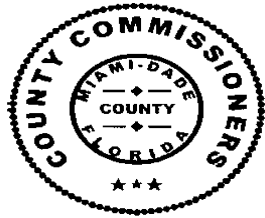
Section 1. This Board finds it is in the best interest of Miami-Dade County to award Contract No. SS-10082, in substantially the form attached and made a part hereof, for purchase of liquid chromatograph tandem quadrupole mass spectrometer and related products, supplies and accessories to Shimadzu Scientific Instruments Inc. in an amount not to exceed \$364,709.00 for a one-year term for the Medical Examiner Department, pursuant to Section 2-8.1(b)(3) of the Code of Miami-Dade County, by a two-thirds vote of the Board members present.

Section 2. This Board authorizes the County Mayor or County Mayor’s designee to execute the contract and exercise all provisions of the contract, 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 **Joe A. Martinez** , who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

	Rebeca Sosa, Vice Chairwoman	aye	
Jose “Pepe” Diaz	aye	Sen. René García	aye
Oliver G. Gilbert, III	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Eileen Higgins	aye
Joe A. Martinez	aye	Kionne L. McGhee	aye
Jean Monestime	aye	Raquel A. Regalado	aye
Sen. Javier D. Souto	aye	District 8 - Vacant	vacant

The Chairperson thereupon declared this resolution duly passed and adopted this 19th day of November, 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

Melissa Adames

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in dark ink, appearing to be "OR", is written over a horizontal line.

Oren Rosenthal

Liquid Chromatograph Tandem Quadrupole
Mass Spectrometer and Related Products, Supplies and Accessories
Contract No. SS-10082

THIS AGREEMENT for the provision of a Liquid Chromatograph Tandem Quadrupole Mass Spectrometer Model 8060 and related products, supplies and accessories (the "Agreement"), is made and entered into by and between Shimadzu Scientific Instruments Inc., a corporation organized and existing under the laws of the State of Maryland, having its principal office at 7102 Riverwood Drive, Columbia, MD 21046 (the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 NW 1st Street, Miami, Florida 33128 (the "County"),

WITNESSETH:

WHEREAS, the Contractor has offered to provide a Liquid Chromatograph Tandem Quadrupole Mass Spectrometer ("LC-MS/MS") Model 8060 and related products, supplies and accessories, on a non-exclusive basis, that shall conform to the items per the Price Schedule (see Appendix A); Miami-Dade County Contract No. SS-10082 and all associated addenda and attachments; and the requirements of this Agreement; and,

WHEREAS, the County desires to procure from the Contractor such LC-MS/MS Model 8060 for the County, in accordance with the terms and conditions of this Agreement;

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

ARTICLE 1. DEFINITIONS

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

- a) The words "Article" or "Articles" to mean terms and conditions delineated in this Agreement.
- b) The words "Contract" to mean the (i) Articles, (ii) Price Schedule, and (iii) Contract No. SS-10082 and all other appendices, attachments, and amendments.
- 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 Shimadzu Scientific Instruments Inc. and its permitted successors.
- f) The word "Days" to mean calendar days.
- g) The words "Licensed Software" to mean the software components of the Products, supplies, and accessories.
- h) The words "Product" or "Products" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.

- i) The words "Project Manager" to mean the County Mayor or the duly authorized representative designated to manage the Project.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) Article 1 to Article 40; and 2) Appendix A.

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 words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the Project Manager.
- e) The words "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the Project Manager.
- f) 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 Products set forth in this Contract (see Appendix A), and render full and prompt cooperation with the County in all aspects.

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on _____, 2020 and shall continue through the last day of the 12th month thereafter. The County, at its sole discretion, reserves the right to exercise the 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 (the "Board").

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: (i) Registered or Certified Mail, with return receipt requested; (ii) personally by a by courier service; (iii) Federal Express Corporation or other nationally recognized carrier to be delivered overnight; or (iv) via facsimile or e-mail (if provided below) with delivery of hard copy pursuant to (i), (ii), or (iii) in this paragraph. The addresses for such notice are as follows:

(1) to the County**a) to the Project Manager:**

Miami-Dade County Medical Examiner Dept.
Toxicology Laboratory Division
Attention: Angel Watson
Phone: 305-545-2450
E-mail: awatson@miamidade.gov

and,

b) to the Contract Manager:

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

(2) To the Contractor

Attention: Nishi Rochelle
Phone: 800-792-1992 ext. 2957
E-mail: nsrochelle@shimadzu.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. PRICE AND PAYMENT FOR PRODUCTS

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 supply the Products under this Contract. The compensation for all Products under this Contract, including all costs associated with delivery (FOB) destination and freight, shall be included in the price as specified in Appendix A – Price Schedule. Prices shall remain firm and fixed for the term of the Contract, including extension periods; however, the Contractor may offer incentive discounts to the County at any time during the Contract term, including any extension thereof. 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.

ARTICLE 8. METHOD AND TIMES OF PAYMENT

The Contractor may bill the County periodically, but not more than once per month, upon invoices certified by the Contractor pursuant to Appendix A – 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 (the "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 "Code"), the time at which payment shall be due from the County or the Public Health Trust shall be forty-five (45) days from receipt of a proper invoice. 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 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 Trust.

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

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

Miami-Dade County, Finance Department
C/O: Miami-Dade Medical Examiner
Attn: Shared Services Payable Unit
111 NW 1st Street 26th Floor

Miami, FL 33128
E-mail: invsubp@miamidade.gov

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

ARTICLE 9. INDEMNIFICATION AND INSURANCE

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

Upon County's notification, the Contractor shall furnish to the Internal Services Department, 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 Chapter 440, Florida Statutes.
- B. Commercial General Liability Insurance in an amount not less than \$300,000 per occurrence, and \$600,000 in the aggregate, not to exclude Products and Completed Operations. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.

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

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

OR

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

NOTE: CERTIFICATE HOLDER MUST READ:

**MIAMI-DADE COUNTY
111 NW 1st STREET
SUITE 1300
MIAMI, FL 33128**

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

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within ten (10) business days. If 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 period, the County may suspend the Contract until the new or renewed certificates are received by the County in the manner prescribed herein. If such suspension exceeds thirty (30) calendar days, the County may, at its sole discretion, terminate the Contract for cause and the Contractor shall be responsible for all direct and indirect costs associated with such termination.

ARTICLE 10. WARRANTY

All warranties express and implied, shall be made available to the County for products covered by this Agreement. All Products furnished shall be fully guaranteed by the Contractor against factory defects, and defects in materials and workmanship. At no expense to the County, the Contractor shall correct any and all apparent, patent and latent defects that may occur within the manufacturer's one (1) year warranty. The Special Conditions of the Agreement supersede the manufacturer's standard warranty.

All materials, except where recycled content is specifically requested, supplied by the Contractor under the Agreement shall be new, warranted for their merchantability, and fit for the particular purpose herein. In the event any of the materials supplied to the County by the Contractor are found to be defective or do not confirm to specifications: (1) the products may be returned to the Contractor at its expense and the Agreement terminated; or (2) the County may require the Contractor to replace the products at its expense.

The warranty provisions set forth in this Article 10 will survive the expiration or termination of this Contract.

ARTICLE 11. PURCHASE OF ADDITIONAL PRODUCTS

While the County has listed the major items within this Contract which are utilized by County departments in conjunction with their operation, there may be similar or related items that must be purchased by the County during the term of this Contract. Under these circumstances, a County representative will contact the Contractor to obtain price quotes for the additional items and the contract shall be amended accordingly.

ARTICLE 12. DELIVERY

Except as otherwise provided herein, the Contractor shall deliver Products to the County within thirty (30) days of Contractor's receipt of a purchase order. All deliveries shall be coordinated by the Project Manager in accordance with the Contract and shall be made in accordance with good business practice. The Contractor shall adhere to these timeframes; except in such cases where the delivery will be delayed due to acts of nature, or other causes beyond the control of the Contractor. In these cases, the Contractor shall notify the County of the delays immediately, including providing a revised delivery schedule for review by the County.

In the event that the Contractor fails to deliver in the number of days stated in the Contract, the Contractor shall ensure that such backorders are discussed with the County and a new timeframe shall be established and mutually agreed upon. The Contractor shall not invoice the County for any back ordered Product(s) until such back ordered Product(s) are delivered and accepted by the County's authorized representative. It is understood and agreed that the County may, at its discretion, cancel back ordered Product(s) and purchase Product(s) elsewhere and charge the Contractor with any re-procurement costs, either through a deduction from the final payment owed to the Contractor or through invoicing.

ARTICLE 13. MODIFICATION OF THE AGREEMENT

The Agreement may be modified by mutual consent, in writing through the issuance of a Supplemental Agreement, as appropriate.

ARTICLE 14. AUDITS

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

Pursuant to Section 2-481 of the Code, the Contractor will grant access to the Commission Auditor to all financial and performance related records, property, and equipment purchased in whole or in part with government funds. The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

ARTICLE 15. DISPUTE RESOLUTION

- a) The Contractor shall be bound by all determinations or orders and shall promptly comply with every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project

Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.

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

ARTICLE 16. 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 17. MUTUAL OBLIGATIONS

- a) This Agreement, including attachments and appendices to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect

to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.

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

ARTICLE 18. AUDITS

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

Pursuant to Section 2-481 of the Code, the Contractor will grant access to the Commission Auditor to all financial and performance related records, property, and equipment purchased in whole or in part with government funds. The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

ARTICLE 18A. QUALITY ASSURANCE AND 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 Agreement. The Contractor and its subcontractors and suppliers, shall retain such records, and all other documents relevant to the Products furnished under this Agreement for a period of three (3) years from the expiration date of this Agreement and any extension thereof.

ARTICLE 19. 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 20. 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 21. 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.
- 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 Products that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the services; and
 - v. take no action which will increase the amounts payable by the County under this Agreement;
- 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 Products completed in accordance with the Agreement up to the Effective Termination Date; and
 - ii. non-cancelable Products that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement, but not incorporated in the services.
- g) All compensation pursuant to this Article are subject to audit.
- h) In the event the Contractor fails to cure an Event of Default timely, the County may terminate this Agreement, and the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

ARTICLE 22. 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 Products on a timely basis;
 - ii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any services;
 - iii. 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;
 - iv. the Contractor has failed to obtain the approval of the County where required by this Agreement;
 - v. the Contractor has failed to provide "adequate assurances" as required under subsection b below;
 - vi. the Contractor has failed in the representation of any warranties stated herein.
- b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the services or any portion thereof or provide the Products or any portion thereof, the County may request that the Contractor, within the timeframe set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with the terms of this Agreement. Until the County receives such assurances, the County may request an adjustment to the compensation received by the Contractor for portions of the services or Products which the Contractor has not performed or provided. 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.

ARTICLE 23. 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 (the "Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately or this Agreement with the County may be terminated. Notwithstanding, the County may, in its sole discretion, allow the Contractor to rectify the default to the County's reasonable satisfaction within a thirty (30) day period. The County may grant an additional period of such duration as the County shall deem appropriate without waiver of any of the County's rights hereunder, so long as the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the County prescribes. The Default Notice shall specify the date the Contractor shall discontinue the services upon the Effective Termination Date.

ARTICLE 24. REMEDIES IN THE EVENT OF DEFAULT

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

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

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

ARTICLE 25. PATENT AND COPYRIGHT INDEMNIFICATION

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

of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the services or be unlawful.

ARTICLE 26. CONFIDENTIALITY

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

ARTICLE 27. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of the public records laws of the State of Florida (the "Public Records Law").

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

During the term of the Contract, the Contractor will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the County's property, any computer programs, data compilations, or other software which the County has developed, has used or is using, is holding for use, or which are otherwise in the possession of the County (the "Computer Software"). All third-party license agreements must also be honored by the Contractor and its employees, except as authorized by the County and, if the Computer Software has been leased or purchased by the County, all hired party license agreements must also be honored by the contractors' employees with the approval of the lessor or Contractors thereof. This includes mainframe, minis, telecommunications, personal computers and any and all information technology software.

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

ARTICLE 28. PROPRIETARY RIGHTS

- a) The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, subcontractors and suppliers may use only in connection with the performance of services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.
- b) All rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its subcontractors specifically for the County, hereinafter referred to as "Developed Works" shall become the property of the County.
- c) Accordingly, neither the Contractor nor its employees, agents, subcontractors or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, agent, subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.
- d) Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to

use all such Licensed Software and the associated specifications, technical data and other documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Products provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 29. 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) (Resolution No. R-1072-17)
2. **Miami-Dade County Employment Disclosure Affidavit**
(Section 2-8.1(d)(2) of the Code of Miami-Dade County)
3. **Miami-Dade County Employment Drug-free Workplace Certification**
(Section 2-8.1.2(b) of the Code of Miami-Dade County)
4. **Miami-Dade County Disability and Nondiscrimination Affidavit**
(Section 2-8.1.5 of the Code of Miami-Dade County)
5. **Miami-Dade County Debarment Disclosure Affidavit**
(Section 10.38 of the Code of Miami-Dade County)
6. **Miami-Dade County Vendor Obligation to County Affidavit**
(Section 2-8.1 of the Code of Miami-Dade County)
7. **Miami-Dade County Code of Business Ethics Affidavit**
(Sections 2-8.1(i), 2-11.1(b)(1) through (6) and (9), and 2-11.1(c) of the Code of Miami-Dade County)
8. **Miami-Dade County Family Leave Affidavit**
(Article V of Chapter 11 of the Code of Miami-Dade County)
9. **Miami-Dade County Living Wage Affidavit**
(Section 2-8.9 of the Code of Miami-Dade County)
10. **Miami-Dade County Domestic Leave and Reporting Affidavit** (Article VIII, Section 11A-60 - 11A-67 of the Code of Miami-Dade County)
11. **Miami-Dade County E-Verify Affidavit**
(Executive Order 11-116)
12. **Miami-Dade County Pay Parity Affidavit**
13. **Miami-Dade County Suspected Workers' Compensation Fraud Affidavit**
(Resolution No. R-919-18)
14. **Subcontracting Practices**
(Section 2-8.8 of the Code of Miami-Dade County)
15. **Subcontractor/Supplier Listing**
(Section 2-8.1 of the Code of Miami-Dade County)
16. **Form W-9 and 147c Letter**
(as required by the Internal Revenue Service)
17. **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
18. **Office of the Inspector General**
(Section 2-1076 of the Code of Miami-Dade County)
19. **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.

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

20. Antitrust Laws

b) Conflict of Interest and Code of Ethics

Section 2-11.1(d) of the Code requires that any County employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first request a conflict of interest opinion from the County's Ethics Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. 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 relating to Conflict of Interest and Code of Ethics. In accordance with Section 2-11.1(y) of the Code, the Miami-Dade County Commission on Ethics and Public Trust 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 30. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

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

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code, 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 of one percent (0.25%) 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 of one percent (0.25%) 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 No. 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 of one percent (0.25%) in any exempted contract at the time of award.***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of independent private sector inspector generals 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 31. 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, 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, 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 No. 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), and permit(s) 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 32. NONDISCRIMINATION

During the performance of this Contract, Contractor agrees to not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression, status as victim of domestic violence, dating violence or stalking, or veteran status, and on housing related contracts the source of income, and will take affirmative action to ensure that employees and applicants are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

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

ARTICLE 33. CONFLICT OF INTEREST

The Contractor represents that:

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

ARTICLE 34. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

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

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

ARTICLE 35. BANKRUPTCY

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

ARTICLE 36. 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 37. COUNTY USER ACCESS PROGRAM**a) User Access Fee**

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

The Contractor providing goods or services under this Contract shall invoice the Contract price and shall accept as payment thereof the Contract price less the two percent (2%) UAP as full and complete payment for the goods and/or services specified on the invoice. The County shall retain the two percent (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 two percent (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 22 of this Contract.

ARTICLE 38. FIRST SOURCE HIRING REFERRAL PROGRAM

Pursuant to Section 2-2113 of the Code, 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 Career Source South Florida ("CSSF"), the designated Referral Agency, of the vacancy and list the vacancy with CSSF 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 CSSF. 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 CSSF 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 First Source Hiring Referral Program are available at <https://iapps.careersourcesfl.com/firstsource/>.

ARTICLE 39. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY

The Contractor shall comply with the Public Records Laws, 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, Florida Statutes, or as otherwise provided by law; (3) ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meeting all requirements for

retaining public records and transferring, at no cost, to the County all public records in possession of the Contractor upon termination of the contract and destroying any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements upon such transfer. In addition, all records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County. Failure to meet any of these provisions or to comply with Florida's Public Records Laws as applicable shall be a material breach of this Agreement and shall be enforced in accordance with the terms and conditions of the Agreement.

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

ARTICLE 40. SURVIVAL

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

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

Contractor

Miami-Dade County

By:



Name:

Paul Rementer

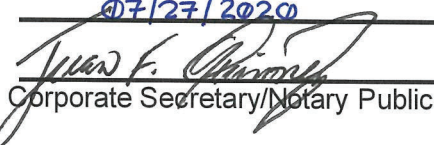
Title:

Regional Manager

Date:

07/27/2020

Attest:


 Corporate Secretary/Notary Public

By:

Name:

Carlos A. Gimenez

Title:

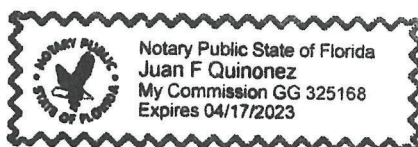
Mayor

Date:

Attest:

Clerk of the Board

Corporate Seal/Notary Seal

 Approved as to form
 and legal sufficiency


Assistant County Attorney

APPENDIX A PRICE SCHEDULE

Liquid Chromatograph Tandem Quadrupole
Mass Spectrometer (LC-MS/MS) and Related Products, Supplies and Accessories
Contract No. SS-10082

Product Number	Description	UOM	List Price	Line Item Discount	Total Price
LCMS-8060			\$563,984.00	\$199,275.01	\$364,708.99
220-91621-01	LCMS-8060NX Package with Dry Pump Option	1			
225-19605-58	DUIS Dual Probe Set for LCMS-8045/8050/8060	1			
1YW	1 YEAR WARRANTY	1			
TIER 4 I&F	Tier 4 Installation and Customer Familiarization	1			
220-91600-52	LCMS-8045/8050/8060/9030 Installation Kit	1			
HPLC					
228-65076-58	LC-40D X3 UHPLC PUMP	2			
228-65019-58	DGU-405 5-Channel Degasser	1			
228-70254-42	Piping Kit B, for High Pressure GE, ID0.1	1			
228-70247-41	Nexera Series Wiring Kit, A	1			
228-57647-43	Tool Kit, Common LC-40	1			
220-91656-06	SIL-40CX3 with Installation Kit	1			
228-65500-58	SCL-40 System Controller	1			
228-65202-58	CTO-40C Column Oven	1			
228-65525-58	Mobile Phase Monitor, Controller	1			
074-83019-01	A/C Adapter for Mobile Phase Monitor	1			
228-65549-58	Mobile Phase Monitor, Large Bottle Holder	2			
228-45209-41	MiRC Mixer MR20 for pH 1-14	1			
228-65017-58	Reservoir Switching Valve, LC-40	2			
228-65624-58	FCV-0206H3 2-position 6port UHPLC Valve	1			
228-65603-58	FC-0206 2-position 6-port HPLC Valve	1			
220-91494-06	HPLC Startup Kit w/o Res Tray #2 5-Gal Poly	1			

Notes:

1. The Unit Price shall remain firm and fixed for the term of the Contract, including any extension periods; however, the Contractor may offer incentive discounts to the County at any time during the Contract term, including any extension thereof.
2. The Unit Price may not be contingent on any assumptions or proposed restrictions.
3. The Unit Price shall cover all costs, including costs associated with delivery (FOB) Destination and freight. No "add-on" charges for services shall be accepted.
4. Upon mutual written agreement, the County and the Contractor may add other items to the Price Schedule. Pricing offered for any additional items shall be negotiated.
5. Miami-Dade County is exempt from all taxes (Federal, State, and Local). Tax Exemption Certificate furnished upon request.