

Date: April 20, 2021

To: Honorable Chairman Jose "Pepe" Diaz
And Members, Board of County Commissioners

Agenda Item No. 8(J)(2)

From: Daniella Levine Cava
Mayor

Resolution No. R-294-21

Daniella Levine Cava

Subject: Contract Award Recommendation for Management Financial Consulting and Bond Engineering Services - Project No: S2019-013; Contract No: E18-SEA-06, to Arcadis U.S., Inc.

RECOMMENDATION

This Recommendation for Award for Professional Services Agreement (PSA) Contract Number E18-SEA-06, between Arcadis U.S., Inc. and Miami-Dade County (County) has been prepared by PortMiami, and is recommended for approval for a total contract amount not to exceed \$5,500,000.00, inclusive of a contingency allowance amount of \$500,000.00.

This Contract Award Recommendation was initially intended to be presented to the Board for its consideration in spring 2020. However, due to the industry-wide "No Sail Order" issued by the United States Centers for Disease Control and Prevention (CDC) on March 14, 2020 prohibiting passenger operations at all U.S. ports and its subsequent "Framework for Conditional Sailing" issued on October 30, 2020 providing for a phased approach to resuming cruise ship operations in U.S. waters, PortMiami cruise revenues ceased in March 2020 and PortMiami decided to delay this Contract Award Recommendation. Currently, confidence in the resumption of cruising has increased and PortMiami continues to move forward with its large revenue-generating capital projects. The Seaport Master Bond Ordinance No. 88-66 (Master Bond Ordinance No. 88-66) requires PortMiami to retain a Bond Consultant Engineer to perform bond engineering services. PortMiami issued a work order prior to the expiration of the previous PSA, also with Arcadis U.S., Inc., to continue meeting the requirements of the Master Bond Ordinance. Furthermore, the Port has utilized the Equitable Distribution Program (EDP) for continued provision of their services until a successor contract is implemented.

SCOPE

The Consultant shall provide professional services, which include, but shall not be limited to: bond engineering services, value analysis studies, management financial consulting services, and any supportive tasks ancillary to the primary scope of services which is detailed below:

1. The Consultant will perform bond engineering services, including, but not limited to the following:
 - a. Inspecting PortMiami's facilities, providing reports on condition of aforementioned facilities, noting deficiencies and needs relevant to PortMiami's long range plans, as well as evaluating financial and budgetary records;
 - b. Preparing the annual bond engineering report, which includes providing recommendations, approvals and certifications, rate studies, feasibility studies and financial forecasts as required under the Seaport Master Bond Ordinance No. 88-66;
 - c. Providing 40-year certification reports;
 - d. Reviewing and setting forth recommendations as to any necessary revisions of rates and port tariff structures;

- e. Reviewing port facility designs by others for consistency with facility requirements, relevance to PortMiami’s long range master plan, and adherence to requirements of funding sources, property values for insurance coverage, and facilities reserve for maintenance;
 - f. Evaluating the alignment and timing of facility investments to support projected revenue sources; and
 - g. Reviewing new capital development projects to ensure conformity to current and future operational requirements, estimated impact on revenues, and relational changes in maintenance and operations expenses.
2. The Consultant will perform value analysis studies, including, but not limited to the following:
- a. Gathering and tabulating information concerning the facility as designed, to evaluate the specific use or functional requirements of the items under study and their alignment to PortMiami’s plans;
 - b. Developing alternative recommendations that fulfill the facility's basic required function(s), in accordance with best practices and standards;
 - c. Incorporating analysis and work products of other PortMiami consultants within business case deliverables;
 - d. Business case analysis evaluating, critiquing, ranking and prioritizing feasible best alternatives developed in (b) above. An estimated dollar value shall be developed and applied to all feasible alternatives and a determination made of the alternatives that offer the greatest potential for savings or net benefit to PortMiami;
 - e. Presenting written value analysis study, which incorporates the best alternatives, to County staff for approval;
 - f. Providing assistance and recommendation in incorporating the selected alternatives into a project. The costs considered in the value analysis shall include initial construction costs as well as start-up, financing and continuing operational costs. Where continuing costs are analyzed, the value analysis shall include life cycle costing; and
 - g. Providing value analysis services, upon request of PortMiami, for additional or changed work required after award of a project to the Contractor.
3. The Consultant will perform highly specialized management financial consulting services, which represent 40% of the contract amount. Services include, but are not limited to the following:
- a. Evaluating the ability of PortMiami to generate revenues sufficient to satisfy debt service coverage requirements (i.e., analyzing the economic base, forecasting passenger and cargo traffic, forecasting revenues and expenditures, etc.). Such evaluation shall be in the form of a financial feasibility report;
 - b. Participating in the preparation of the preliminary official statement and the official statement and related documents for each bond issuance;
 - c. Participating in investment rating agency, credit insurer and investor presentations and responding to inquiries by such groups;
 - d. Performing due diligence and other services for port related financial transactions;
 - e. Evaluating rate covenant compliance rents, fees and charges for PortMiami’s properties, facilities and services;
 - f. Recommending rents, fees and charges for PortMiami’s system (revenue infrastructure) in conjunction with each debt issuance;
 - g. Notify PortMiami and make recommendations as to a revision of the rates, fees, or any changes needed if it is determined that the total net revenues are not sufficient to meet the terms of the Ordinance;

- h. Evaluating the financial impact of facilities constructed with third party funds or revenues and later absorbed by PortMiami to determine whether PortMiami still satisfies its debt services coverage requirements;
- i. Evaluating the financial impact of facilities constructed with third party funds or revenues and later absorbed by PortMiami to determine whether PortMiami satisfies its debt services coverage requirements;
- j. Developing long range pro forma financials beyond the five-year net revenue estimates, required by the ordinance, for the greater of 25 years or the debt term being considered;
- k. Evaluating the Capital Investment Program in the Master Plan and determine the alignment of investments and investment timing to the cargo and revenue projections;
- l. Evaluating long-term cargo projections relative to PortMiami’s existing market share within key Florida markets as well as more distant hinterland markets. Determine to what extent market share is likely to change within these respective locations by comparing the Port’s competitive position relative to other Florida, east coast and United States ports. Validate cargo forecasts, to be developed by commodity, trade partner and US-County level;
- m. Based on cargo projections, evaluating long-term expansionary capital requirements for infrastructure and equipment (capital plan). This capital plan will also incorporate the typical lifecycle of infrastructure and equipment utilized at the port, to determine replacement timeline;
- n. Reviewing capital expenditure cost estimates, including inflation for future years, and providing an opinion on estimated cost relationships to industry norms to assist in the preparation of the annual capital budget;
- o. Evaluating existing operational expenses and providing recommendations for reductions and opportunities for efficiencies;
- p. In the performance of the required facility inspections, aligning the lifecycle of critical infrastructure components to their financial performance, noting any deficiency expectations over the pro-forma period;
- q. Evaluating the potential mix of funding sources relative to the strengthening of PortMiami’s financial position, relationship to covenants in the ordinance, and positioning with the rating agencies;
- r. Evaluating best use of undeveloped areas on and off Port properties that support PortMiami’s long range plans; and
- s. Evaluating unsolicited proposals and P3 proposals, and providing recommendations to PortMiami’s senior staff.

BACKGROUND

PortMiami must conduct inspections of its facilities over a three-year period pursuant to Master Bond Ordinance No. 88-66. In addition, PortMiami requires management financial consulting services to assist in the pursuit of funding for capital improvement projects.

FISCAL IMPACT/FUNDING SOURCE

FUNDING SOURCE:

SOURCE

Seaport Revenues

PROJECT

NUM

N/A

SITE #

N/A

AMOUNT

\$5,500,000.00

Pursuant to Master Bond Ordinance No. 88-66, from operations revenues. The cost of services will be charged to the various projects requiring professional services. The funding source will be established at the time the work order is issued. These funds are budgeted by the Department in the individual project.

OPERATIONS Not Applicable, this is a PSA for management financial consulting
COST IMPACT / and bond engineering services.
FUNDING:

MAINTENANCE Not Applicable, this is a PSA for management financial consulting and
COST IMPACT / bond engineering services.
FUNDING:

LIFE Not Applicable, this is a PSA for management financial consulting and
EXPECTANCY bond engineering services.
OF ASSET:

PTP FUNDING: No

GOB FUNDING: No

ARRA FUNDING: No

CAPITAL		<u>AWARD</u>
BUDGET	<u>CAPITAL BUDGET PROJECT # - DESCRIPTION</u>	<u>ESTIMATE</u>
PROJECTS:		
	999999999- Non Capital Project	\$1,100,000.00
	Book Page: N/A Funding Year: 2020-2021	
	999999999- Non Capital Project	\$1,100,000.00
	Book Page: N/A Funding Year: 2021-2022	
	999999999- Non Capital Project	\$1,100,000.00
	Book Page: N/A Funding Year: 2022-2023	
	999999999- Non Capital Project	\$1,100,000.00
	Book Page: N/A Funding Year: 2023-2024	
	999999999- Non Capital Project	<u>\$1,100,000.00</u>
	Book Page: N/A Funding Year: 2024-2025	

CAPITAL BUDGET PROJECTS TOTAL: \$5,500,000.00

PROJECT	<u>TYPE</u>	<u>CODE</u>	<u>DESCRIPTION</u>
TECHNICAL	Prime	5.01	PORT AND WATERWAY SYSTEMS -
CERTIFICATION			ENGINEERING DESIGN
REQUIREMENTS:	Prime	14.00	ARCHITECTURE
	Other	3.12	HIGHWAY SYSTEMS - UNDERWATER
			ENGINEERING INSPECTION

Other	5.02	PORT AND WATERWAY SYSTEMS - ARCHITECTURAL DESIGN
Other	11.00	GENERAL STRUCTURAL ENGINEERING
Other	12.00	GENERAL MECHANICAL ENGINEERING
Other	13.00	GENERAL ELECTRICAL ENGINEERING
Other	16.00	GENERAL CIVIL ENGINEERING
Other	19.05	VALUE ANALYSIS AND LIFE-CYCLE COSTING - PORT AND WATERWAY SYSTEMS

SUSTAINABLE BUILDINGS ORDINANCE (I.O. No. 8-8):	Did the Notice to Professional Consultants contain Specific Language requiring compliance with the Sustainable Buildings Program? Not Applicable		
SEA LEVEL RISE (Ord. No. 14-79):	The impact of sea level rise will be reviewed and considered as the bond engineer discharges it duties.		
NTPC'S DOWNLOADED:	101		
PROPOSALS RECEIVED:	1		
TOTAL CONTRACT PERIOD:	1825 Days. Excludes Warranty Administration Period.		
CONTINGENCY PERIOD:	182 Days. Based on the five-year term of the contract.		
IG FEE INCLUDED IN BASE CONTRACT:	Yes		
ART IN PUBLIC PLACES:	No		
BASE ESTIMATE:	\$5,000,000.00		
BASE CONTRACT AMOUNT:	\$5,000,000.00		
CONTINGENCY ALLOWANCE (SECTION 2-8.1 MIAMI DADE COUNTY CODE):	TYPE	PERCENT	AMOUNT COMMENT
	PSA	10%	\$500,000.00

TOTAL \$0.00
**DEDICATED
ALLOWANCE:**

TOTAL \$5,500,000.00
AMOUNT:

DELEGATED AUTHORITY

The authority of the County Mayor or County Mayor's designee to execute and implement this contract is consistent with those authorities granted under the Code of Miami-Dade County. Additional delegation of authorities requested for this contract are as follows:

- Authority to exercise the time extension and allowance account options limited to ten percent of the contract term and amount;
- Authority to exercise the cancellation provisions in the contract;
- Section IX of the PSA stipulates that any and all disputes shall be decided by the Director of PortMiami; and
- Authority to exercise all other provisions and County rights contained in the contract.

TRACK RECORD/MONITOR

SBD HISTORY OF None
VIOLATIONS:

EXPLANATION:

A Notice to Professional Consultants (NTPC) was advertised on April 26, 2019. One proposal was submitted on May 31, 2019, in response to the NTPC. Because fewer than three proposals were received, consistent with the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, in lieu of performing market research, the submittal deadline was not extended. The sole respondent, Arcadis U.S., Inc. was found in compliance with the Technical Certification requirements established for this solicitation.

The Competitive Selection Committee (CSC) appointed by the County Mayor conducted a First Tier Meeting on September 19, 2019, to evaluate the proposal received. The firm was evaluated in accordance with Section 2-10.4 of the Miami-Dade County Code, Implementing Order 3-34, and Administrative Order 3-39. Local Preference was not applicable for the First-Tier Evaluation because only one proposal was received; however, the sole respondent is a local firm. Therefore, the final ranking was based on total ordinal scores. Arcadis U.S., Inc. received three points.

Based on the CSC's professional expertise, the information provided in the proposal was deemed sufficient to determine the qualifications of the team. As a result of said determination, and by a majority vote, the

CSC decided to forego Second Tier proceedings and recommended that negotiations be conducted with Arcadis U.S., Inc. The County Mayor's Designee, the Director of the Internal Services Department (ISD), concurred with the CSC and on February 2, 2020, the first negotiation meeting was held. After only one negotiation, the Negotiation Committee arrived at a schedule of rates that was fair and reasonable to provide financial management and bond engineering services.

Pursuant to Resolution R-187-12, and in accordance with ISD's Procurement Guidelines, PortMiami's staff exercised due diligence to determine Consultant responsibility for Arcadis U.S., Inc. The lists that were referenced included, but were not limited to: convicted vendors, debarred vendors, delinquent contractors, suspended vendors and federal excluded parties. There were no adverse findings relating to the Consultant's responsibility. In addition, PortMiami's staff compiled information regarding Arcadis U.S., Inc.'s prior experience with the County. There are 58 evaluations on record for Arcadis U.S., Inc. in the Capital Improvements Information System, with an average rating of 3.9 out of a possible 4.0 points. Based on the above, it is recommended that this Agreement be awarded in the not to exceed amount of \$5,500,000.00, to Arcadis U.S., Inc.

SUBMITTAL DATE:	5/31/2019
ESTIMATED NOTICE TO PROCEED:	May 2021
PRIME CONSULTANT:	Arcadis U.S. Inc.
COMPANY PRINCIPAL:	Raul Torres
COMPANY QUALIFIERS:	Leah K. Ritcher, PE
COMPANY EMAIL ADDRESS:	Leah.Ritcher@arcadis-us.com
COMPANY STREET ADDRESS:	1000 NW 57 Court, Suite 770
COMPANY CITY- STATE-ZIP:	Miami, FL 33126
YEARS IN BUSINESS:	23

**PREVIOUS
EXPERIENCE WITH
COUNTY IN THE LAST
FIVE YEARS:**

According to the Firm History Report, as provided by the Division of Small Business Development, within the last five years, Arcadis U.S., Inc. had ten contracts as prime consultant, with a total value of \$20,463,708. There were no change orders.

**SUBCONSULTANT
S:**

John C. Martin Associates, LLC
Raftelis Financial Consultants,
Inc.
Marlin Engineering, Inc.

**MINIMUM
QUALIFICATIONS
EXCEED LEGAL
REQUIREMENTS:**

Yes

1. The Prime and/or sub-consultant performing Technical Certification Category 3.12 Underwater Engineering Inspection is highly preferred to have demonstrated performance of these services on at least three deepwater bulkheads over the past seven years. Deep water bulkheads are composed of steel sheet pile/king pile combination with a concrete cap and an alongside water depth of at least 25 feet.
2. The Prime Consultant is preferred to have experience performing bond consulting services for comparable sized or larger revenue generating government entities.
3. Experience performing transportation asset valuation and revenue bond consulting services for comparable sized or larger revenue generating government entities is highly preferred (applies to the prime).
4. PortMiami’s current debt outstanding as of FY 2019 is approximately \$1.21B and future debt issued over the term of the agreement is planned, approximately three to five issuances before August 2024. Prime and/or sub-consultants providing management financial consulting services, as outlined in Section 3 of the Scope of Work, require familiarity and a minimum of 10 years’ experience with debt issuances in excess of \$100 million on which PortMiami can rely, including, but not limited to:
 - Bond markets
 - Credit rating agencies
 - Drivers of credit ratings and strategies to sustain credit rating levels
 - Securities Exchange Commission provisions for municipal debt under the Dodd-Frank Act
 - \$100 million plus debt issuances

- Review and insight into the generation of public offering statements (POS)
 - Interaction with bond counsel, disclosure counsel and the legal profession
 - Letter of credit and variable rate instruments
 - Funding strategies
5. Within 60 days from Notice to Proceed, the Consultant must demonstrate ability to submit a draft report, meeting the requirements of Master Bond Ordinance No. 88-66, for review by the County to facilitate Fiscal 2020 needs. The draft report must meet the requirements as outlined in Master Bond Ordinance No. 88-66, and other requirements that may be provided from PortMiami’s registered municipal advisor.

PARTICIPATION RESTRICTIONS:

1. Prime and/or sub-consultants with a current agreement or an open Work/Service Order with the County for design and/or construction management services for PortMiami will be precluded from being part of a team selected to render services under ISD Project No. S2019-013, Contract No. E18-SEA-06.
2. In addition, firms currently in negotiations for design projects at PortMiami, and/or any team on which such firm is a proposed prime or sub-consultant, are precluded from consideration for ISD Project No. E18-SEA-06, unless that firm withdraws in writing, from negotiations, including withdrawal of the firm’s proposal that led to negotiations. Firms and any team on which such firm is a proposed prime or sub-consultant will be found non-responsive if that firm submits a proposal in response to the NTPC for ISD Project No. S2019-013, Contract No. E18-SEA-06 and fails to withdraw from negotiations for a design project at PortMiami, as outlined above.
3. Finally, the prime consultant and/or sub-consultants selected for award of a PSA under ISD Project No. S2019-013, Contract No. E18-SEA-06 will not be considered for any design projects for PortMiami advertised during the effective term of this Agreement.

**REVIEW
COMMITTEE:**

**MEETING
DATE:**

3/11/2019

**RESUBMIT
DATE:**

5/14/2019

**SIGNOFF
DATE:**

3/22/2019

**RESUBMIT
SIGNOFF:**

5/15/2019

APPLICABLE WAGES: N/
(RESOLUTION NO. R- A
54-10)

REVIEW COMMITTEE ASSIGNED	<u>TYPE</u>	<u>GOAL</u>	<u>ESTIMATED VALUE</u>	<u>COMMENT</u>
CONTRACT MEASURES:	SBE– A&E	0.00%	\$0	On May 15, 2019, the Internal Services Department’s Small Business Development Division established that no measure is appropriate for this contract due to insufficient availability of SBE firms. (See Attachment A)

**MANDATORY
CLEARING HOUSE:** N/A

**CONTRACT
MANAGER NAME /
PHONE / EMAIL:** Gyselle Pino, MBA, 305 347-4833 gmf@miamidade.gov
CPPB

**PROJECT MANAGER
NAME / PHONE /
EMAIL:** Elizabeth Ogden, R.A. 305 347-5521 eogden@miamidade.gov

**BUDGET APPROVAL
FUNDS AVAILABLE:**

David Clodfelter
OMB DIRECTOR

2/24/2021
DATE

**APPROVED AS TO
LEGAL SUFFICIENCY:**


COUNTY ATTORNEY

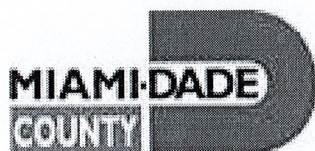
2-24-21
DATE

MAYOR

DATE _____

CLERK DATE

DATE _____



Small Business Development Division

Project Worksheet

Project/Contract Title: Management Financial Consulting and Bond Engineering Services
Project/Contract No: E18-SEA-06
Department: Seaport
Estimated Cost of Project/Bid: \$5,500,000.00
Description of Project/Bid: PortMiami intends to retain one (1) qualified firm under a Professional Services Agreement (PSA) To provide Management, Financial Consulting and Bond Engineering Services.

Received Date: 3/11/2019
Revised Date: 5/14/2019
Funding Source: Seaport Revenues

Contract Measures		
Measure	Program	Goal Percent
No Measure	SBE - A&E	

Reasons for Recommendation

SMALL BUSINESS ENTERPRISE - ARCHITECTURAL & ENGINEERING (SBE-AE)
 An analysis of the factors contained in the project package, as well as the factors contained in Section V. C. of Implementing Order 3-32 indicates a No Measure is appropriate for this contract due to insufficient availability. A Verification of Availability was sent to all SBE-A&E certified firms in the technical categories mentioned below, two (2) firms responded and only one (1) is able to meet the project requirements.

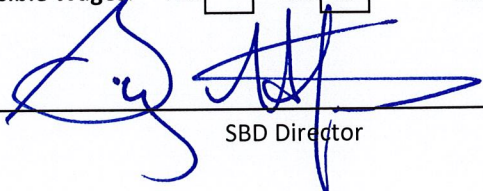
SMALL BUSINESS ENTERPRISE - GOODS & SERVICES (SBE-G&S)
 An analysis of the factors contained in the project package, as well as the factors contained in section VIII. B. of Implementing Order 3-41 & Ordinance 14-41 indicates a Measure is appropriate for this contract. The project was reviewed for SBE-Goods & Services measures. Based on the highly specialized scope of services (Management Financial Consulting and Bond Services) no SBE-G&S opportunities were possible.

The project estimated cost amount is \$5,500,000.00. The intent is to retain one (1) qualified firm under one (1) Professional Service Agreement (PSA). The term of agreement will be for four (4) years.

MDC-TCC 12 GENERAL MECHANICAL ENGINEERING, MDC-TCC 13 GENERAL ELECTRICAL ENGINEERING, MDC-TCC 14 ARCHITECTURE, MDC-TCC 16 GENERAL CIVIL ENGINEERING, MDC-TCC 11 GENERAL STRUCTURAL ENGINEERING, MDC-TCC 03-12 UNDERWATER ENGINEERING INSPECTION, MDC-TCC 05-01 ENGINEERING DESIGN, MDC-TCC 05-02 ARCHITECTURAL DESIGN, MDC-TCC 19-05 PORT AND WATERWAY SYSTEMS

Living Wages: YES ☐ NO ☒ Highway: YES ☐ NO ☒ Heavy Construction: YES ☐ NO ☒

Responsible Wages: YES ☐ NO ☒ Building: YES ☐ NO ☒


 SBD Director

5-15-19
 Date



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: April 20, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(J)(2)

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(J)(2)
4-20-21

RESOLUTION NO. _____ R-294-21

RESOLUTION APPROVING PROFESSIONAL SERVICES AGREEMENT BETWEEN MIAMI-DADE COUNTY AND ARCADIS U.S., INC. FOR MANAGEMENT FINANCIAL CONSULTING, VALUE ANALYSIS AND BOND ENGINEERING SERVICES IN AN AMOUNT NOT TO EXCEED \$5,500,000.00, INCLUSIVE OF A CONTINGENCY ALLOWANCE OF \$500,000.00; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME, TO EXERCISE ANY CANCELLATION AND OTHER PROVISIONS CONTAINED THEREIN, AND TO APPROVE THE CONTINGENCY TIME EXTENSION AND CONTINGENCY EXPENDITURE LIMITED TO TEN PERCENT OF THE BASE CONTACT AMOUNT

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:

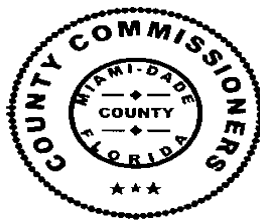
Section 1. Approves the execution of a Professional Services Agreement between Miami-Dade County and Arcadis U.S., Inc. for management financial consulting, value analysis, and bond engineering services in an amount not to exceed \$5,500,000.00, inclusive of the contingency allowance of \$500,000.00, in substantially the form attached hereto and made part hereof.

Section 2. Authorizes the County Mayor or County Mayor's designee to execute the Professional Services Agreement after review and approval by the County Attorney's Office; and to exercise any cancellation and other provisions contained therein; and to approve the contingency time extension and contingency account expenditure limited to ten percent of the base contract amount.

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

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

The Chairperson thereupon declared this resolution duly passed and adopted this 20th day of April, 2021. 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.

MAG

Miguel A. Gonzalez

PORTMIAMI

NON-EXCLUSIVE PROFESSIONAL SERVICES AGREEMENT

MANAGEMENT FINANCIAL CONSULTING AND BOND ENGINEERING SERVICES

CONTRACT NO. E18-SEA-06

FEBRUARY 2021



Daniella Levine Cava, Mayor

BOARD OF COUNTY COMMISSIONERS

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Keon Hardemon

District 3

Sally A. Heyman

District 4

Eileen Higgins

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Rebeca Sosa

District 6

Raquel A. Regalado

District 7

Danielle Cohen Higgins

District 8

Kionne L. McGhee

District 9

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District 10

Joe A. Martinez

District 11

Jose "Pepe" Diaz, Chairman

District 12

Senator René García

District 13

Harvey Ruvin, Clerk of Courts

Jimmy Morales, Chief Operating Officer

Geri Bonzon-Keenan, County Attorney

Miami-Dade County provides equal access and equal opportunity

In employment and services and does not discriminate on the basis of handicap.

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PORTMIAMI

NON-EXCLUSIVE PROFESSIONAL SERVICES AGREEMENT

MANAGEMENT FINANCIAL CONSULTING AND BOND ENGINEERING SERVICES

CONTRACT NO. E18-SEA-06

TABLE OF CONTENTS

SECTION I – COUNTY OBLIGATIONS.....	4
SECTION II – PROFESSIONAL SERVICES.....	5
SECTION III – TIME FOR COMPLETION	11
SECTION IV– FORCE MAJEURE	11
SECTION V – COMPENSATION.....	12
SECTION VI – ADDITIONAL SERVICES (ALLOWANCE ACCOUNT)	18
SECTION VII – METHODS OF PAYMENT	18
SECTION VIII – SCHEDULE OF WORK.....	20
SECTION IX – RIGHT OF DECISIONS AND DISPUTE RESOLUTION	20
SECTION X – OWNERSHIP OF DOCUMENTS.....	21
SECTION XI – REUSE OF DOCUMENTS.....	22
SECTION XII – NOTICES	22
SECTION XIII – ABANDONMENT.....	22
SECTION XIV – AUDIT RIGHTS.....	23
SECTION XV – SUBCONTRACTING AND ASSIGNMENT	23
SECTION XVI - CERTIFICATION	24
SECTION XVII – TERMINATION OF AGREEMENT.....	25
SECTION XVIII – DURATION OF AGREEMENT	25
SECTION XIX – DEFAULT	26
SECTION XX – INDEMNIFICATION AND INSURANCE	27
SECTION XXI – TRUTH-IN-NEGOTIATION CERTIFICATION OF WAGE RATES	29
SECTION XXII – APPLICABLE LAWS.....	30
SECTION XXIII – OFFICE OF MIAMI-DADE COUNTY INSPECTOR GENERAL.....	34
SECTION XXIV – AFFIRMATIVE ACTION.....	38
SECTION XXV – PROMPT PAYMENT TO SMALL BUSINESS SUBCONSULTANTS	38
SECTION XXVI - SANCTIONS FOR CONTRACTUAL VIOLATIONS	39

SECTION XXVII – BUSINESS APPLICATION AND FORMS	39
SECTION XXVIII – ERRORS AND OMISSIONS	40
SECTION XXIX – ENTIRETY OF AGREEMENT	41
ATTACHMENT	
ATTACHMENT A – ARCADIS U.S., INC.’s SCHEDULE OF RATES	

NON-EXCLUSIVE PROFESSIONAL SERVICE AGREEMENT

THIS NON-EXCLUSIVE PROFESSIONAL SERVICES AGREEMENT (the “Agreement”) is made and entered into this ____ day of _____, 2021 by and between Miami-Dade County, a political subdivision of the State of Florida, hereinafter referred to as the “COUNTY”, and ARCADIS U.S., INC. a DELAWARE corporation authorized to do business in the State of FLORIDA with offices in Miami, Florida, hereinafter referred to as the “CONSULTANT”.

W I T N E S S E T H :

For and in consideration of the mutual agreements hereinafter contained, the COUNTY hereby retains the CONSULTANT and the CONSULTANT hereby covenants to provide the professional services prescribed herein in connection with the Management Financial Consulting and Bond Engineering Services, Contract No. E18-SEA-06 / Project No. S2019-013, as more specifically described in SECTION II– PROFESSIONAL SERVICES of this Agreement for the Dante B. Fascell Port of Miami-Dade, hereinafter referred to as the “PROJECT”.

SECTION I – COUNTY OBLIGATIONS

The COUNTY agrees that the Miami-Dade County Seaport Department, hereinafter referred to as the “Department”, shall furnish to the CONSULTANT any plans and other data available in the COUNTY files pertaining to the work to be performed under this Agreement. Information shown on such plans or data shall be that which has been made available to the COUNTY, and shall be provided to the CONSULTANT without guarantee regarding its reliability and accuracy. The CONSULTANT shall be responsible for independently verifying such information if it shall be used by the CONSULTANT to accomplish the work undertaken pursuant to this Agreement.

The Director of the Miami-Dade County Seaport Department or his/her designee, hereinafter referred to as the “Director”, reserves the right to guarantee the accuracy of information provided by

the COUNTY to the CONSULTANT. When such guarantee is provided in writing, the CONSULTANT shall not be compensated for independent verification of said information.

The Director shall issue written authorization to proceed to the CONSULTANT for each section of the work to be performed hereunder. These authorizations are referred to as Work Orders. In case of emergency, the Director reserves the right to issue oral authorization to the CONSULTANT with the understanding that written confirmation shall follow immediately thereafter.

The CONSULTANT shall submit a proposal, in a form acceptable to the COUNTY, upon the Director's request prior to the issuance of a Work Order. No payment shall be made for the CONSULTANT's time or services in connection with the preparation of any such proposal.

The Director shall confer with the CONSULTANT before any Work Order is issued to discuss and agree upon the scope, time for completion, and fee for services to be rendered pursuant to this Agreement.

The Director reserves the right to assign the CONSULTANT's design work to another CONSULTANT, including but not limited to a CONSULTANT on a previous, successor or concurrent contract and further reserves the right to assign another CONSULTANT's design work to CONSULTANT. CONSULTANT shall not be responsible for the design work assigned to another CONSULTANT if the design work is not 100% completed by the CONSULTANT and submitted as final documents by the CONSULTANT and accepted by the COUNTY.

Performance evaluations of the services rendered under this Agreement shall be performed by the Department and shall be utilized by the COUNTY as evaluation criteria for future solicitations.

SECTION II – PROFESSIONAL SERVICES

Said services may include, but not be limited to: bond engineering services, value analysis studies [in accordance with Section 2-10.4 of the Miami-Dade County (County) Code], management

financial consulting services, and any supportive tasks ancillary to the primary scope of services. For additional details, please refer to the Scope of Work.

1. The Consultant will perform Bond Engineering Services, including, but not limited to the following:
 - a. Inspecting PortMiami facilities, providing reports on condition of aforementioned facilities, noting deficiencies and needs relevant to PortMiami's long range plans, as well as evaluating financial and budgetary records for;
 - b. Preparing the annual bond engineering report, which includes providing recommendations, approvals and certifications, rate studies, feasibility studies and financial forecasts as required under the Seaport Master Bond Ordinance No. 88-66;
 - c. Providing 40-year certification reports;
 - d. Reviewing and setting forth recommendations as to any necessary revisions of rates and port tariff structures;
 - e. Reviewing port facility designs by others for consistency with facility requirements, relevance to PortMiami's long range master plan, and adherence to requirements of funding sources, property values for insurance coverage, and facilities reserve for maintenance;
 - f. Evaluating the alignment and timing of facility investments to support projected revenue sources; and
 - g. Reviewing new Capital Development projects to ensure conformity to current and future operational requirements, estimated impact on revenues, and relational changes in maintenance and operations expenses.
2. The Consultant will perform Value Analysis studies, including, but not limited to the following:
 - a. Gathering and tabulating information concerning the facility as designed, to evaluate the specific use or functional requirements of the items under study and their alignment to PortMiami plans;
 - b. Developing alternative recommendations that fulfill the facility's basic required function(s), in accordance with best practices and standards;

- c. Incorporating analysis and work products of other PortMiami consultants within business case deliverables;
 - d. Business case analysis evaluating, critiquing, ranking and prioritizing feasible best alternatives developed in (b) above. An estimated dollar value shall be developed and applied to all feasible alternatives and a determination made of the alternatives that offer the greatest potential for savings or net benefit to PortMiami;
 - e. Presenting written value analysis study, which incorporates the best alternatives, to County staff for approval;
 - f. Providing assistance and recommendation in incorporating the selected alternatives into a project. The costs considered in the value analysis shall include initial construction costs as well as start-up, financing and continuing operational costs. Where continuing costs are analyzed, the value analysis shall include life cycle costing; and
 - g. Providing value analysis services, upon request of PortMiami, for additional or changed work required after award of a project to the Contractor.
3. The Consultant will perform highly specialized Management Financial Consulting Services, which represent 40% of the contract amount. Services include, but are not limited to the following:
- a. Evaluating the ability of PortMiami to generate revenues sufficient to satisfy debt service coverage requirements (i.e., analyzing the economic base, forecasting passenger and cargo traffic, forecasting revenues and expenditures, etc.). Such evaluation shall be in the form of a financial feasibility report;
 - b. Participating in preparation of the Preliminary Official Statement and the Official Statement and related documents for each bond issuance;
 - c. Participating in investment rating agency, credit insurer and investor presentations and responding to inquiries by such groups;
 - d. Performing due diligence and other services for port related financial transactions;

- e. Evaluating rate covenant compliance rents, fees and charges for PortMiami properties, facilities and services;
- f. Recommending rents, fees and charges for PortMiami's system (revenue infrastructure) in conjunction with each debt issuance;
- g. Notify PortMiami and make recommendations as to a revision of the rates, fees, or any changes needed if it is determined that the total net revenues are not sufficient to meet the terms of the Ordinance.
- h. Evaluating the financial impact of facilities constructed with third party funds or revenues and later absorbed by PortMiami to determine whether PortMiami still satisfies its debt services coverage requirements;
- i. Evaluating the financial impact of facilities constructed with third party funds or revenues and later absorbed by PortMiami to determine whether PortMiami satisfies its debt services coverage requirements;
- j. Developing long range pro forma financials beyond the five year net revenue estimates, required by the ordinance, for the greater of twenty-five years or the debt term being considered;
- k. Evaluating the Capital Investment Program in the Master Plan and determine the alignment of investments and investment timing to the cargo and revenue projections;
- l. Evaluating long-term cargo projections relative to PortMiami's existing market share within key Florida markets as well as more distant hinterland markets. Determine to what extent market share is likely to change within these respective locations by comparing the Port's competitive position relative to other Florida, East Coast and United States Ports. Validate cargo forecasts, to be developed by commodity, trade partner and US-County level;
- m. Based on cargo projections, evaluating long-term expansionary capital requirements for infrastructure and equipment (capital plan). This capital plan will also incorporate the typical lifecycle of infrastructure and equipment utilized at the port, to determine replacement timeline;

- n. Reviewing capital expenditure cost estimates, including inflation for future years, and providing an opinion on estimated cost relationships to industry norms to assist in the preparation of the annual capital budget;
- o. Evaluating existing operational expenses and providing recommendations for reductions and opportunities for efficiencies;
- p. In the performance of the required facility inspections, aligning the lifecycle of critical infrastructure components to their financial performance, noting any deficiency expectations over the pro-forma period;
- q. Evaluating the potential mix of funding sources relative to the strengthening of PortMiami's financial position, relationship to covenants in the ordinance, and positioning with the rating agencies;
- r. Evaluating best use of undeveloped areas on and off Port properties that support PortMiami long range plans; and
- s. Evaluating unsolicited proposals and Public Private Partnership proposals, and providing recommendations to PortMiami Senior Staff.

For a list of classifications and rates, please refer to Attachment "A", ARCADIS U.S., Inc.'s Schedule of Rates.

- A. In connection with professional services to be rendered pursuant to this Agreement, the CONSULTANT further agrees to provide complete engineering services to: Maintain an adequate staff of qualified personnel on the project at all times to complete the scope in accordance with the terms specified in the applicable Work Order. The COUNTY has the right to approve and regulate the CONSULTANT's workforce and approve specific CONSULTANT employees. The COUNTY has the right to have any CONSULTANT employee removed from the work, if, in the COUNTY's sole judgment, such employee's conduct or performance is detrimental to the project. The CONSULTANT shall not replace any employee in the team initially proposed by the CONSULTANT without prior COUNTY approval. The

CONSULTANT shall submit a list of employees intended to be engaged in the work under this Agreement, including their classification and salary rates, as reported to the Internal Revenue Service (I.R.S.), as Attachment “A” to this agreement and made a part hereof.

- B. Comply with all federal, state and local laws, regulations, codes, ordinances, resolutions and administrative orders applicable to the work.
- C. Cooperate fully with the COUNTY in the scheduling and coordination of all phases of the work.
- D. Report the status of the work to the Director upon request and hold pertinent data, calculations, field notes, records, sketches, and other products open to the inspection of the Director at any time. The CONSULTANT shall reference all correspondence and work with the Work Order Number.
- E. Submit for COUNTY review, work schedules, cost estimates, design computations, drawings, sketches, and other data representative of the work’s progress at the percentage stages of completion which may be stipulated in the applicable Work Order, as applicable. Submit for COUNTY approval the final work products upon incorporation of any modifications requested by the COUNTY during any previous review. Drawings shall be in AutoCAD format in a version acceptable to the Department. Upon finalization of work the CONSULTANT shall submit hard copy reproducible as well as editable final product disks to the COUNTY.
- F. Confer with the COUNTY at any time during the further development and implementation of improvements for which the CONSULTANT has provided design or other services as to interpretation of plans and other documents, correction of errors and omissions and preparation of any necessary revisions thereof. The CONSULTANT shall not be compensated for the correction of CONSULTANT’S errors and omissions.

- G. Prior to final approval of work by the Director, the CONSULTANT shall complete a preliminary check of any documents submitted for compliance with all county, city, state, and federal agencies as required.
- H. Make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of this Agreement, without first notifying the COUNTY and securing its consent in writing. The CONSULTANT also agrees that it shall not publish, copyright, or patent any of the data furnished in compliance with this Agreement, that being understood that under SECTION X – OWNERSHIP OF DOCUMENTS hereof such data or information is the property of the COUNTY.

SECTION III – TIME FOR COMPLETION

The services to be rendered by the CONSULTANT for each section of the work shall commence upon receipt of a written Work Order from the Director subsequent to the execution of this Agreement, and shall be completed within the time stated in the Work Order.

A reasonable extension of time shall be granted in the event there is a delay on the part of the COUNTY in fulfilling its part of the Agreement or should a Force Majeure, as defined in Section IV hereof, render performance of the CONSULTANT's duties impossible. Such extensions of time shall not be cause for any claim by the CONSULTANT for extra compensation.

SECTION IV– FORCE MAJEURE

Force Majeure shall mean an act of God, epidemic, lightning, earthquake, fire, explosion, hurricane, flood or similar occurrence, strike, an act of a public enemy, or blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, which has had or may reasonably be expected to have a material adverse effect on the rights and obligations under

this Agreement, and which, by the exercise of due diligence, such parties shall not have been able to avoid. Such acts or events DO NOT INCLUDE inclement weather (except as noted above) or the acts or omissions of sub-consultants/subcontractors, third-party consultants/contractors, material men, suppliers, or their subcontractors, unless such acts or omissions are otherwise encompassed by the definition set forth above.

No party hereto shall be liable for its failure to carry out its obligations under the Agreement during a period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations, but the obligation of the party or parties relying on such Force Majeure shall be suspended only during the continuance of any inability so caused and for no longer period of said unexpected or uncontrollable event, and such cause shall, so far as possible, be remedied with all reasonable dispatch.

It is further agreed and stipulated that the right of any party hereto to excuse its failure to perform by reason of Force Majeure shall be conditioned upon such party giving, to the other party or parties, written notice of its assertion that a Force Majeure delay has commenced within ten (10) working days after such commencement, unless there exists good cause for failure to give such notice, in which event, failure to give such notice shall not prejudice any party's right to justify any non-performance as caused by Force Majeure unless the failure to give timely notice causes material prejudice to the other party or parties.

SECTION V – COMPENSATION

The COUNTY agrees to pay and the CONSULTANT agrees to accept, for services rendered pursuant to this Agreement, fees and other compensation computed in accordance with one or a combination of the methods outlined below:

A. Fee as a Multiple of Direct Salary Cost and Fixed Hourly Rate

The fee for services rendered by the CONSULTANT's personnel, principals excluded, shall be computed based on the direct salary cost, as reported to the Internal Revenue Service, for the time of said personnel engaged directly in the work, times negotiated multipliers of 2.85 for Office Personnel, 2.25 for Field Personnel and/or personnel on loan, which shall mean that they are under the direct supervision of the COUNTY's Seaport Department and the Department provides office space, computers and communication equipment (excludes cellular phones). Office Personnel shall mean personnel that are located in the home offices of the CONSULTANT and or Sub-consultant(s). Field Personnel/personnel on loan shall mean personnel that are performing duties in the field, outside of the home offices of the CONSULTANT and or Sub-consultant(s), and at County Offices a minimum of twenty four (24) hours per week (which shall mean that they are under the direct supervision of the COUNTY's Seaport Department and the Department provides office space, computers and communication equipment, excluding cellular phones), for more than thirty (30) days. Time worked by the CONSULTANT and/or Sub-consultant(s) for this entire period shall be at the Field/on loan personnel rate. This fee shall constitute full compensation to the CONSULTANT for costs incurred in the performance of the work such as overhead, fringe benefits, operating margin and all other costs not covered by reimbursable expenses.

Furthermore, the maximum raw hourly rates, per classification, for the Consultant and Sub-consultants are capped and set not to exceed as follows:

Senior Financial Analyst - \$85

Chief Technical Specialist - \$75

Senior Architectural/Engineering Technical Staff (Licensed) - \$75

Financial Analyst - \$55

Non-Technical Staff - \$55

The COUNTY has the right to verify these multipliers through an audit.

1. The CONSULTANT and its Sub-consultants shall be compensated at the flat rate of \$130 per hour for the time of principals engaged directly in the work. This rate shall not be subject to the negotiated multiplier and shall be applied to the time spent on requested work by the following principal(s).

ARCADIS U.S. INC.

Raul Torres, PE

JOHN C. MARTIN ASSOCIATES, LLC

John Martin

RAFTELIS FINANCIAL CONSULTANTS, INC.

John Davis

MARLIN ENGINEERING, INC.

Jose Quintana, PE

The COUNTY reserves the right to substitute principals in its sole discretion upon request by the CONSULTANT.

2. Overtime work considered necessary and previously authorized by the Director in writing shall be compensated at time-and-a-half of the labor rate normally paid to the employee, for personnel below the level of project engineer or project architect, as defined by the Director. Overtime is defined as work in excess of forty (40) hours per week. Principals shall not receive additional compensation for performance of overtime work.
3. Labor rates shall be in accordance with the list of rates per classification supplied by the CONSULTANT and its sub-consultants, and made a part hereof as Attachment "A".

4. The CONSULTANT and its sub-consultants shall not invoice the COUNTY for charges for office, rent or overhead expenses of any kind, including but not limited to, insurance, local telephone (including cellular service) and utility charges, office/drafting supplies, depreciation of equipment, professional dues, subscriptions, computer software/hardware, reproduction of drawings and/or specifications, mailing, stenographic, clerical, nor shall it invoice for other employee time or travel and substance not directly related to the work. The multiple factor set forth above shall cover all such costs pertinent to the work.
5. All payments to Sub-consultant(s) employed hereunder shall be the sole responsibility of the CONSULTANT unless otherwise provided for herein or within a Work Order. The CONSULTANT shall not submit invoices, which include charges for services by Sub-consultant(s), unless such services have been performed satisfactorily and the charges are, in the opinion of the CONSULTANT, payable to such Sub-consultant(s). The CONSULTANT shall promptly make all payments to such Sub-consultant(s) following receipt by the CONSULTANT of corresponding payment from the COUNTY. Prior to any payments to Sub-consultant(s), the CONSULTANT shall, if requested by the Director, furnish to the COUNTY a copy of the agreement(s) providing for such payments. Compensation rate to Sub-consultant(s) authorized by the Director as services shall not exceed the CONSULTANT's rates above unless otherwise approved in advance by the Director.

B. Lump sum Fee

The fee for any requested portion of work may, at the option of the COUNTY, be a lump sum mutually agreed upon by the Director and the CONSULTANT and stated in the written Work Order. Lump sum fees may or may not include reimbursable expenses.

C. Reimbursable Expenses

The CONSULTANT shall be compensated on a direct reimbursement basis for certain work-related expenditures not covered by fees for consulting services, provided such expenditures are reasonable and previously authorized by the Director. Reimbursable expenses may include:

1. Expenses for document reproduction (reproduction costs for internal coordination, reviews and other in-house uses will not be reimbursed), rental of specialized equipment, and purchase of special instruments necessary for the efficient performance of the work. Provided that such purchased instruments remain the property of the COUNTY upon work completion. These expenses shall be reimbursed on a direct cost basis. No separate additional payment shall be authorized for the use of CADD workstations (computers).
2. Expenses for travel (except commuting), transportation and subsistence by CONSULTANT's personnel in the furtherance of the work outside Miami-Dade County will be reimbursed according to the provisions of Florida Statutes Section 112.061 and Miami-Dade County Administrative Order 6-1, as presently written or hereafter amended. The CONSULTANT shall obtain prior authorization from the Director or his/her designee, for all travel expenses. Failure to obtain such prior authorization shall be grounds for nonpayment of travel expenses. To be compensated for travel within Miami-Dade County, the CONSULTANT shall maintain accurate mileage records, in ink, and submit them with their invoices.

D. Maximum Compensation

The maximum compensation for the services included shall be the **NOT TO EXCEED** amount of **\$5,000,000.00** so long as the performance of additional services, as outlined in Section VI hereof, is not necessary and authorized by the Director. It is understood that any unspent portion of the contract ceiling is to remain with the COUNTY.

E. Compensation for Other Services

The COUNTY shall compensate other services or goods provided by the CONSULTANT and others working in conjunction with the CONSULTANT as stipulated by the following:

1. Land and Engineering Field Survey

In the event supplementary field survey work is required during design of the project and such work is authorized by the Director, the CONSULTANT shall be compensated for performance of said work in accordance with the provisions of Section V(A) hereof. The surveying rates shall not exceed the negotiated rates under the latest Miami-Dade County Public Works & Waste Management Department's Professional Services Agreement for General Land and Engineering Surveying Services.

2. Geotechnical Engineering

In the event supplementary geotechnical engineering work is required during design of the project and such work is authorized by the Director, the CONSULTANT shall be compensated for performance of said work in accordance with the provisions of Section V(A) hereof. The geotechnical engineering rates shall not exceed the negotiated rates under the latest Miami-Dade County Public Works & Waste Management Department's Professional Services Agreement for Soils, Foundations and Geotechnical Testing Services.

F. COUNTY Discretion to Negotiate

Notwithstanding and prevailing over any other provision of this section, the COUNTY reserves the right in its sole discretion, through the Seaport Director or his designee, to negotiate fees and rates with CONSULTANT, mutually acceptable to COUNTY and CONSULTANT, that are less than those set forth herein for particular projects, including but not limited to lower multiplier and hourly rates.

SECTION VI – ADDITIONAL SERVICES (ALLOWANCE ACCOUNT)

In the event that a contingency necessitates the performance of additional services by the CONSULTANT after the **\$5,000,000.00** maximum compensation limit of the Agreement has been encumbered, the Director shall have the right to authorize performance of additional services provided that compensation for such services does not exceed ten percent (10%) of the Agreement's maximum compensation limit or **\$500,000.00**. It is understood that any unspent portion of the allowance account is to remain with the COUNTY.

SECTION VII – METHODS OF PAYMENT

The COUNTY agrees to make monthly payments to the CONSULTANT, based on properly submitted invoices, for all authorized work performed during the previous calendar month or other mutually agreed invoicing period. The CONSULTANT agrees to submit invoices within thirty (30) days from the completion of the executed work and to provide with every invoice copies of any records necessary to substantiate payment requests to the COUNTY such as timesheets, detailing the task where the time has been spent, monthly progress reports and hours/cost expenditure reports, in a format acceptable to the COUNTY. Invoice received more than ninety (90) days from the completion of the executed work may be subject to \$5,000.00 audit fee, which audit fee represents a reasonable estimate (and not a penalty) of the cost of labor expended by the COUNTY staff to review the overdue invoice, and/or may be rejected by the Director. The CONSULTANT shall submit duly certified invoices in triplicate to the Director in a form acceptable to the Director. Each invoice shall make reference to the particular Work Order which authorized the services performed and/or expenses incurred. The amount of invoices submitted shall be comprised of the amounts due for all services performed including timesheets and/or reimbursable expenses incurred to date in connection with authorized work, less previous payments.

Pursuant to Administrative Order (A.O.) 3-32 Community Business Enterprise (CBE) Program, Administrative Order (A.O.) 3-41 Small Business Enterprise (SBE) Program and/or A.O. 3-39 for the Resolution Repealing County Administrative Orders 3-33, 3-14 and 3-28 and establishing Administrative Order 3-39 Standard Process for Construction of Capital Improvements, Acquisition of Professional Services, Construction Contracting, Change Orders and Reporting, the CONSULTANT is required to file utilization reports with the Miami-Dade County contracting department monthly, unless designated otherwise.

The CONSULTANT shall report via the Business Management Workforce System (BMWS) all sub-consultants' agreements entered into listing award amounts or percentage for this Agreement. Additionally, the Consultant shall report all payments made to each sub-consultant participating on the project and verification of payments received must be confirmed by the subconsultants via BMWS. For additional information regarding online BMWS registration, managing County contracts, and to track compliance with SBE program measures, please contact Small Business Development, at (305) 375-3111 or via email at SBDmail@miamidade.gov.

Payments shall be made in accordance with the following methods, as identified in the work order:

A. Time and/or Material for Professional Fees and/or Reimbursable Expenses

The amounts due for professional services and/or reimbursable expenses shall be calculated in accordance with Subsections V-A and V-C hereof, respectively. Invoiced reimbursable expenses must be substantiated with copies of receipts and other documentation as necessary.

B. Lump Sum Fee

The amount due of invoices submitted shall be calculated by applying the percentage of the total work completed to date to the authorized lump sum, and subtracting any previous payments.

SECTION VIII – SCHEDULE OF WORK

The Director shall have the sole right to determine on which parts or phases of the work the CONSULTANT shall proceed and in what order. The Work Order(s) issued by the Director shall cover in detail the scope, specific deliverables, time for completion, method of payment and compensation for the professional services requested in connection with each part or phase of work.

SECTION IX – RIGHT OF DECISIONS AND DISPUTE RESOLUTION

All services shall be performed by the CONSULTANT to the reasonable satisfaction of the Director who shall decide all questions, difficulties, and disputes of whatever nature which may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder, and the character, quality, amount and value thereof.

In the event the CONSULTANT and COUNTY are unable to resolve their differences concerning any determination made by staff or any dispute or claim arising under or relating to the Contract, either the CONSULTANT or COUNTY may initiate a dispute in accordance with the procedure set forth in this Section. Exhaustion of these procedures shall be a precondition to any lawsuit permitted hereunder.

The parties to this contract hereby authorize the Seaport Director, functioning as the Contracting Officer or his/her designee, to decide all questions, disputes or claims of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Contract and this decision shall be conclusive, final and binding on the parties, subject only to the limited right of review specified below. The parties hereto further agree that, upon timely request under this Section, both the CONSULTANT and COUNTY are entitled to a hearing before the Contracting Officer, or his/her designee, at which both CONSULTANT and the COUNTY may present evidence and live testimony, in accordance with the Florida Rules of Evidence, and the right to cross-examine each other's witnesses.

If either party wishes to protest the determination of the Contracting Officer, such party may commence an appeal in a Court of competent jurisdiction solely and exclusively in Miami-Dade County, Florida no later than thirty (30) calendar days from the issuance of the Contracting Officer's written decision, it being understood that the review of the Court shall be limited to the question of whether or not the Contracting Officer's determination was arbitrary and capricious, unsupported by any competent evidence, or so grossly erroneous to evidence bad faith.

Pending final decision of a dispute hereunder, the CONSULTANT shall proceed diligently with the performance of the Contract and in accordance with the COR's interpretation.

SECTION X – OWNERSHIP OF DOCUMENTS

All notes, correspondence, documents, designs, drawings, cost estimates, renderings, calculations, specifications, models, photographs, reports, surveys, investigations, and any other documents and copyrights thereto for Services performed or produced in the performance of this Agreement, whether in paper or other hard copy medium or in electronic medium, except with respect to copyrighted standard details and designs owned by the CONSULTANT or owned by a third party and licensed to the CONSULTANT for use and reproduction, shall become the property of the COUNTY without restrictions or limitations. However, the COUNTY may grant an exclusive license of the copyright to the CONSULTANT for reusing and reproducing copyrighted materials or portions thereof as authorized by the COUNTY in advance and in writing. In addition, the CONSULTANT shall not disclose, release, or make available any document to any third party without prior written approval from COUNTY. The CONSULTANT shall warrant to the COUNTY that he/she has been granted a license to use and reproduce any standard details and designs owned by a third party and used or reproduced by the CONSULTANT in the performance of this Agreement. All drawings shall be AutoCAD format in a version acceptable to the Department, produced by computer in files maintained on disks. When each individual section of work requested pursuant to this Agreement is

completed and accepted, all of the above data shall be delivered to the Director. Nothing contained herein shall be deemed to exclude any document from Chapter 119 of the Florida Statutes.

SECTION XI – REUSE OF DOCUMENTS

The CONSULTANT may reuse data where appropriate from other sections of the work included in this Agreement provided irrelevant material is deleted. The COUNTY shall not be re-invoiced for such reused data. The Director shall not accept any reused data containing an excess of irrelevant material, which has no connection with the applicable portion of the work. The COUNTY shall not re-use design documents on other projects not contemplated under this Agreement. Any such re-use shall be at the COUNTY's sole risk without legal liability to the CONSULTANT.

SECTION XII – NOTICES

Any notices, reports or other written communications from the CONSULTANT shall be considered delivered, when delivered by certified mail, electronic media, or delivered in person to the Director. Any notices, reports or other communications from the COUNTY to the CONSULTANT shall be considered delivered when delivered by certified mail to the CONSULTANT at the last address left on file with the COUNTY or delivered in person to said CONSULTANT or the CONSULTANT's authorized representative.

SECTION XIII – ABANDONMENT

In the event the COUNTY causes abandonment, cancellation, or suspension of the projects or parts thereof, the CONSULTANT shall be compensated for all services rendered consistent with the terms of this Agreement up to the time the CONSULTANT receives written notification of such abandonment, cancellation or suspension. This compensation shall be determined on the basis of the percentage of the total services which have been performed at the time the CONSULTANT receives such notice. In the event partial payment has been made for professional services not performed, the

CONSULTANT shall return such sums to the COUNTY within ten (10) days after receipt of written notice that such sums are due.

SECTION XIV – AUDIT RIGHTS

The COUNTY reserves the right to audit the records of the CONSULTANT related to this Agreement at any time during the prosecution of the work included herein and for a period of three (3) years after final payment is made. The CONSULTANT agrees to provide copies of any records necessary to substantiate payment requests to the COUNTY, including but not limited to audited financial statements, balance sheets and other financial records. In the event an audit undertaken pursuant to this section reveals improper, inadvertent, or mistaken payments to the CONSULTANT, the CONSULTANT shall remit such payments to the COUNTY. The COUNTY shall retain all legal and equitable rights with respect to recovery of payments.

SECTION XV – SUBCONTRACTING AND ASSIGNMENT

The CONSULTANT shall not assign or transfer any portion of the work under this Agreement other than as provided for herein without the prior written consent of the Director. When applicable and upon receipt of such consent in writing, the CONSULTANT shall cause the names of firms responsible for portions of each specialty of the work to be inserted in the pertinent documents or data. No assignment or transfer of work will be allowed. Nothing contained in this Agreement shall create any contractual relationship between the COUNTY and the Sub-consultant(s).

In addition, and as applicable, the CONSULTANT agrees to comply with the Miami-Dade COUNTY Ordinance 01-103 and Administrative Order 3-32 regarding the Community Business Enterprise (CBE) program. The COUNTY has established a participation goal of six percent (**6.00%**) based on the total amount of compensation authorized under this Agreement.

A. Sub-consultant(s)

The compensation for services rendered by the Sub-consultant(s) shall be in accordance with this Section and Section V - COMPENSATION. The Sub-consultant(s) authorized to perform professional services associated with this Agreement are:

JOHN C. MARTIN ASSOCIATES, LLC

RAFTELIS FINANCIAL CONSULTANTS, INC.

MARLIN ENGINEERING, INC.

In no case the maximum rate of compensation, per classification, including multiples of direct salary for services rendered by the Sub-consultant(s) personnel, principals excluded, shall exceed the rate stipulated, per classification, in Section V of this agreement.

All services provided by the Sub-consultant(s) shall be pursuant to appropriate agreements between the CONSULTANT and the Sub-consultant(s) which shall contain provisions that preserve and protect the rights of the COUNTY under this Agreement, and indemnify and hold harmless the COUNTY.

Sub-consultant(s) other than those listed above may not be utilized on the work unless their utilization has been approved in advance by the COUNTY in writing. The COUNTY reserves the right at any time to withdraw the approval of a Sub-consultant, if it decides that the services performed by the Sub-consultant, are not acceptable to the COUNTY.

The CONSULTANT shall not change any Sub-consultant without prior approval of the COUNTY in response to a written request from the CONSULTANT stating the reasons for any proposed substitution.

SECTION XVI - CERTIFICATION

The CONSULTANT certifies that no companies or persons, other than bonafide employees working solely for the CONSULTANT or the CONSULTANT's COUNTY approved Sub-

consultant(s), have been retained or employed to solicit or secure this Agreement or have been paid or guaranteed payment of any fees, commissions, percentage fees, gifts or any other considerations contingent upon or resulting from the award or making of this Agreement. The CONSULTANT also certifies that no COUNTY personnel, whether full-time or part-time employees, has or shall be retained or employed in any capacity, by the CONSULTANT or the CONSULTANT's COUNTY approved Sub-consultant(s), to accomplish the work contemplated under the terms of this Agreement. For breach or violation of this Certification, the Director shall have the right to annul this Agreement without liability.

SECTION XVII – TERMINATION OF AGREEMENT

It is expressly understood and agreed that the Director may terminate this Agreement, in total or in part, without cause or penalty, by thirty (30) days prior written notification in writing from the Director or by declining to issue Work Orders, as provided in Section VIII; in which event the COUNTY's sole obligation to the CONSULTANT shall be payment, in accordance with Section V – Compensation, for those units or sections of work previously authorized. Such payment shall be determined on the basis of the hours or percentage of work performed by the CONSULTANT, found acceptable to the COUNTY, up to the time of termination. In the event partial payment has been made for professional services not performed, the CONSULTANT shall return such sums to the COUNTY within ten (10) days after receipt of written notice that said sums are due. Upon such termination, the COUNTY may, without penalty or other obligation to the CONSULTANT, elect to employ other persons to perform the same or similar services.

SECTION XVIII – DURATION OF AGREEMENT

This Agreement shall remain in full force and effect for a period of **five (5)** years effective term after its date of execution and upon issuance of Notice to Proceed to its first work order provided that the maximum compensation set forth in Section V(D) is not reached by the completion of the

effective term (although actual completion of the services hereunder may extend beyond such term) or until depletion of the funds allocated to pay for the cost of said services, whichever occurs first, unless the contract is terminated by mutual consent of the parties hereto or as provided in Section XIII, Section XVI, Section XVII, Section XIX, Section XXIII, and Section XXV hereof. The performance of specifically and properly authorized services which may extend beyond the Agreement's effective term shall be compensated in accordance to Section V hereof.

This Contract contains a Contingency Allowance time extension not to exceed ten percent (10 %) of the original Contract Duration. Pursuant to a written request by the Consultant for a time extension for reasons exhibited in Sections III and IV, that affects the critical path schedule of the Contract or any previously approved changes; written documentation that supports the justification of a time extension, review and concurrence by the department A/E, a Contract Contingency Allowance Expenditure Authorization will be created for execution by all parties. Once executed the time extension will adjust the scheduled completion date. The cumulative total of all Contingency Allowance time extensions shall not exceed ten percent (10%) of the original Contract Duration rounded off to the next whole number.

SECTION XIX – DEFAULT

In the event the CONSULTANT fails to materially comply with the provisions of this Agreement, the Director may declare the CONSULTANT in default by thirty (30) days prior written notification, unless CONSULTANT commences correction of such material non-compliance within five (5) days of such written notification and diligently completes the correction within thirty (30) days thereafter, unless an extension of such thirty (30) day period is granted by the COUNTY. In such event, the CONSULTANT shall only be compensated for any professional services completed as of the date written notice of default is served. In the event partial payment has been made for such professional services not completed, the CONSULTANT shall return such sums to the COUNTY

within ten (10) days after receipt of written notice that said sums are due. The CONSULTANT shall not be compensated for professional services, which have been performed but not completed by the time the Director declares a default. In the event the COUNTY prevails in litigation to enforce the provisions of the Agreement, the COUNTY shall be compensated by the CONSULTANT for reasonable attorney's fees and court costs.

Scrutinized Companies - By executing this Agreement through a duly authorized representative, the CONSULTANT certifies that the CONSULTANT is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, as those terms are used and defined in sections 287.135 and 215.473 of the Florida Statutes. The County shall have the right to terminate this Agreement for default if the CONSULTANT is found to have submitted a false certification or to have been, or is subsequently during the term of the Agreement, placed on the Scrutinized Companies for Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

SECTION XX – INDEMNIFICATION AND INSURANCE

Consultant, in accordance with Section 725.08, Florida Statutes, shall indemnify and hold harmless the County, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Consultant and other persons employed or utilized by the Consultant in the performance of this Agreement.

Consultant expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Consultant shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

The Consultant agrees and recognizes that the Owner shall not be held liable or responsible for any claims, which may result from any negligent reckless, or intentionally wrongful actions, errors or omissions of the consultant in which the Owner participated either through review or concurrence of the Consultant's actions. In reviewing, approving or rejecting any submissions by the Contractor or other acts of the Consultant , the Owner in no way assumes or shares any responsibility or liability of the Consultant or Sub-consultants, the registered professionals (architects and/or Consultant s) under this agreement.

The CONSULTANT shall not commence any work pursuant to this Agreement until all insurance required under this section has been obtained and such insurance has been approved by the COUNTY's Risk Management Division.

The CONSULTANT shall furnish to the Miami-Dade County, c/o Miami-Dade Seaport Department, 1015 N. America Way, Second Floor, Miami, FL 33132, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Worker's Compensation Insurance for all employees of the Consultant as required by Florida Statute 440 including coverage under the U.S. Longshoremen and Harbor Workers' Act (USLH) and Jones Act.
- B. Commercial General Liability Insurance in an amount not less than \$1,000,000 per occurrence. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
- D. Professional Liability Insurance in an amount not less than \$1,000,000 per claim.
- E. Protection and Indemnity Insurance, in the name of the Consultant or subcontractor, in an amount not less than \$1,000,000 per occurrence. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**

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

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength by Best's Insurance Guide, published by A.M. Best

Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

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

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

Compliance with the foregoing requirements shall not relieve the CONSULTANT of the liabilities and obligations under this Section or under any other portion of this Agreement.

SECTION XXI – TRUTH-IN-NEGOTIATION CERTIFICATION OF WAGE RATES

Pursuant to AO 3-39 and Florida State Statutes Chapter 287.055 5(a): For all lump sum costs or costs plus a fixed fee contract in which a fee will exceed one hundred fifty thousand dollars (\$150,000; 287.017 -category four), the COUNTY will require the firm receiving the award to execute a Truth-In-Negotiation Certificate as required by Chapter 287, Florida Statutes. The language below suffices as the Truth-In-Negotiation Certificate when included in a contract in which a fee will exceed the above-referenced amount:

In accordance with Florida Statute 287.055 5(a), the CONSULTANT hereby certifies and warrants that wage rates and other factual unit costs, as submitted in support of the compensation provided in Section V, are accurate, complete and current as of the date of this Agreement. It is further agreed that said compensation shall be adjusted to exclude any significant costs where the COUNTY shall determine that the price of services was increased due to inaccurate, incomplete or unclear wage rates or other factual unit costs. All such compensation adjustments shall be made within three (3) years from the date of final billing or acceptance of the work by the COUNTY, whichever is later.

SECTION XXII – APPLICABLE LAWS

The CONSULTANT agrees to abide and be governed by all Applicable Laws. Applicable Laws shall mean, whether singular or plural, all federal, state, county and local statutes, codes, laws, rules, regulations, ordinances, orders and standards applicable to the Agreement, any other such law hereafter enacted, and any rules adopted pursuant thereto, as all such laws and rules may be amended from time to time. Applicable local laws and ordinances include but are not limited to the following, all as they may be amended from time to time:

- A. Ordinance No. 72-82 (Conflict of Interest), as amended by Ordinances 00-01,00-46.
- B. The CONSULTANT shall comply with the requirements of MDC Code Sections 2-10.4.01 and 10-38, and Implementing Order No. 3-32; COMMUNITY BUSINESS ENTERPRISE (CBE-A/E) PROGRAM FOR THE PURCHASE OF ARCHITECTURAL, LANDSCAPE ARCHITECTURAL, ENGINEERING, OR SURVEYING AND MAPPING SERVICES.
- C. The CONSULTANT shall comply with the requirements of MDC Code Section 2-1076 – Office of the Miami-Dade County Inspector General (IG).
- D. The CONSULTANT shall comply with the procedures contained in the FALSE CLAIMS Ordinance MDC Code Article XV Sections 21-255 through 21-266; prohibiting presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County; requiring forfeiture of any claim containing false or fraudulent allegations or statements; imposing penalties for submission of false or fraudulent claims; providing both county and private enforcement.
- E. The CONSULTANT shall comply with the financial disclosure requirements of Ordinance No. 77-13, as amended, by having on file or filing within thirty (30) days of the execution of this Agreement one of the following with the Supervisor of the Miami-Dade County Elections Department, P.O. Box 521550, Miami, FL 33152-1550:

- (1) A source of income statement;
 - (2) A current certified financial statement;
 - (3) A copy of the CONSULTANT'S Current Federal Income Tax Return.
- F. E-VERIFY - The attention of the Consultant is hereby directed to the requirements of the State of Florida Office of the Governor Executive Order No. 11-02. The Consultant hereby agrees to utilize the U.S. Department of Homeland Security's E-Verify system, in accordance with the terms governing use of the system, to confirm the employment eligibility of all persons assigned or authorized by the Consultant to perform work pursuant to the Contract with the County.
- G. Ordinance 07-65 (Sustainability Building Program) – IF APPLICABLE - The primary mechanism for determining compliance with the Sustainable Building Program shall be the U. S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Rating System. All construction projects are required to meet the standards delineated in Ordinance 07-65. Compliance shall be determined by completing a formal certification process with the U.S. Green Building Council, or as otherwise directed by the County's Sustainability Manager.
1. New Construction (NC): All new construction projects shall be required to attain "Silver" or higher level rating under the LEED-NC Rating System.
 2. Major Renovations and Remodels: All major renovations and remodels shall attain "Certified" or higher level rating under the LEED-NC Rating System.
 3. Non-Major Renovations and Remodels: All non-major renovations and remodels shall attain "Certified" or higher level rating under the appropriate LEED Rating System such as LEED-NC, LEED-Existing Building (EB) or LEED-Commercial Interior (CI).
 4. Renovations, remodels, and other building upgrades not meeting the above

criteria are encouraged to incorporate the maximum number of LEED approved green building practices as are feasible from a practical and fiscal perspective; however, LEED certification will not be required.

- H. Energy Efficient Building Tax Credit (IF APPLICABLE) – The Energy Policy Act (EP Act) of 2005 (Section 1331) as established IRS Section 179D, allows taxpayers to accelerate depreciation on the cost of qualified energy efficient commercial building property placed-in-service after December 31, 2005. This incentive was recently extended by the Emergency Economic Stabilization Act of 2008, to include improvements placed-in-service before January 1, 2014. The returns may be amended going back three (3) tax years, so projects that come on line in 2007 or afterwards are eligible.

The Consultant is designated as the Designer/Construction Manager (“the Designer”) for the energy efficient improvements incorporated in the Energy Consumption Reduction Project (“the Project”) for:

1. The purposes of allocating accelerated depreciation benefits pursuant to Section 179D of the Internal Revenue Code of 1986, as amended (the “Code”).
2. If County and the Internal Revenue Service (IRS) determine that the Consultant is eligible and shall receive accelerated depreciation benefits as a “Designer” for the purposes of Section 179D of the Code or that the Consultant shall otherwise benefit financially from the monetization of the accelerated depreciation benefit, the Consultant hereby agrees to discount its contract price or provide a cash rebate to County (the determination of rebate versus discount to be determined by County in its sole discretion) in an amount equal to the total financial benefit realized by the Consultant; at the time the financial benefit to the Consultant becomes ascertainable.

3. County reserves the right to retain a third party consultant (the “Consultant”) – to manage and administer the process of obtaining and monetizing the accelerated depreciation benefit derived from the Project and to designate the “Consultant” as the “Designer” of the energy efficient improvements for the purposes of Section 179D of the Code.
4. The County agrees to cooperate in all reasonable respects with the Consultant’s efforts to obtain and monetize any such benefits derived from the Project on behalf of County.

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

The Contractor shall comply with the Public Records Laws of the State of Florida, including but not limited to, (1) Keep and maintain public records required by the public agency to perform the service. (2) Upon request from the public agency’s custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law. (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency; and (4) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor

shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

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) 347-4827; SEAPORT: LUIS.GONZALEZ4@MIAMIDADE.GOV; 1007 NORTH AMERICA WAY, 2nd FLOOR, MIAMI, FLORIDA 33132.

SECTION XXIII – OFFICE OF MIAMI-DADE COUNTY INSPECTOR GENERAL

According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General (IG) which may, on a random basis, perform audits, inspections, and reviews of all County/Trust contracts. This random audit is separate and distinct from any other audit by the County. To pay for the functions of the Office of the Inspector General, any and all payments to be made to the Contractor/Consultant under this contract will be assessed one quarter (1/4) of one percent (1%) of the total amount of the payment, to be deducted from each progress payment as the same becomes due unless, as stated in the Special Conditions, this Contract is federally or state funded where federal or state law or regulations preclude such a charge. **The Contractor/Consultant shall in stating its agreed process be mindful of this assessment, which will not be separately identified, calculated or adjusted in the proposal or bid form.** The audit cost shall also be included in all change orders/amendments and all contract renewals and extensions.

The Miami-Dade Office of Inspector General is authorized to investigate County affairs and empowered to review past, present and proposed County and Public Health Trust programs, accounts, records, contracts and transactions. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of witnesses 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 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, bid specifications, (bid/proposal) submittals, activities of the (Contractor/ Vendor/ Consultant), its officers, agents and employees, lobbyists, County and Public Health Trust staff and elected officials in order to ensure compliance with contract specifications and to detect fraud and corruption.

Upon ten (10) days written notice to the (Contractor/ Vendor/ Consultant) shall make all requested records and documents available to the Inspector General for inspection and copying. The Inspector General shall have the right to inspect and copy all documents and records in the (Contractor/Vendor/Consultant's) possession, custody or control which in the Inspector General'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 from and with successful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, (bid/proposal) and contract documents, back-change 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.

The (Contractor/ Vendor/ Consultant) shall make available at its office at all reasonable times the records, materials, and other evidence regarding the acquisition (bid preparation) and performance of this contract, for examination, audit, or reproduction, until three (3) years after final payment under

this contract or for any longer period required by statute or by other clauses of this contract. In addition:

1. If this contract is completely or partially terminated, the (Contractor/ Vendor/ Consultant) shall make available records relating to the work terminated until three (3) years after any resulting final termination settlement; and
2. The (Contractor/ Vendor/ Consultant) shall make available records relating to appeals or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

The provisions in this section shall apply to the (Contractor/Vendor/Consultant), its officers, agents, employees, subcontractors/subconsultants and suppliers. The (Contractor/Vendor/Consultant) shall incorporate the provisions in this section in all subcontracts and all other agreements executed by the (Contractor/Vendor/Consultant) in connection with the performance of this contract.

Nothing in this section shall impair any independent right to the County to conduct audits or investigative activities. The provisions of this section are neither intended nor shall they be construed to impose any liability on the County by the (Contractor/Vendor/Consultant) or third parties.

Exception: The above application of one quarter (1/4) of one percent (1%) 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 Trust; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. Notwithstanding the foregoing, the Trust may authorize the inclusion of the fee assessment of one-quarter (1/4) of one percent (1%) 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 Trust contracts including, but not limited to, those contracts specifically exempted above.

INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL: The attention of the Contractor/Consultant is hereby directed to the requirements of AO 3-20 and R-516-96; the County shall have the right but not the obligation to retain the services of an independent private-sector inspector general (IPSIG) who may be engaged to audit, investigate, monitor, oversee, inspect and review the operations, activities and performance of the Contractor/Consultant and County in connection with this contract/agreement. The scope of services performed by an IPSIG may include, but are not limited to, monitoring and investigating compliance with Contract Specifications; project costs; and investigating and preventing corruption and fraud.

The IPSIG may perform its services at all levels of the contracting and procurement process, including but not limited to project design, establishment of bid specifications, bid submittals, activities of Contractor/Consultant, its officers, agents and employees, lobbyists, County staff and elected officials.

Upon ten (10) days written notice to Contractor/Consultant from an IPSIG, the Contractor/Consultant shall make all requested records and documents available to the IPSIG for inspection and copying. The IPSIG shall have the right to examine all documents and records in the Contractor's/Consultant's possession, custody or control which, in the 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 from and with successful and unsuccessful subcontractors/subconsultants and suppliers; all project-related correspondence, memoranda, instructions, financial documents, construction documents, bid and contract documents, back-charge document; 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.

The provisions in this Section shall apply to the Contractor/Consultant, its officers, agents and employees. The Contractor/Consultant shall incorporate the provisions in this section in all subcontracts and all other agreements executed by the Contractor/Consultant in connection with the performance of this agreement. Nothing in this contract shall impair any independent right of the County to conduct audit or investigative activities. The provisions of this Section are neither intended nor shall they be construed to impose any liability on the County by the Contractor/Consultant or third parties.

SECTION XXIV – AFFIRMATIVE ACTION

The CONSULTANT'S Affirmative Action Plan submitted pursuant to Miami-Dade County Code Section 2-8.1.5, as approved by the Department of Small Business Development, and any approved update thereof, are hereby incorporated as contractual obligations of the CONSULTANT to Miami-Dade County hereunder. The CONSULTANT shall undertake and perform the affirmative actions specified herein. The Director may declare the CONSULTANT in default of this Agreement for failure of the CONSULTANT to comply with the requirements of this paragraph.

SECTION XXV – PROMPT PAYMENT TO SMALL BUSINESS SUBCONSULTANTS

The CONSULTANT's attention is directed to Miami-Dade County Section 2-8.1.4, providing for expedited payments to small businesses by county agencies and the Public Health Trust; creating dispute resolution procedures for payment of county and Public Health Trust obligations; and requiring the prime contractor to issue prompt payments, and have the same dispute resolution procedures as the COUNTY, for all small business subcontractors. Failure to the prime contractor to issue prompt payment to small businesses, or to adhere to its dispute resolution procedures, may be cause for suspension, termination, and debarment, in accordance with the terms of the county contract or Public Health Trust contract and debarment procedures of the COUNTY.

SECTION XXVI - SANCTIONS FOR CONTRACTUAL VIOLATIONS

Proposal and contract documents shall provide that, notwithstanding any other penalties for firms that have discriminated in violation of Article VII of Chapter 11A of the Code, the COUNTY may terminate the contract or require the termination or cancellation of the sub-consultant contract. In addition, a violation by a respondent or sub-consultant to the respondent, or failure to comply with the Administrative Order (A.O.) 3-39 may result in the imposition of one or more of the sanctions listed in the A.O.

SECTION XXVII – BUSINESS APPLICATION AND FORMS

The CONSULTANT shall be a registered vendor with the COUNTY – Department of Procurement Management, for the duration of this Agreement. It is the responsibility of the CONSULTANT to update and file the Vendor Registration Package, including a Uniform Affidavit Packet (Affidavit form) with the Department of Procurement Management (DPM), Vendor Assistance Unit for any changes for the duration of this Agreement, including any option years.

The Proposer is responsible for obtaining the Vendor Registration Package, including all affidavits by downloading from the DPM website at www.miamidade.gov or from the Vendor Assistance Unit at 111 N.W. 1st Street, 13th Floor, Miami, FL 33128.

Section 2-11.1(d) of Miami-Dade County Code, requires 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 from competing or applying for any such contract as it pertains to this solicitation, must first request a conflict of interest opinion from the COUNTY's Ethic 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 and that any such contract, agreement or business engagement entered in violation of this subsection, as amended, shall render this Agreement voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

SECTION XXVIII – ERRORS AND OMISSIONS

The COUNTY shall maintain a record of all construction changes that shall be categorized according to the various types, causes, etc. that the COUNTY may determine are useful or necessary for its purposes. Among those categories are construction changes caused by design errors or omissions in the bid documents that were prepared by the CONSULTANT. For the purposes of this contract provision, errors and omissions shall be dealt with differently, as follows:

A. Errors

It is specifically agreed that any construction changes identified by the COUNTY as an error in the bid documents that were prepared by the CONSULTANT may constitute an additional cost to the COUNTY that would not have been incurred without the error. The CONSULTANT agrees to be responsible for direct damages to the COUNTY, to the extent such damages were caused by the CONSULTANT'S negligence.

B. Omissions

It is further specifically agreed for purposes of this agreement that any construction changes identified by the COUNTY as an omission in the bid documents that were prepared by the CONSULTANT may constitute an additional cost to the COUNTY that would not have been incurred without the omission. The CONSULTANT agrees to be responsible for direct damages to the COUNTY, to the extent such damages were caused by the CONSULTANT'S negligence.

The CONSULTANT shall participate in all negotiations with the contractor related to this section. Such CONSULTANT participation shall be at no additional cost to the COUNTY. Failure by the CONSULTANT to participate in the negotiations with the contractor shall constitute a waiver of CONSULTANT's rights to contest the appropriateness or amount of any settlements or change orders.

To obtain recovery for errors and/or omissions covered in paragraphs A and B above, the COUNTY shall deduct from funds due the CONSULTANT in this or any other contract the CONSULTANT may or will have with the COUNTY up to the amount of the CONSULTANT'S insurance deductible. Should the damages incurred by the COUNTY exceed the CONSULTANT'S insurance deductible, the COUNTY shall look to the CONSULTANT and the CONSULTANT'S insurer for the remaining amount of additional damages incurred by the COUNTY. In executing this agreement, the CONSULTANT specifically agree to the reasonableness of these damage calculations and to the COUNTY'S right to recover same as stated above provided, however, the Parties agree that in no event shall CONSULTANT be responsible for the cost of construction changes to the extent that such changes are determined to be a betterment to the COUNTY. The recovery of additional costs to the COUNTY under this Section shall not preclude or limit in any way the CONSULTANT'S indemnification obligations to the COUNTY pursuant to Section XX of this Agreement, or preclude or limit in any way recovery for other separate and/or additional damages that the COUNTY may otherwise incur."

SECTION XXIX – ENTIRETY OF AGREEMENT

This writing and its attachments embody the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written with reference to the subject matter hereof that are not merged herein and superseded hereby.

No alteration, change, or modifications of the terms of this Agreement shall be valid unless made in writing, signed by both parties hereto, and approved by the Board of County Commissioners.

This Agreement, regardless of where executed, shall be governed by and constructed according to the laws of the State of Florida, and venue shall be in Miami-Dade County, Florida.



IN WITNESS WHEREOF the parties hereto have executed these presents this _____ day
of _____, 2020.

ATTEST:

HARVEY RUVIN, CLERK OF THE BOARD

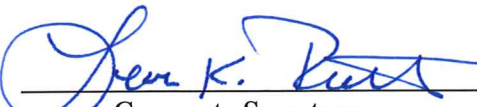
MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

By: _____

By: _____
County Mayor

ATTEST LEAH K. RICHTER

ARCADIS U.S., INC.

By: 
Corporate Secretary

By: 
President or Designee

(Corporate Seal)

Approved as to form
and legal sufficiency: _____
Assistant County Attorney



ATTACHMENT “A”

ARCADIS U.S., INC.’s **SCHEDULE OF RATES**

Attachment A
Personnel Classifications and Raw Salary Rates
Prime and Subconsultants

E18-SEA-06 - Management Financial Consulting and Bond Engineering Services

Personnel Classification	Personnel Raw Labor Rate	Maximum Raw Hourly Rate per Classification
Senior Financial Analyst		\$85
Arcadis US, Inc.		
<i>John Kersten</i>	\$115.08	
<i>Catherine Mallon</i>	\$107.62	
<i>Melissa Pomaes</i>	\$103.37	
<i>Robert Ryall</i>	\$91.64	
<i>Mike Borchers</i>	\$90.05	
<i>Leah K. Richter</i>	\$86.63	
Martin Associates		
<i>John Martin</i>	\$168.00	
Raftelis, Inc.		
<i>John Mastracchio</i>	\$116.63	
Chief Technical Specialist		\$75
Arcadis US, Inc.		
<i>Carly Foster</i>	\$84.14	
<i>Bruce Diggs</i>	\$76.53	
<i>Daniel Garcia</i>	\$74.30	
<i>Tom Henderson</i>	\$66.73	
<i>Matthew St. Germain</i>	\$65.74	
Martin Associates		
<i>Jeff Sweeny</i>	\$72.11	
Financial Analyst		\$55
Arcadis US, Inc.		
<i>Carsten Becker</i>	\$63.45	
<i>James Tanner</i>	\$55.03	
<i>Nichole Lynch-Cruz</i>	\$53.92	
<i>Brian Bass</i>	\$45.90	
<i>Alexander Bellino</i>	\$44.24	
Martin Associates		
<i>Elizabeth Martin</i>	\$40.00	
<i>Becky Polito</i>	\$40.00	
<i>Ryan Keys</i>	\$40.00	

Attachment A
Personnel Classifications and Raw Salary Rates
Prime and Subconsultants

E18-SEA-06 - Management Financial Consulting and Bond Engineering Services

Personnel Classification	Personnel Raw Labor Rate	Maximum Raw Hourly Rate per Classification
Senior A/E Technical Staff - Licensed		\$75
Arcadis US, Inc.		
<i>Joseph Seibold, PE</i>	\$128.21	
<i>James Callahan, PE</i>	\$104.73	
<i>Celine Hyer, PE</i>	\$104.42	
<i>Chris Carson, PE</i>	\$101.13	
<i>Ifetayo Venner, PE</i>	\$100.34	
<i>Howard Greenfield, PE</i>	\$90.00	
<i>Edgar Westerhof, PE</i>	\$83.50	
<i>Kevin Clinch, PE</i>	\$81.74	
<i>Joseph Krupa, PE</i>	\$80.43	
<i>Vincent Vitale, PE</i>	\$79.79	
<i>Errol Dawkins, PA</i>	\$79.72	
<i>Chris Matthews, PE</i>	\$77.34	
<i>Sam Hobi, PE</i>	\$73.21	
<i>Jim Wood, PE</i>	\$72.08	
<i>Joan Fernandez, PE</i>	\$70.33	
<i>Tung Nguyen, PE</i>	\$70.32	
<i>Tony Michuda, PE</i>	\$69.83	
<i>Christopher Tilman, PE</i>	\$68.63	
<i>Renato Vargas, PE</i>	\$67.71	
<i>David Sablotny, PA</i>	\$65.82	
<i>Anthony Guillen, PE</i>	\$57.67	
<i>Eric Battle, PE</i>	\$55.81	
<i>Cindy Eckert</i>	\$49.13	
<i>Kushala Gowda, PE</i>	\$47.99	
<i>Daniel Stepner, PE</i>	\$47.86	
<i>Michael Deloach, PE</i>	\$44.72	
Marlin Engineering Inc.		
<i>Julie Vers, PE</i>	\$60.10	
<i>Alexis Rego, CBI</i>	\$40.87	
<i>Armando Guzman, CBI</i>	\$36.50	
<i>Reinaldo Padrino, CBI</i>	\$36.50	
<i>Omar Porras, CBI</i>	\$36.50	

Attachment A
Personnel Classifications and Raw Salary Rates
Prime and Subconsultants

E18-SEA-06 - Management Financial Consulting and Bond Engineering Services

Personnel Classification		Personnel Raw Labor Rate	Maximum Raw Hourly Rate per Classification
CADD/GIS			\$35
Arcadis US, Inc.			
<i>Clair Kirsch</i>		\$51.53	
<i>Bonnie Fazio</i>		\$34.92	
<i>Jamie Fitzgerald</i>		\$34.53	
Marlin Engineering Inc.			
<i>Abdus Salam</i>		\$33.65	
Non Technical Staff			\$55
Arcadis US, Inc.			
<i>Garth White</i>		\$51.11	
<i>Archer Lebron-Cruz</i>		\$45.01	
<i>Ajani Stewart</i>		\$44.57	
<i>Keren Bolter, PhD</i>		\$44.14	
<i>Morgan Mills</i>		\$38.67	
<i>Melissa Joye</i>		\$30.77	
<i>Lia Dombroski</i>		\$29.56	
<i>Estephania Pilar</i>		\$27.33	
Marlin Engineering Inc.			
<i>Eduardo Vazquez</i>		\$54.69	
<i>Erica Sobelman</i>		\$41.00	
<i>Luis Campo</i>		\$35.00	
<i>German Sanchez</i>		\$25.00	
<i>Rene Alfonso</i>		\$20.00	
<i>Derek Flory</i>		\$19.00	
<i>Daniel Burgos</i>		\$19.00	
Administrative/Clerical			\$30
Arcadis US, Inc.			
<i>Kevin Chung</i>		\$30.81	
<i>Michele Cruz</i>		\$29.03	
Office Multiplier			2.85
Field/Personnel on Loan Multiplier			2.25
Flat Rate for Principals			\$130



MIAMI-DADE COUNTY – INTERNAL SERVICES DEPARTMENT (ISD)
ISD FORM NO. 9 – Fair Subcontracting Policies
(Section 2-8.8 of the Miami-Dade County Code)

FAIR SUBCONTRACTING PRACTICES

In compliance with Section 2-8.8 of the Miami-Dade County Code, the Proposer submits the following detailed statement of its policies and procedures for awarding subcontracts:

Please see attached for a detailed statement of Arcadis US, Inc.'s policies and procedures for subcontracting.

I hereby certify that the foregoing information is true, correct and complete.

Signature of Authorized Representative: 

Title: Vice President

Date: February 26, 2020

Proposer's Name: Melissa L. Pomales, PE, ENV SP, PMP



ARCADIS U.S., Inc.
1000 NW 57th Court
Suite 770
Miami, FL 33126
www.arcadis-us.com

FAIR SUBCONTRACTING PRACTICES

In compliance with Section 2-8.8 of the Miami-Dade County Code, Arcadis U.S., Inc. (Arcadis) submits the following statement of its policies and procedures for awarding subcontracts:

Arcadis identifies team members and awards subcontracts as detailed in our proposals. On this specific project, E18-SEA-06, we included three subconsultants on our team:

- Raftelis Financial Consultants, Inc.
- Marlin Engineering, Inc.
- John C. Martin Associates, LLC.

Arcadis considers Miami-Dade County Small Business Enterprise (SBE) goals when subcontracting. One of our designated teaming partners, Marlin Engineering, Inc., is a qualified SBE-firm registered with Miami-Dade County. For this project, E18-SEA-06, the SBE goal is six (6) percent.

Should the need for other subconsultants be identified for this project, Arcadis will coordinate with and seek approval from the Seaport Department and Miami-Dade County prior to subcontracting with any firm not already identified in our response to the Notice to Professional Consultants for Project E18-SEA-06.