

Date: July 20, 2021

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

From: Daniella Levine Cava
Mayor



Amended
Agenda Item No. 8(F)(7)

Subject: Recommendation for Approval to Award Contract No. RFP-01505, Marketing and
Public Relations Services

Resolution No. R-715-21

Recommendation

It is recommended that the Board of County Commissioners (Board) approve a competitive contract award, *Contract No. RFP-01505, Marketing and Public Relations Services*, for the Cultural Affairs Department. This contract will replace a competitively solicited contract, *EPPRFQ-00608*, awarded under delegated authority for a three-year term, and subsequently modified by the Board for additional expenditure authority under Resolution No. R-733-19.

The Department requires marketing and public relations services to support its cultural facilities and programs, including the South Miami-Dade Cultural Arts Center, Miami-Dade County Auditorium, Joseph Caleb Auditorium, African Heritage Cultural Arts Center, Culture Shock Miami Program, All Kids Included Program, Art in Public Places, Golden Ticket Arts Guide and other programs as may be required. The Department develops cultural excellence, diversity and participation throughout Miami-Dade County by strategically creating and promoting equitable opportunities for artists and cultural organizations, and the residents and visitors who are their audiences.

Under the terms of the contract, The Weinbach Group, Inc. will assist the Department to promote and disseminate information about cultural and artistic offerings to increase accessibility and attendance, and markets arts education and outreach programs to maximize participation. The solicitation includes two groups: A) Marketing and Advertising Services; and B) Media and Public Relations Services. A few examples of the Department's programs include:

- All Kids Included encourages inclusive arts and cultural programs in school settings and throughout the community so that kids of all abilities and their families can participate fully in the arts;
- Arts Resilient 305 (artsresilient305.org) promotes advocacy and programs at the broad and critically important intersection of the arts and the earth; and
- Golden Ticket Arts Guide is a free arts guide featuring an array of cultural offerings for Miami-Dade County senior residents, ages 62 and over.

The solicitation was set-aside for certified Small Business Enterprise (SBE) firms. Three SBE firms were in compliance with the Small Business Enterprise SBE/Goods and Services Program and therefore eligible for award. The recommended vendor is the highest ranked responsive and responsible SBE firm.

Scope

The scope of this item is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact for the five-year term is \$3,125,000. The current contract, *EPPRFQ-00608*, is valued at \$2,041,667 for three years and six months and expires on July 31, 2021. The annualized allocation under the replacement contract is higher than the annualized allocation under the current contract based on the Cultural Affairs Department projected programming and cultural offerings, including:

- Re-activation of the Joseph Caleb Auditorium following a three-year construction hiatus, which requires branding, marketing, public relations and advertising campaigns necessary to promote the venue, public performances and activities;
- Art in Public Places development and implementation of a new branding campaign to increase public awareness about its collection of more than 800 works of art, and to promote understanding of the visual arts in Miami-Dade County, and
- The late 2021 re-opening campaigns for the Department’s cultural facilities (i.e., African Heritage Cultural Arts Center, Miami-Dade County Auditorium and South Miami-Dade Cultural Arts Center) after being closed since March 2020 due to COVID-19.

Department	Allocation	Funding Source	Contract Manager
Cultural Affairs	\$3,125,000	Proprietary Funds	Christina Tassy - Beauvoir
Total:	\$3,125,000		

Track Record/Monitor

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

Delegated Authority

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

Vendor Recommended for Award

A Request for Proposals was issued under full and open competition, whereby 14,867 vendors were notified, and 236 viewed the solicitation. Eleven proposals were received in response to the solicitation, including four “No Bids”. A Small Business Enterprise set-aside was assigned to this solicitation. Three SBE firms were in compliance with the Small Business Enterprise SBE/Goods & Services program The Small Business Development Division (SBD) compliance memo is attached.

Vendor	Principal Address	Local Address*	Number of Employee Residents	Principal	Groups Awarded
			1) Miami-Dade 2) Percentage*		
The Weinbach Group, Inc.	7301 SW 57 Court Suite 550 Miami, FL	Same	9	Daniel Weinbach	A and B
			90%		

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

Vendors Not Recommended for Award

Vendor	Local Address	Reason for Not Recommending
Alfredo J. Balsera dba Balsera Communications	Yes	Evaluation Scores/Ranking
Melissa Hege City Planning dba MHCP COLAB	Yes	
Jacob Creative	Yes	

Vendor	Local Address	Reason for Not Recommending
Kech This, Inc.	Yes	Non-compliant (Small Business Development Compliance memo attached)
Matrix2, Inc	Yes	
Marketmedio Comunicaciones Inc. dba We Communicate	Yes	
A Better Concept, Inc.	No	No Bid
High Shot Photography	No	
Little Fish Media, LLC	Yes	
Van Vark Creative Enterprises, Inc. DBA Stephanie Creates	Yes	

*A "No Bid" means the vendor responded indicating that it will not be providing an offer.

Due Diligence

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

Pursuant to Resolution No. R-140-15, prior to re-procurement, a full review of the scope of services was conducted to ensure the replacement contract reflects the County's current needs. The review included conducting market research, posting a draft solicitation for industry comment, and holding meetings and drafting sessions with the user department.

Applicable Ordinances and Contract Measures

- The two percent User Access Program provision applies.
- The Small Business Enterprise (SBE) set-aside measure was applied.
- The Living Wage does not apply.

Attachment



Morris Copeland
Chief Community Services Officer

Memorandum



DATE: January 22, 2021

TO: Namita Uppal, Chief Procurement Officer
Strategic Procurement Division

FROM: Gary Hartfield, Division Director
Internal Services Department
Small Business Development 

SUBJECT: Compliance Review
Project RFP-01505
Marketing and Public Relations Services

Small Business Development (SBD), a Division of the Internal Services Department, has completed its review of the subject project for compliance with the Small Business Enterprise SBE/Goods & Services (SBE/GS) program. The contract measure established for this project is a SBE Set-Aside.

The Strategic Procurement Division of the Internal Services Department has submitted bids from the following firms: Kech This Inc. #1; Alfredo J Balsera dba Balsera Communications #2; Marketmedio Comunicaciones Inc. dba We Communicate #3; Matrix2, Inc. #4; Melissa Hege City Planning dba MHCP COLAB#5; The Weinbach Group #6 and Jacober Creative #7 for compliance review. The following is the pre-award compliance status and summary.

STATUS:

1. Kech This Inc.	Non-Compliant
2. Alfredo J. Balsera dba Balsera Communications	Compliant
3. Marketmedio Comunicaciones Inc. dba We Communicate	Non-Compliant
4. Matrix2, Inc.	Non-Compliant
5. Melissa Hege City Planning dba MHCP COLAB	Compliant
6. The Weinbach Group	Compliant
7. Jacober Creative	Non-Compliant

SUMMARY:

SBD has verified that three (3) out of the seven (7) firms were certified as of the Request for Quote issued on 12/23/2020 and ended on 01/15/2021. However, five (5) of the seven (7) firms submitted their Certificate of Assurance (COA) with their bid documents.

Pursuant to Implementing Order 3-41, Section VII (A) of the Small Business Enterprise (SBE) Program for the Purchase of Goods and Services "Failure to submit the required Certificate of Assurance (COA) and Utilization Plan shall deem the bid/proposal non-compliant".

Three (3) firms are compliant to the contract as they are SBE certified and have submitted the required COA. These firms are eligible for award; Alfredo J. Balsera dba Balsera Communications, Melissa Hege City Planning dba MHCP COLAB, and The Weinbach Group are pursuant to the Small Business Program.

Kech This Inc., Marketmedio Comunicaciones Inc. dba We Communicate, Matrix2, Inc., and Jacober Creative are not SBE Certified firms and as a result they are not eligible to participate.

Please note that SBD's review is specific to the SBE-G&S Program. The Strategic Procurement Division of the Internal Services Department is responsible for any other issues that may exist. Should you have any questions or need any additional information, please do not hesitate to call Laquita Oliver, Capital Improvement Project Specialist at (305) 375-2292.

c: Laurie Johnson, ISD
Natalya Vasilyeva, ISD



MEMORANDUM (Revised)

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

DATE: July 20, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Amended
Agenda Item No. 8(F)(7)

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 _____

Amended
Agenda Item No. 8(F)(7)
7-20-21

RESOLUTION NO. R-715-21

RESOLUTION APPROVING AWARD OF CONTRACT NO. RFP-01505 TO THE WEINBACH GROUP, INC. GROUPS A AND B FOR PURCHASE OF MARKETING AND PUBLIC RELATIONS SERVICES FOR THE CULTURAL AFFAIRS DEPARTMENT IN A TOTAL AMOUNT NOT TO EXCEED \$3,125,000.00 FOR THE FIVE-YEAR TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION OR EXTENSION PROVISIONS, PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that

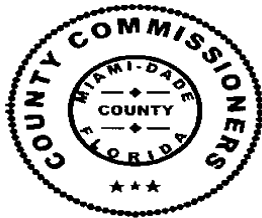
Section 1. This Board approves award of Contract No. RFP-01505 to The Weinbach Group, Inc. Groups A and B for the purchase of marketing and public relations services for the Cultural Affairs Department, in substantially the form attached and made a part hereof, in a total amount not to exceed \$3,125,000.00 for the five-year term.

Section 2. This Board authorizes the County Mayor or County Mayor's designee to execute same for and on behalf of Miami-Dade County and to exercise all provisions of the contract, including any cancellation or extension provisions, pursuant to 2-8.1 of the Code of Miami-Dade County and Implementing Order 3-38.

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

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	absent		

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

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

Oren Rosenthal

Marketing and Public Relations Services
Contract No. RFP-01505

THIS AGREEMENT for the provision of (i) Marketing and Advertising Services and (ii) Media and Public Relations Services for Department of Cultural Affairs' facilities and programs, made and entered into as of this _____ day of _____ by and between The Weinbach Group, Inc., a corporation organized and existing under the laws of the State of Florida, having its principal office at 7301 SW 57 Court, Suite 550, Miami, FL, 33143 (the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 NW 1st Street, Miami, Florida 33128 (the "County").

WITNESSETH:

WHEREAS, the Contractor has offered to provide Marketing and Public Relations services, on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Proposals ("RFP") No. 01505 and all associated addenda and attachments, and the requirements of this Agreement; and

WHEREAS, the Contractor has submitted a written proposal dated January 12, 2021 (the "Contractor's Proposal"); and

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

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

ARTICLE 1. DEFINITIONS

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

- a) The words "Article" or "Articles" to mean the terms and conditions delineated in this Agreement.
- b) The words "Contract" to mean collectively the (i) Articles, (ii) Scope of Services, (iii) all other appendices and attachments hereto, and (iv) all amendments issued hereto.
- c) The words "Contract Date" to mean the date on which this Agreement is effective.
- d) The words "Contract Manager" to mean Miami-Dade County's Director, Internal Services Department, or the duly authorized representative designated to manage the Contract.
- e) The word "Contractor" to mean The Weinbach Group, Inc. and its permitted successors.
- f) The word "Days" to mean calendar days.

- g) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the County's Project Manager for review and approval pursuant to the terms of this Agreement.
- h) The words "Developed Works" to mean all rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its Subcontractors specifically for the County.
- i) The words "Licensed Software" to mean the software component(s) provided pursuant to the Contract.
- j) The words "Project Manager" to mean the County Mayor or the duly authorized representative designated to manage the Contract.
- k) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.
- l) The words "Service" or "Services" to mean the provision of (i) Marketing and Advertising Services and (ii) Media and Public Relations Services, in accordance with the Scope of Services.
- m) The word "Subcontractor" or "Subconsultant" to mean any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.
- n) The words "Work", "Services" "Program", or "Project" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) Article 1 to Article 42, 2) Appendix A, and 3) Appendix B.

ARTICLE 3. RULES OF INTERPRETATION

- a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.
- b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.
- c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.
- d) The terms "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the Project Manager.
- e) The terms "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the Project Manager.
- f) The titles, headings, captions and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify or modify the terms of this Contract, nor affect the meaning thereof.

ARTICLE 4. NATURE OF THE AGREEMENT

- a) This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives.
- b) The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the County in all aspects of the Work performed hereunder.
- c) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described and delineated.
- d) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work necessary for the completion of this Contract. All Work shall be accomplished at the direction of and to the satisfaction of the County's Project Manager.
- e) The Contractor acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor agrees to implement any and all changes in providing Services hereunder as a result of a policy change implemented by the County. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

ARTICLE 5. CONTRACT TERM

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

ARTICLE 6. NOTICE REQUIREMENTS

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

(1) To the County

- a) to the Project Manager:

Miami-Dade County
Department of Cultural Affairs
Attention: Christina Tassy-Beauvoir
111 NW 1st Street, Suite 625
Miami, FL, 33128

Phone: (305) 375-4986
E-mail: Christina.Tassy-Beauvoir@miamidade.gov

and

b) to the Contract Manager:

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

(2) To the Contractor

The Weinbach Group, Inc.
7301 SW 57th Court, Suite 550
Miami, FL, 33143
Attention: Daniel Weinbach
Phone: (305) 668-0070
E-mail: dweinbach@weinbachgroup.com

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Contractor warrants that it has reviewed the County's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order to determine the price the Contractor will charge to provide the Work to be performed under this Contract. The compensation for all Work performed under this Contract, including all costs associated with such Work, shall be in accordance with Form 1, Price Proposal Schedule. The County shall have no obligation to pay the Contractor any additional sum in excess of this amount, except for a change and/or modification to the Contract, which is approved and executed in writing by the County and the Contractor.

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

ARTICLE 8. PRICING

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

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The Contractor agrees that under the provisions of this Agreement, as reimbursement for those actual, reasonable and necessary costs incurred by the Contractor, which are directly attributable or properly allocable to the Work, the Contractor may bill the County periodically, but not more than once per month, upon invoices certified by the Contractor pursuant to Form 1 – Price Schedule. All invoices shall be taken from the books of account kept by the Contractor, shall be supported by copies of payroll distribution, receipt bills or other documents reasonably required by the County, shall show the County's contract number, and shall have a unique invoice number assigned by the Contractor. It is the policy of Miami-Dade County that payment for all purchases by County agencies and the Public Health Trust (the "Trust") shall be made in a timely manner and that interest payments be made on late payments. All firms, including Small Business Enterprises, providing goods and services to the

County, shall receive payment to maintain sufficient cash flow. In accordance with Section 218.74 of the Florida Statutes, and Section 2-8.1.4 of the Code of Miami-Dade County (the "Code"), the time at which payment shall be due from the County or Trust shall be forty-five (45) days from receipt of a proper invoice. Billings from prime contractors under services and goods contracts with the County or Trust, that are Small Business Enterprise contract set-aside, bid preference or contain a subcontractor goal, shall be promptly reviewed and payment made by the County or Trust on those amounts not under dispute within fourteen (14) calendar days of receipt of such billing by the County or the Trust pursuant to Sections 2-8.1.1.1.1 and 2-8.1.1.1.2 of the Code. All payments due from the County or Trust, and not made within the time specified by this section shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. Further, proceedings to resolve disputes for payment of obligations shall be concluded by final written decision of the County Mayor, or his or her designee(s), not later than sixty (60) days after the date on which the proper invoice was received by the County or Trust.

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

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

Miami-Dade County
Department of Cultural Affairs
111 NW 1st Street, Suite 625
Miami, FL, 33128
Attention: *As Indicated in the Work Order*

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

ARTICLE 10. INDEMNIFICATION AND INSURANCE

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

Upon County's notification, the Contractor shall furnish to the Internal Services Department, Strategic Procurement Division, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

1. Worker's Compensation Insurance for all employees of the Contractor as required by Chapter 440, Florida Statutes.
2. Commercial General Liability Insurance on a comprehensive basis in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage. Coverage must include Advertising Liability. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
3. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Services, in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.

4. Advertising/Media Liability in an amount not less than \$1,000,000.

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

OR

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

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

**Miami-Dade County
111 NW 1st Street
Suite 1300
Miami, Florida 33128-1974**

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

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

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

ARTICLE 11. MANNER OF PERFORMANCE

- a) The Contractor shall provide the Work described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Work described herein and to full and prompt cooperation by the Contractor in all aspects of the Work. At the request of the County, the Contractor shall promptly remove from the project any Contractor's employee, Subcontractor, or any other person performing Work hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.
- b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and or demotion of such Contractor's personnel.

- c) The Contractor agrees that at all times it will employ, maintain and assign to the performance of the Work a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any its personnel if so directed upon reasonable request from the County, should the County make a determination, in its sole discretion that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.
- d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Work described herein, in a competent and professional manner.
- e) The Contractor shall at all times cooperate with the County and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Work.
- f) The Contractor shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

ARTICLE 12. EMPLOYEES OF THE CONTRACTOR

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

ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP

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

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

ARTICLE 14. AUTHORITY OF THE PROJECT MANAGER

- a) The Contractor hereby acknowledges that the County's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Contractor's Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.

ARTICLE 14A. DISPUTE RESOLUTION

- a) The Contractor shall be bound by all determinations or orders and shall promptly comply with every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.

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

ARTICLE 15. MUTUAL OBLIGATIONS

- a) This Agreement, including attachments and appendices to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.
- b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.
- c) In those situations where this Agreement imposes an indemnity obligation on the Contractor, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for such defense or settlement costs from the Contractor.

ARTICLE 16. QUALITY ASSURANCE AND RECORD KEEPING

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

ARTICLE 17. AUDITS

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

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

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

ARTICLE 18. SUBSTITUTION OF PERSONNEL

In the event the Contractor wishes to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution. However, such substitution shall not become effective until the County has approved said substitution.

ARTICLE 19. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

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

ARTICLE 20. SUBCONTRACTUAL RELATIONS

- a) If the Contractor will cause any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts, omissions, and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.
- b) The Contractor, before making any subcontract for any portion of the Work, will state in writing to the County the name of the proposed Subcontractor, the portion of the Work which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the County.
- c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Work to be performed. Such Work performed by such Subcontractor will strictly comply with the requirements of this Contract.
- d) In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Work in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed Work of the same general type which is required to be performed under this Agreement.
- e) The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the subcontract will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's and County's proprietary and confidential information. Contractor shall furnish to the County copies of all subcontracts between Contractor and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County in the event the County finds the Contractor in breach of this Contract, permitting the County to request completion by the Subcontractor of its performance obligations under the subcontract. The clause shall include an option for the County to pay the Subcontractor directly for the performance by such Subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any Subcontractor hereunder as more

fully described herein.

ARTICLE 21. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

The Contractor understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the County were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the County makes no representations or guarantees; and the County shall not be responsible for the accuracy of the assumptions presented; and the County shall not be responsible for conclusions to be drawn therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 22. SEVERABILITY

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

ARTICLE 23. TERMINATION AND SUSPENSION OF WORK

- a) The County may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the County through fraud, misrepresentation or material misstatement.
- b) The County may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.
- c) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the Code.
- d) In addition to cancellation or termination as otherwise provided in this Agreement, the County may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Contractor.
- e) In the event that the County exercises its right to terminate this Agreement, the Contractor shall, upon receipt of such notice, unless otherwise directed by the County:
 - i. stop Work on the date specified in the notice (the "Effective Termination Date");
 - ii. take such action as may be necessary for the protection and preservation of the County's materials and property;
 - iii. cancel orders;
 - iv. assign to the County and deliver to any location designated by the County any non-cancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services;
 - v. take no action which will increase the amounts payable by the County under this Agreement; and
 - vi. reimburse the County a proration of the fees paid annually based on the remaining months of the term as per the compensation listed in Form 1, Price Schedule.
- f) In the event that the County exercises its right to terminate this Agreement, the Contractor will be compensated as stated in the payment Articles herein for the:

- i. portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and
 - ii. non-cancelable Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement, but not incorporated in the Services.
- g) All compensation pursuant to this Article are subject to audit.
- h) In the event the Contractor fails to cure an Event of Default timely, the County may terminate this Agreement, and the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

ARTICLE 24. EVENT OF DEFAULT

- a) An Event of Default shall mean a breach of this Agreement by the Contractor. Without limiting the generality of the foregoing, and in addition to those instances referred to herein as a breach, an Event of Default shall include the following:
- i. the Contractor has not delivered Deliverables and/or Services on a timely basis;
 - ii. the Contractor has refused or failed to supply enough properly skilled staff personnel;
 - iii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;
 - iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
 - v. the Contractor has failed to obtain the approval of the County where required by this Agreement;
 - vi. the Contractor has failed to provide "adequate assurances" as required under subsection b below; or
 - vii. the Contractor has failed in the representation of any warranties stated herein.
- b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Work or any portion thereof, the County may request that the Contractor, within the timeframe set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with the terms of this Agreement. Until the County receives such assurances, the County may request an adjustment to the compensation received by the Contractor for portions of the Work which the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances within the prescribed timeframe, the County may:
- i. treat such failure as a repudiation of this Agreement; and
 - ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Services or any part thereof either by itself or through others.

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

If an Event of Default occurs in the determination of the County, the County shall notify the Contractor (the "Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately or this Agreement with the County may be terminated. Notwithstanding, the County may, in its sole discretion, allow the Contractor to rectify the default to the County's reasonable satisfaction within a thirty (30) day period. The County may grant an additional period of such duration as the County shall deem appropriate without waiver of any of the County's rights hereunder, so long as the Contractor

has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the County prescribes. The Default Notice shall specify the date the Contractor shall discontinue the Services upon the Effective Termination Date.

ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT

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

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

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

ARTICLE 27. PATENT AND COPYRIGHT INDEMNIFICATION

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

ARTICLE 28. CONFIDENTIALITY

- a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its Subcontractors in the course of the performance of such

Services, or the results of such Services, or for which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information and County financial information shall be considered Confidential Information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, subcontractors or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state or local law in regard to the privacy of individuals.

- b) The Contractor shall advise each of its employees, agents, subcontractors and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or subcontractor's or supplier's employees, present or former. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.
- c) It is understood and agreed that in the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents, subcontractors or suppliers without the prior written consent of the County. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

ARTICLE 29. PROPRIETARY INFORMATION

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

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

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

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

ARTICLE 30. PROPRIETARY RIGHTS

- a) The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other

proprietary rights therein, which the Contractor as well as its employees, agents, subcontractors and suppliers may use only in connection with the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.

- b) All Developed Works shall become the property of the County.
- c) Accordingly, neither the Contractor nor its employees, agents, Subcontractors or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, agent, Subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.
- d) Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other Documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 31. VENDOR REGISTRATION/CONFLICT OF INTEREST

a) Vendor Registration

The Contractor shall be a registered vendor with the County – Internal Services Department, Strategic Procurement Division, for the duration of this Agreement. In becoming a registered vendor with Miami-Dade County, the Contractor confirms its knowledge of and commitment to comply with the following:

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. Miami-Dade County Ownership Disclosure Affidavit
(Section 2-8.1 of the Code of Miami-Dade County) 2. Miami-Dade County Employment Disclosure Affidavit
(Section 2-8.1(d)(2) of the Code of Miami-Dade County) 3. Miami-Dade County Employment Drug-free Workplace Certification
(Section 2-8.1.2(b) of the Code of Miami-Dade County) 4. Miami-Dade County Disability and Nondiscrimination Affidavit
(Section 2-8.1.5 of the Code of Miami-Dade County) 5. Miami-Dade County Debarment Disclosure Affidavit
(Section 10.38 of the Code of Miami-Dade County) 6. Miami-Dade County Vendor Obligation to County Affidavit
(Section 2-8.1 of the Code of Miami-Dade County) | <ol style="list-style-type: none"> 7. Miami-Dade County Code of Business Ethics Affidavit
(Sections 2-8.1(f), 2-11.1(b)(1) through (6) and (9), and 2-11.1(c) of the Code of Miami-Dade County) 8. Miami-Dade County Family Leave Affidavit
(Article V of Chapter 11 of the Code of Miami-Dade County) 9. Miami-Dade County Living Wage Affidavit
(Section 2-8.9 of the Code of Miami-Dade County) 10. Miami-Dade County Domestic Leave and Reporting Affidavit (Article VIII, Section 11A-60 - 11A-67 of the Code of Miami-Dade County) 11. Miami-Dade County E-Verify Affidavit
(Executive Order 11-116) 12. Miami-Dade County Pay Parity Affidavit
(Resolution No. R-1072-17) |
|---|--|

13. Miami-Dade County Suspected Workers' Compensation Fraud Affidavit
(Resolution No. R-919-18)

14. Subcontracting Practices
(Section 2-8.8 of the Code of Miami-Dade County)

15. Subcontractor/Supplier Listing
(Section 2-8.1 of the Code of Miami-Dade County)

16. Form W-9 and 147c Letter
(as required by the Internal Revenue Service)

17. FEIN Number or Social Security Number
In order to establish a file, the Contractor's Federal Employer Identification Number ("FEIN") must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Contractor's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

- Identification of individual account records

- To make payments to individual/Contractor for goods and services provided to Miami-Dade County
- Tax reporting purposes
- To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

18. Office of the Inspector General
(Section 2-1076 of the Code of Miami-Dade County)

19. Small Business Enterprises
The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.1.1.1.1, 2-8.1.1.1.2 and 2-8.2.2 of the Code of Miami-Dade County and Title 49 of the Code of Federal Regulations.

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

b) Conflict of Interest and Code of Ethics

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

ARTICLE 32. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

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

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. The

cost of the audit for this Contract shall be one quarter of one percent (0.25%) of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all contract renewals and extensions.

Exception: The above application of one quarter of one percent (0.25%) fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Implementing Order 3-38; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter of one percent (0.25%) in any exempted contract at the time of award.***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of IPSIGs to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 33. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

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

- a) Equal Employment Opportunity, in compliance with Executive Order 11246 as amended and applicable to this Contract
- b) Miami-Dade County Small Business Enterprises Development Participation Provisions, as applicable to this Contract
- c) Environmental Protection Agency, as applicable to this Contract
- d) Section 2-11.1 of the Code of Miami-Dade County, "Conflict of Interest and Code of Ethics".
- e) Section 10-38 of the Code of Miami-Dade County, "Debarment of Contractors from County Work".

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

Pursuant to Resolution No. R-1072-17, by entering into this Contract, the Contractor is certifying that the Contractor is in compliance with, and will continue to comply with, the provisions of items "h" through "m" above.

The Contractor shall hold all licenses and/or certifications, obtain and pay for all permits and/or inspections, and comply with all laws, ordinances, regulations and building code requirements applicable to the work required herein. Damages, penalties, and/or fines imposed on the County or Contractor for failure to obtain and maintain required licenses, certifications, permits and/or inspections shall be borne by the Contractor. The Project Manager shall verify the certification(s), license(s), permit(s), etc. for the Contractor prior to authorizing work and as needed.

Notwithstanding any other provision of this Agreement, Contractor shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including but not limited to laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

ARTICLE 34. NONDISCRIMINATION

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

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

ARTICLE 35. CONFLICT OF INTEREST

The Contractor represents that

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

ARTICLE 36. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

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

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

such parties has been approved or endorsed by the County.

ARTICLE 37. BANKRUPTCY

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

ARTICLE 38. GOVERNING LAW

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

ARTICLE 39. COUNTY USER ACCESS PROGRAM

a) User Access Fee

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

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

b) Joint Purchase

Only those entities that have been approved by the County for participation in the County's Joint Purchase and Entity Revenue Sharing Agreement are eligible to utilize or receive County Contract pricing and terms and conditions. The County will provide to approved entities a UAP Participant Validation Number. The Contractor must obtain the participation number from the entity prior to filling any order placed pursuant to this Section. Contractor participation in this joint purchase portion of the UAP, however, is voluntary. The Contractor shall notify the ordering entity, in writing, within three (3) business days of receipt of an order, of a decision to decline the order.

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

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

c) Contractor Compliance

If a Contractor fails to comply with this Article, that Contractor may be considered in default by the County in accordance with Article 24 of this Contract.

ARTICLE 40. FIRST SOURCE HIRING REFERRAL PROGRAM

Pursuant to Section 2-2113 of the Code, for all contracts for goods and services, the Contractor, prior to hiring to fill each vacancy arising under a County contract shall (1) first notify the Career Source South Florida ("CSSF"), the designated Referral Agency, of the vacancy and list the vacancy with CSSF according to the Code, and (2) make good faith efforts as determined by the County to fill a minimum of fifty percent (50%) of its employment needs under the County contract through the CSSF. If no suitable candidates can be employed after a Referral Period of three to five days, the Contractor is free to fill its vacancies from other sources. Contractor will be required to provide quarterly reports to the CSSF indicating the name and number of employees hired in the previous quarter, or why referred candidates were rejected. Sanctions for non-compliance shall include, but not be limited to: (i) suspension of contract until Contractor performs obligations, if appropriate; (ii) default and/or termination; and (iii) payment of \$1,500/employee, or the value of the wages that would have been earned given the noncompliance, whichever is less. Registration procedures and additional information regarding the First Source Hiring Referral Program are available at <https://iapps.careersourcesfl.com/firstsource/>.

ARTICLE 41. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY

The Contractor shall comply with the Public Records Laws, including by not limited to, (1) keeping and maintaining all public records that ordinarily and necessarily would be required by the County in order to perform the service; (2) providing the public with access to public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law; (3) ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meeting all requirements for retaining public records and transferring, at no cost, to the County all public records in possession of the Contractor upon termination of the contract and destroying any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements upon such transfer. In addition, all records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County. Failure to meet any of these provisions or to comply with Florida's Public Records Laws as applicable shall be a material breach of this Agreement and shall be enforced in accordance with the terms and conditions of the Agreement.

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

ARTICLE 42. SURVIVAL

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

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

Contractor

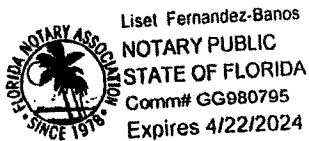
Miami-Dade County

By: [Signature]
Name: DANIEL WEINBACH
Title: PRESIDENT & CEO
Date: 5.7.2021
Attest: [Signature] Liset Fernandez Banos
Corporate Secretary/Notary Public

By: _____
Name: _____
Title: Mayor
Date: _____
Attest: _____
Clerk of the Board

Corporate Seal/Notary Seal

Approved as to form
and legal sufficiency



Assistant County Attorney

Appendix A SCOPE OF SERVICES

1. Background

Miami-Dade County, as represented by the Department of Cultural Affairs (CUA) develops cultural excellence, diversity and participation throughout Miami-Dade County by strategically creating and promoting opportunities for artists and cultural organizations, and the residents and visitors who are their audiences. The Department creates, publishes, promotes, and disseminates information about the cultural excellence of artistic offerings in order to increase accessibility and attendance, and develops and coordinates arts education and outreach programs. Additionally, CUA is tasked with managing the County's four (4) cultural facilities. The provision of the services described in Group A, Marketing and Advertising, and Group B, Media and Public Relations, may be required for any of the programs and facilities offered by the Department. The following programs and facilities are currently under the Department's purview:

African Heritage Cultural Arts Center (6161 NW 22nd Avenue, Miami, FL 33142)

The African Heritage Cultural Arts Center ("AHCAC") complex includes a black box theater, a music building with a concert hall, piano lab and several practice rooms, a dance studio that is accessible to individuals with disabilities, an art gallery, several studio spaces, a print shop and classrooms.

It has a more than forty (40) year distinguished history of providing instruction in the arts in all artistic disciplines to youth through after school and school break academies and summer programs. Its work continues to develop the next generation of artists and arts supporters. In addition, AHCAC serves as an incubator for supporting and developing the work of African-American arts groups and artists through its black-box theater, rehearsal spaces and art gallery. AHCAC also serves as a welcoming place to the surrounding community, hosting classes and civic meetings.

All Kids Included promotes inclusive arts and cultural programs in school settings and throughout the community so that kids of all abilities and their families can participate fully in the arts.

Art in Public Places

Art in Public Places serves the community through the implementation of art installations dedicated to enriching the public environment and to preserving and enhancing the artistic and civic pride of the County. Art in Public Places promotes collaboration and creative art projects that improve the visual quality of public spaces. These public art installations transform public spaces from ordinary civic areas to sites that can lift the spirit and connect with the community.

One of the first public art programs in the country, Art in Public Places was established in 1973 with the passage of an ordinance allocating 1.5% of construction cost of new county buildings for the purchase or commission of artworks. Art in Public Places is overseen by a citizens trust appointed by the Board. The trust receives recommendations on acquisitions and commissions from the Professional Advisory Committee, an independent group of professionals in the field of art, art history, public art, architecture, landscape architecture and architectural history. Since its inception, the Art in Public Places Trust has acquired or commissioned over 750 works of art and gained international recognition as a leader in its field. Artworks are installed County-wide at diverse sites including Miami International Airport, Metrorail and Metromover stations, PortMiami, Zoo Miami, Adrienne Arsht Center for the Performing Arts, parks, fire stations, libraries, police stations, public housing developments, courthouses and community health centers.

For more than a decade, the focus of the program has been on site-specific, collaborative projects that involve the thinking of artists, landscape architects, historians, engineers, and architects in a team approach. Creative problem solving through innovative collaborations has resulted in projects that validate, define, and expand community identity. The goals of the program are several: (a) to enhance the artistic heritage of Miami-Dade County; (b) to give dimension

to the public environment for residents and visitors (c) to increase public awareness to works of art; and (d) to promote understanding and awareness of the visual arts. The Art in Public Places program has given the County national visibility in the arts and a leadership role in public programming. Through Art in Public Places, the County supports the development of a unique and vital civic environment.

Culture Shock Miami

The goal of Culture Shock Miami is to provide an affordable, accessible and attractive way to encourage teens and young adults (ages 13-22) to buy tickets to the rich variety of cultural events presented by the County's non-profit arts organizations. Culture Shock Miami is designed to introduce this next generation of audience members to live arts and cultural experiences at the age when they are beginning to make their own decisions about entertainment options. The expectation is that if teens and young adults make the arts a regular entertainment choice, they will be more likely to become the full-price ticket buyers and subscribers of the future.

Through Culture Shock Miami, students can buy tickets for \$5 to the best dance, music, theater, film and spoken word events in the County. Tickets donated to the Department by cultural organizations are available for purchase through www.cultureshockmiami.com or at www.TicketWeb.com free of any taxes, fees or surcharges. A student must use the first ticket purchased, but the second ticket purchased by the student can be used by a person of any age.

Culture Shock Miami currently has more than 200 cultural organizations providing allotments of tickets for the program and/or serving as co-presenting partners. Other program partners include TicketWeb, the Miami-Dade County Public School System and all of the area colleges and universities.

Culture Shock Miami Presents, a series dedicated to presenting nationally and internationally renowned artists that appeal specifically to the 13-22 year-old age range, was created in 2013 and presents more than a dozen performances each season to the public and through free school field trips. *Culture Shock Miami Presents* was recognized with a 2018 Achievement Award from the National Association of Counties.

Golden Ticket Arts Guide, published annually, features an array of free cultural offerings for County senior residents, ages 62 and over. Seniors can enjoy everything included in the Golden Ticket Arts Guide free of charge.

Joseph Caleb Auditorium (5400 NW 22nd Avenue, Miami, FL 33142)

The Joseph Caleb Auditorium (the "Auditorium"), is a 962 seat theater that has been the gathering place in the Liberty City community for the performing arts for more than thirty-six (36) years. The Auditorium has featured concerts, community forums, movie screenings and productions by community arts organizations throughout the year. A newly constructed parking garage serving the Auditorium and the adjoining Caleb Center courthouse and office complex is nearly complete. Renovation and expansion of the Auditorium is scheduled to commence in the coming fiscal year.

Miami-Dade County Auditorium (2901 West Flagler St, Miami, FL 33135)

Miami-Dade County Auditorium ("MDCA") offers multiple dynamic presentation styles, ranging from a 2,372 seat mainstage theater that can host major dance, theater and music performances, scalable to smaller configurations as needed, including a 250 seat "On Stage Black Box" theater in which both the audience and performers share the stage which is adapted into an innovative studio theater for more intimate and often cutting edge shows. Since MDCA opened its doors in 1951, it has served as the center for showcasing the diversity of our cultural life and most recently, as a hub for celebrating the Hispanic arts community.

The Department has launched a program to establish co-presenting partnerships with non-profit cultural organizations that can present performances on the main stage and in the black box configuration and begin to establish an artistic reputation for the theater which will encourage more use and presentations of higher artistic quality. This program also has the benefit of helping to develop Hispanic audiences for some of our community's premiere cultural organizations.

South Miami-Dade Cultural Arts Center (10950 SW 211th St, Cutler Bay, FL 33189)

The South Miami-Dade Cultural Arts Center ("SMDCAC") provides a world-class, multi-disciplinary cultural venue and community gathering place in the southern part of the County. In addition to providing a diverse range of quality entertainment to people from all backgrounds and ages, SMDCAC's mission includes an emphasis on educational and outreach activities in partnership with community groups. SMDCAC's multiple rehearsal and performing spaces also offers accessible state-of-the-art facilities to the County artistic community, presenters and audiences throughout South Florida.

The SMDCAC facility consists of the following spaces and areas:

- 1) Proscenium Theater (Main Stage), a state-of-the-art 966 seat performing arts space with a fly tower, orchestra pit, front of house spaces, (box office, lobby, and concessions), back of house support spaces (dressing rooms, storage, and administrative offices).
- 2) Black Box Theater, 39' x 49' multipurpose space for intimate performances or rehearsals. Seating capacity is up to 129.
- 3) Lab Theater, 36' x 60' multipurpose space for intimate performances or rehearsals. Seating capacity is up to 129.
- 4) Dance Studio, 36' x 44' with high ceilings, sprung wood floor, mirrors, sound and video systems. This space is predominately used for dance rehearsals.
- 5) Outdoor Promenade and Back Yard Concert Lawn, an outdoor promenade which can be used for pre-and post-show receptions and which leads to a gently sloped Back Yard Concert Lawn along the Black Creek Canal, which can accommodate more than 700 people for outdoor concerts and festivals.

2. Qualification Requirement**Group A - Marketing and Advertising Services**

The Contractor shall have:

1. Experience in advertising the arts and culture, media purchasing and placement, digital marketing, graphic design, branding, publications, videography, cataloging direct mail, market research, outdoor, email marketing, website/internet display, distribution channel analysis, multi-lingual copywriting and translation, social media strategies, website design and content creation and updates.
2. Relevant experience providing marketing and/or advertising services to the arts and culture sector within the last five (5) years, in particular to target audiences similar to those sought by the County's cultural programs and facilities.
3. Experience in successfully collaborating with not-for-profit organizations, local colleges, and universities on the creation of outreach events and/or the promotion of special events.
4. Experience in successfully marketing and messaging to specific populations such as Hispanics, Caribbean Americans, African Americans, Asian Americans, senior citizens, individuals and families with special needs.
5. Experience successfully marketing a product or service to a culturally and economically diverse target market similar to Miami-Dade County and its neighborhoods.
6. Develop a digital campaign including digital retargeting, social media advertising, reporting on Google Analytics, E-blasts, E-newsletters, and other viral marketing tactics.

Group B - Media and Public Relations

The Contractor shall have:

1. Experience in media relations, crisis communications, market research, special event planning

- and management, community outreach, translation services, development of press releases and media kits, and publicity.
2. Relevant experience providing media and/or public relations efforts to the arts and culture sector within the last five (5) years, in particular to target audiences similar to those sought by the County's cultural programs and facilities.
 3. Experience in successfully collaborating with not-for-profit organizations, local colleges, and universities on the creation of outreach events and/or the promotion of special events.
 4. Experience in successfully promoting and messaging to specific populations such as Hispanics, Caribbean Americans, African Americans, Asian Americans, senior citizens, individuals and families with special needs.
 5. Experience successfully promoting a product or service to a culturally and economically diverse target market similar to Miami-Dade County and its neighborhoods.
 6. Experience in successfully promoting events on social media platforms, content creation and engagement with social media influencers, as well as increasing awareness of key program features and accomplishments in relevant media outlets at a national and international level.

3. **Requested Services, Tasks and Deliverables**

The following are examples of requested services, tasks and deliverables that shall be specified in the applicable Work Order.

Group A - Marketing and Advertising Services

- a) Develop a strategic marketing plan, including situational analysis, opportunities and issues analysis (Strengths, Weaknesses, Opportunities and Threats analysis), objectives, strategy, action plan, and timeline for implementation.
- b) Create, implement and analyze customer digital behavioral tracking and analytics tools, with the objective of optimizing the customer experience across digital channels and strategically directing available marketing spending and messaging.
- c) Conduct market research, including but not limited to, focus groups, surveys, polls, audience measurements, and collection and analysis of data.
- d) Develop creative concept including brand/image, slogan, tagline and logo, and development of collateral materials, publications, and promotional materials.
- e) Develop a digital campaign including digital retargeting, social media advertising, reporting on Google Analytics, E-blasts, E-newsletter, and other viral marketing tactics.
- f) Develop a media campaign, including but not limited to newspaper, on-line media, magazine, radio, TV, and outdoor.
- g) Perform all activities associated with media purchasing and placement, including negotiation of ad rates and advertisement time slots, advertisement insertion orders, placement, negotiations of public service announcements, and purchase of media buys.
- h) Provide printing and production services, including graphic art design layout, multi-lingual copywriting (English, Spanish and Creole), mechanical advertisement assembly, printing of brochures, publications, cataloging, direct mail, posters, and other collateral, distribution of brochures, scripting, photography, TV and digital video production, radio production, audio visual services, and all talent required for these services.
- i) Develop content for social media campaigns and contests to include microblogging, photo sharing, online videos, sharing incentives and other social media marketing. Identify social media "influencers" that can help promote the various CUA brands.
- j) Provide and implement web site design and content recommendations.

- k) Develop a mobile marketing campaign including creative concept, implementation and measurement methodology to gauge campaign results and provide regular reports on results.
- l) Develop an economical on-going promotional plan to increase awareness and ticket sales.
- m) Develop audience research tools, strategies and analytics.
- n) Develop and implement comprehensive methodologies to measure and track the impact and success of advertising and marketing efforts (overall Return on Investment – ROI) and provide regular reports on results.
- o) Provide all other related services necessary to fulfill the Department of Cultural Affairs' marketing and advertising needs.
- p) Secure the services of a provider to create short video pieces including interviews with performers, artists and/or installation and documenting evolution of projects, programs and/or public art commissions over specific duration.
- q) Whenever deemed necessary, secure a working partnership with highly-specialized firms with access to the contemporary art industry.

Group B - Media and Public Relations Services

- a) Develop a strategic public relations plan that includes media relations, community outreach, a communications strategy, a web, email and social media strategy, social media influencers, and timeline for implementation.
- b) Develop media lists, including local and national reach of contacts at a range of news outlets and culture magazines, journals.
- c) Research, write and distribute press releases to targeted media outlets.
- d) Create written content including blogging and microblogging, and digital content including videos, to highlight performances, activities and/or cultural partners using social media. Curate online videos, images and other related media to post via social media channels.
- e) Recommend public relations and publicity efforts to supplement paid advertising, including cooperative advertising partnerships locally and nationally.
- f) Develop media kits for specified projects / programs as needed.
- g) Develop speeches/talking points as directed.
- h) Fulfill media requests as directed.
- i) Coordinate and manage press conferences, media tours and special events.
- j) Pitch stories to targeted media audience.
- k) Provide creative ideas for unique partnerships to leverage resources.
- l) Provide monthly press clippings report.
- m) Provide media training for County spokespersons.
- n) Assist County staff with the implementation and promotion of special community outreach and/or promotional projects and events in collaboration with local cultural partners.
- o) Research and create collateral and/or promotional materials including but not limited flyers, brochures and/or performance programs.
- p) Create various outreach programs that target specific demographics based on program needs. Work with special interest groups to promote the Department's facilities, programs and/or performances.
- q) Collaborate with local colleges and universities to increase awareness of Culture Shock Miami within this

- targeted demographic group via orientation sessions, on-campus student activities, and college publications.
- r) Provide Culture Shock Miami ambassadors (i.e., trained college students) to represent the program at cultural and community outreach events throughout Miami-Dade County.
 - s) Assist with crisis communications support as needed.
 - t) Develop audience research tools, strategies and analytics.
 - u) Develop and implement comprehensive methodologies to measure and track the impact and success of promotional and marketing efforts (overall Return on Investment – ROI) and provide regular reports on results.
 - v) Provide all other related services necessary to fulfill CUA's media and public relations needs.
 - w) Secure a number of feature articles and mentions per year relating to specified projects (4 public art commissions per year) or the public art program in general within specified local and national contemporary art publications and news publications (Art in Public Places).

4. Use of Materials

All creative produced materials and elements of the campaigns developed by the Contractor for the County shall become the property of the County, as will all materials, film negatives, art, radio and/or TV spots, as well as campaign treatments developed but not utilized.

The County maintains the right to use any materials generated by the Contractor in other County material generated by County personnel and may do so without the Contractor's consent or approval. The County acknowledges certain legal constraints and, as such, requires new universal releases for materials unless cost considerations become prohibitive such as model releases, music, photographs, and retains sole right to use materials created for the County as it sees fit. All restrictions on contracted materials such as stock photos, voice talent, and models, shall be provided to the County by the Contractor with implications stated prior to production by the Contractor.

5. Additional Services

Although this contract identifies services to be provided to specific facilities and programs, the County reserves the right to negotiate with the Contractor a work order for, or directly contract, additional services during the term of this contract, such as all printing necessary for the implementation of any creative or media campaign. The creative and related specifications from the Contractor will be coordinated with and provided to, the County prior to printing. The Contractor if requested, shall provide the printing of materials with the consultation of the County. Any printing will be done on a net basis. The County reserves the right to award these additional services to the Contractor, or to acquire the services through a separate solicitation.

6. Work Order Process

The Contractor will participate in a work order process. The following is the Work Order process:

A. Assignments

When the need arises, the CUA will develop work order assignments, and provide the Contractor with information regarding the specific objectives, anticipated deliverables and desired outcomes and timelines. The Contractor shall prepare a written proposal for review and approval by the CUA.

B. Work Order

Work Orders will be issued by the CUA for all work to be performed under any contract as a result of this Solicitation. Multiple Work Orders may be issued simultaneously, depending on the need for the services.

The County reserves the right to enter into negotiations with the Contractor for each specific Work Order. Pricing may be established in each particular Work Order based on the agreed upon hourly rates. However, the County reserves the right to award individual Work Orders on a fixed price basis. Additionally, submittal of hourly rates shall in no way

preclude the County from negotiating for lower hourly rates for specific Work Orders.

When an assignment falls under multiple service categories, the CUA, at its sole discretion, will determine which key area to utilize or may request a work plan from both.

Note: All costs associated with estimating a project shall be borne by the Contractor, and the Contractor shall not have any claim, financial or otherwise, against the CUA or the County, as a result of the CUA modifying or canceling a Work Order.

**Appendix B
PRICE SCHEDULE**

Maximum not-to-exceed hourly rates for the various staff levels proposed to complete the requested services, tasks and deliverables as stated in Appendix A. Scope of Services.

Title	Hourly Rate
Director of Client Accounts	\$185
Junior Account Executive	\$125
Director of Communications	\$185
Communications Specialist	\$150
Senior Art Director	\$150
Art Director / Web Programmer	\$95
Advertising Coordinator	\$75
Controller	\$95
President & CEO	\$250

Notes:

1. Contractor's proposed rates shall remain firm and fixed for term of the Contract, including any option or extension periods; however, the Contractor may offer incentive discounts to the County at any time during the Contract term, including any renewal or extension thereof.
2. Contractor's proposed rates shall include all out-of-pocket expenses, including materials, employee travel, per diem, and miscellaneous costs and fees, should be included in the Contractor's price, as they shall not be reimbursed separately by the County.
3. Notwithstanding the rates above, compensation to the Contractor shall be based on the projects assigned. The Contractor shall not exceed the maximum hourly rates when calculating the not-to-exceed cost statement required for each Work Order.