

Memorandum



Date: December 1, 2021

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

Agenda Item No. 8(F)(5)

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Resolution No. R-1156-21

Subject: Recommendation for Approval to Award a Legacy Contract: Propworks System Software

Recommendation

It is recommended that the Board of County Commissioners approve this request for award of Legacy Contract No. L-10159, *Propworks System Software*, to Amadeus Airport IT Americas, Inc. for the Miami-Dade Aviation Department in the amount of \$650,067, pursuant to Section 2-8.1(b)(2) of the Miami-Dade County Code. This contract will provide the Department with ongoing maintenance and technical support services for the Propworks software (Propworks). The current Contract No. L-8764 was awarded under delegated authority.

Competition for these services is not practicable at this time since Propworks software is proprietary to Amadeus Airport IT Americas, Inc. and there are no other vendors authorized or certified to provide maintenance and support services.

Background

Propworks is a revenue and property management software used by the Department to support key business functions such as carrier activity tracking, billing and invoicing, company contract management, concession sales management, and aviation statistics. It is embedded in the Department's business ecosystem, including but not limited to the following key sub-systems: Shared Tenant Services, Automated Vehicle Identification System, Airfield Operations Area Decals, Security Badge System, and Concession Statistics. Additionally, Propworks software serves as a critical junction between each of these subsystems and Peoplesoft, the Enterprise Resource Planning system, which supports several critical financial activities. Propworks software also serves as a portal to allow all of the other subsystems to communicate with each other and renders services essential to airlines, passengers, concessionaires, and other service providers which operate on the airport premises.

Propworks has a depth and breadth of operation that would have minimal overlap with the nascent stage of the Integrated Financial Resources Management System (INFORMS). Propworks' breadth spans functions from Property Management to Aviation Operations Management and covers dozens of unique subsystems which would require cascade repair or replacement to interface with a new system. Propworks' depth is evidenced through Advanced Aviation Statistics and proprietary business logic encompassing thousands of multilayered complex nuanced Bill Rules, many of which are tied to the Airline Use Agreement, a multi-year legal document between the County and Airlines, serving as the principal arbiter and determinant factor of revenue billing for Airport tenants. Any effort to covert INFORMS from a general-purpose financial system to an industry specific Property Management solution like Propworks would surpass the cost of either system.

A Request for Information was advertised to 10,197 potential vendors, who provide similar services, to identify if any could provide ongoing maintenance and support services for the Propworks software. The County did not receive any responses. Additionally, the Department conducted market research and found that the total cost to replace the software would be at least \$5,000,000. At this time, continuing to pay for maintenance and support of the current software outweighs the potential benefits of competition available through a new software system.

The availability of competition will be continually monitored so that the need for future legacy purchases is reduced or eliminated as soon as practicable. Accordingly, it is in the County's best interest to award this legacy contract pursuant to Section 2-8.1(b)(2), of the County Code to continue purchasing the required services.

Scope

The scope of this item is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact for the five-year term is \$650,067. The current contract, L-8764 is valued at \$250,000 for a two-year and three-month term and expires on February 14, 2022. The allocation under the current contract is approximately similar to the replacement contract on an annualized basis.

Department	Allocation	Funding Source	Contract Manager
Aviation	\$650,067	Proprietary Funds	Mike Bryant
Total:	\$650,067		

Track Record/Monitor

Sade Chaney 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

Pursuant to Resolution No. R-477-18, the awarded vendor is not local and does not have a local address. There are no firms in Miami-Dade County capable of providing maintenance and support services for the Propworks software.

Vendor	Principal Address	Local Address*	Number of Employee Residents	Principal
			1) Miami-Dade 2) Percentage*	
Amadeus Airport IT Americas, Inc.	5950 Hazeltine National Drive Suite 210 Orlando, FL	None	0	Betros Wakim
			0%	

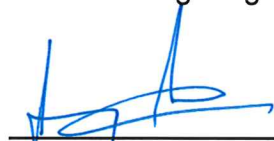
*Provided pursuant to Resolution No. R-1011-15. Percentage of employee residents is the percentage of vendor's employees who reside in Miami-Dade County as compared to the vendor's total workforce.

Due Diligence

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

Applicable Ordinances and Contract Measures

- The two percent User Access Program provision was not applied.
- The Small Business Enterprise measures and Local Preference do not apply as this is a non-competitive contract.
- The Living Wage does not apply as these are not covered services under the Ordinance.



Jimmy Morales
Chief Operations Officer



MEMORANDUM

(Revised)

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

DATE: December 1, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(F)(5)

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(F)(5)
12-1-21

RESOLUTION NO. _____ R-1156-21

RESOLUTION AUTHORIZING AWARD OF A LEGACY CONTRACT FOR PROPWORKS SYSTEM SOFTWARE FOR THE MIAMI-DADE AVIATION DEPARTMENT, CONTRACT NO. L-10159, TO AMADEUS AIRPORT IT AMERICAS, INC. FOR A FIVE-YEAR TERM IN A TOTAL AMOUNT NOT TO EXCEED \$650,067.00 AND APPROVING TERMS OF AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE CONTRACT AND 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

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 authorizes award of a legacy contract pursuant to Section 2-8.1(b)(2) of the County Code to Amadeus Airport IT Americas, Inc. for a five-year term in an amount not to exceed \$650,067.00 for Contract No. L-10159, in substantially the form attached hereto and made a part hereof, for Propworks System Software for the Miami-Dade Aviation Department.

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

The foregoing resolution was offered by Commissioner **Joe A. Martinez**,
 who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa**
 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	absent	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	aye
Kionne L. McGhee	aye	Jean Monestime	absent
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

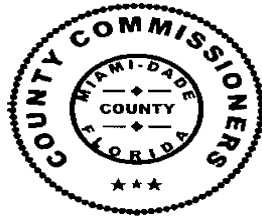
The Chairperson thereupon declared this resolution duly passed and adopted this 1st day of December, 2021. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override 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.

Oren Rosenthal

Propworks System Software
Contract No. L10159

This Software License, Maintenance, and Support Agreement "Agreement" is made and entered into as of this _____ day of _____ by and between Amadeus Airport IT Americas, Inc., a corporation organized and existing under the laws of the State of Florida, having its principal office at 5950 Hazeltine National Drive, Suite 210, Orlando, FL 32822-2401 (the "Licensor"), 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") (collectively, the "Parties").

WITNESSETH:

WHEREAS, the County has acquired license rights to use the Propworks software furnished by Licensor in accordance with the terms and conditions set forth herein;

WHEREAS, the Licensor shall provide the support services to the County for the Propworks software during the Contract Term in accordance with the terms and conditions set forth herein;

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 word "Contract" to mean collectively the (i) Articles, (ii) Scope of Services, (iii) Price Schedule, (iv) all other appendices and attachments hereto, and (v) all amendments issued hereto.
- c) The words "Contract Manager" to mean the Director, Internal Services Department, or the duly authorized representative designated to manage the Contract.
- d) The word "Days" to mean calendar days.
- e) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the Project Manager for review and approval pursuant to the terms of this Agreement.
- f) The word "Documentation" shall mean all manuals, user documentation, and other related materials pertaining to the Licensed Software which are furnished to the County in connection with the Licensed Software.
- g) The words "License Fee" shall mean the annual fee associated to granting the County use of the Licensed Software.
- h) The words "Licensed Software" to mean Amadeus PROPworks® Airport Property and Revenue Management System.
- i) The words "Project Manager" to mean the County Mayor or the duly authorized representative designated to manage the Project.
- j) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the Work to be performed by the Contractor.
- k) 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.

- l) The word "Work" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) Articles 1 through 46, 2) Appendix A, Scope of Services, 3) Appendix B, Payment Schedule, and 4) any associated addenda and attachments thereof.

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 the 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 Project Manager.
- e) The Contractor acknowledges that the County shall make all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor shall implement 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. GRANT OF RIGHTS

The Licensee granted for the Software under this Agreement authorizes the County on a nonexclusive basis to use the Licensed Software identified on Appendix "A" hereto for the Contract Term set forth in Article 8.

ARTICLE 6. SUPPORT AND MAINTENANCE SERVICES

Licensor shall provide the County with support and maintenance services set forth in Appendix "A".

ARTICLE 7. SOFTWARE MODIFICATIONS

7.1 Error Corrections and Updates. The Licensor will provide the County with error corrections, bug fixes, patches or other updates to the Software licensed hereunder in object code form to the extent available during the Contract Term.

7.2 Software Enhancements or Modifications. The County may, from time to time, request the Licensor incorporate certain features, enhancements or modifications into the licensed Software. When requested by the County, the Licensor shall use its best efforts to provide the requested system enhancements/modifications. Upon the County's request for such enhancements/modifications

- a) Licensor shall submit a detailed requirements and detailed design document illustrating the complete financial terms that govern the modified/enhanced Scope of Services, proposed Project staffing, anticipated Project schedule, and other information relevant to the Project. Each Scope enhancement/modification executed hereunder shall automatically incorporate the terms and conditions of this Agreement. Notwithstanding the foregoing, performance of any such modifications shall not compromise the Licensor's warranty obligations. All enhancements or modifications owned by the County hereby licensed to Licensor on a perpetual royalty free basis provided same are not used in direct competition with the County.
- b) Following the County's acceptance of all enhancements/modification, the Licensor shall provide the County, if so requested with written confirmation of the date the enhancements/modification was applied to the Licensed Software, and any and all Documentation relating to the Licensed Software and or enhancements/modification thereto.

7.3 Title to Modifications. All such error corrections, bug fixes, patches, updates or new releases shall be the sole property of the Licensor.

ARTICLE 8. CONTRACT TERM

The Contract shall become effective on the date of the Parties' execution, whichever is later, and shall continue through the last day of the 60th month, thereafter. The County may extend this Contract for up to an additional 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 9. 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
Aviation Department
P.O. Box 022504
Miami, Florida 33102

Attention: Mike Bryant
Phone: 305-876-0878
E-mail: MBryant@miami-airport.com

and

b) to the Contract Manager:

Miami-Dade County
Internal Services Department, Strategic Procurement Division
Attention: Chief Procurement Officer
111 NW 1st Street, Suite 1300
Miami, FL 33128-1974
Phone: (305) 375-4900
E-mail: Namita.Uppal@miamidade.gov

(2) To the Licensor

Amadeus Airport IT Americas, Inc.
5950 Hazeline National Drive, Suite 21
Orlando, FL 32822
Attention: Chris Keller
Phone: 407-370-4664
E-mail: Chris.Keller@amadeus.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 10. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The County shall pay the License Fees as set forth in the Payment Schedule (Appendix B). All amounts payable to the Licensor upon invoice. 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 Licensor.

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

ARTICLE 11. PRICING

Prices shall remain firm and fixed for the term of the Contract, however, the Licensor may offer incentive discounts to the County at any time during the Contract Term, including any extension thereof.

ARTICLE 12. METHOD AND TIMES OF PAYMENT

The Licensor agrees that under the provisions of this Contract, Licensor shall bill the County annually pursuant to Appendix B. All invoices shall be taken from the books of account kept by the Licensor, 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 Licensor. 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) calendar 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 Licensor 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 Licensor under this Contract. Such retained amount shall be applied to the amount owed by the Licensor to the County. The Licensor 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 Licensor for the applicable payment due herein.

Invoices and associated back-up documentation shall be submitted electronically or in hard copy format by the Licensor to the County as follows:

Miami-Dade County
Aviation Department
P.O. Box 025504
Miami, FL 33102
Attention: Mike Bryant

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

ARTICLE 13. INDEMNIFICATION AND INSURANCE

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

The Licensor shall also remain liable for any liabilities and claims related to the Licensor's failure to meet its obligations under the Agreement, except as follows. In no event, shall the Licensor be liable to the County for loss of profits or indirect, special, incidental or consequential damages incurred by the County and arising out of or in connection with this Agreement. The total aggregate liability of the Licensor to the County under this Agreement whether arising out of breach of contract (including but not limited to breach of warranty) or tort (including but not limited to negligence and strict liability), shall in no event exceed the total contract value paid by the County to the Licensor under this Agreement.

Upon County's notification, the Licensor shall furnish to the Internal Services Department, Strategic Procurement Division, certificate(s) 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 in an amount not less than \$1,000,000 per occurrence, and \$2,000,000 in the aggregate. **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 \$1,000,000 combined single limit.

4. Technology Professional Liability Insurance in an amount not less than \$1,000,000.
5. Cyber Liability Insurance to include, data breach and third-party liability, in an amount not less than \$1,000,000.

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

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

OR

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

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 2340
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 certificate of insurance is received within the specified timeframe but not in the manner prescribed in this Agreement, the Licensor shall have an additional five business days to submit a corrected certificate to the County. If the Licensor fails to submit the required insurance documents in the manner prescribed in this Agreement within fifteen (15) business days, the Licensor 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 Licensor shall assure that the certificate 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 of insurance is scheduled to expire during the term of the Contract, the Licensor shall submit new or renewed certificate of insurance to the County before such expiration. If expired certificate of insurance is/are not replaced or renewed to cover the Contract period, the County may suspend the Contract until the new or renewed certificate is/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 Licensor shall be responsible for all direct and indirect costs associated with such termination.

ARTICLE 14. MANNER OF PERFORMANCE

- a) The Licensor 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 Licensor in all aspects of the Work. At the request of the County, the Licensor shall promptly remove from the Project any Licensor's employee, Subcontractor, or any other person performing Work hereunder. The Licensor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Licensor.
- b) The Licensor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for all claims, suits, actions, damages, and costs (including attorneys' fees and court costs) made against the County, occurring on account of,

arising from or in connection with the removal and replacement of any Licensor's personnel performing Services hereunder at the behest of the County. Removal and replacement of any Licensor's personnel as used in this Article shall not require the termination and/or demotion of such Licensor's personnel.

- c) The Licensor always agrees that 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.
- d) The Licensor 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 Licensor shall always cooperate with the County and coordinate its respective work efforts to maintain the progress most effectively and efficiently in performing the Work.
- f) The Licensor shall comply with all provisions of all federal, state, and local laws, statutes, ordinances, and regulations that are applicable to the performance of its obligations under this Agreement.

ARTICLE 15. EMPLOYEES OF THE LICENSOR

All employees of the Licensor shall be, at all times, employees of the Licensor under its sole direction and not employees or agents of the County. The Licensor shall supply competent employees. Miami-Dade County may require the Licensor 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 16. INDEPENDENT CONTRACTOR RELATIONSHIP

The Licensor is, and shall be, in the performance of all Work 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 always, and in all places, be subject to the Licensor's sole direction, supervision, and control. The Licensor shall exercise control over the means and manner in which it and its employees perform the Work, and in all respects the Licensor'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 Licensor 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 17. DISPUTE RESOLUTION PROCEDURE

- a) The Licensor hereby acknowledges that the Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Licensor 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 Licensor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- c) The Licensor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Licensor and the Project Manager are unable to resolve their difference, the Licensor may initiate a dispute in accordance with the procedures set forth in this Article. **Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.**
- d) In the event of such dispute, the Parties authorize the County Mayor or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in

any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Mayor's purview as set forth above shall be conclusive, final and binding on the Parties. Any such dispute shall be brought, if at all, before the County Mayor within ten (10) days of the occurrence, event or act out of which the dispute arises.

- e) The County Mayor may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Licensor'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 Licensor to the County Mayor for a decision, together with all evidence and other pertinent information regarding 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 Licensor. Except as such remedies may be limited or waived elsewhere in the Agreement, Licensor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.
- f) This Article will survive the termination or expiration of this Agreement.

ARTICLE 18. 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 the 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 Licensor, 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 Licensor fails to diligently defend such claims, and thereafter seek indemnity for such defense or settlement costs from the Licensor.

ARTICLE 19. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Licensor 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 Licensor and its Subcontractors and suppliers shall retain such records, and all other documents relevant to the Work furnished under this Agreement for a period of three years from the expiration date of this Agreement and any extension thereof.

ARTICLE 20. AUDITS

The County, or its duly authorized representatives and governmental agencies, shall until the expiration of three years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Licensor'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 Licensor 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 within five business days of the Commission Auditor's request. The Licensor 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 21. SUBSTITUTION OF PERSONNEL

In the event the Licenser needs to substitute personnel for the key personnel identified, 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 22. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

The Licenser 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 23. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

The Licenser understands and agrees that any assumptions, parameters, projections, estimates, and explanations presented by the County were provided to the Licenser 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 Licenser. The licenser accepts all risk associated with using this information.

ARTICLE 24. SEVERABILITY

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

ARTICLE 25. TERMINATION AND SUSPENSION OF WORK

- a) This Agreement may be terminated for cause by the County for reasons including, but not limited to, (i) the Licenser commits an Event of Default (as defined below in Article 26) and fails to cure said Event of Default (as delineated below in Article 27), or (ii) Licenser attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material misstatement.
- b) This Agreement may also be terminated for convenience by the County. Termination for convenience is effective on the termination date stated in the written notice provided by the County.
- c) If County terminates this Agreement for cause under Article 25(a) above, the County may, in its sole discretion, also terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall pay all direct or indirect costs associated with such termination or cancellation, including attorneys' fees.
- d) The foregoing notwithstanding, if the Licenser attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material misstatement, the licenser may be debarred from County contracting in accordance with the County debarment procedures. The Licenser may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the Code.
- e) In the event that the County exercises its right to terminate this Agreement, the Licenser 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 per the compensation listed in Appendix B.
- f) In the event that the County exercises its right to terminate this Agreement, the Licenser 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 Licenser 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 26. EVENT OF DEFAULT

- a) An Event of Default is a material breach of this Agreement by the Licenser, and includes but is not limited to the following:
- i. the Licenser has not delivered Deliverables and/or Services on a timely basis;
 - ii. the Licenser has refused or failed to supply enough properly skilled staff personnel;
 - iii. the Licenser has failed to make prompt payment to Subcontractors or suppliers for any Services;
 - iv. the Licenser has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Licenser's creditors, or the Licenser has taken advantage of any insolvency statute or debtor/creditor law or if the Licenser's affairs have been put in the hands of a receiver;
 - v. the Licenser has failed to obtain the approval of the County where required by this Agreement;
 - vi. the Licenser has failed to provide "adequate assurances" as required under subsection b below;
 - vii. the Licenser has failed in the representation of any warranties stated herein; or
 - viii. the Licenser fails to comply with Article 39.
- b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Licenser's ability to perform the Work or any portion thereof, the County may request that the Licenser, within the timeframe set forth in the County's request, provide adequate assurances to the County, in writing, of the Licenser'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 Licenser for portions of the Work which the Licenser has not performed. In the event that the Licenser fails to provide to the County the requested assurances within the prescribed timeframe, the County may:
- i. treat such failure as a repudiation and/or material breach of this Agreement; and
 - ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the

Work or any part thereof either by itself or through others.

ARTICLE 27. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

If an Event of Default occurs in the determination of the County, the County shall notify the Licenser (the "Default Notice"), specifying the basis for such default, and advising the Licenser 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 Licenser 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 Licenser 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 Licenser shall discontinue the Work upon the Effective Termination Date.

ARTICLE 28. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, whether or not the County elects to terminate this Agreement as a result thereof, the Licenser shall be liable for all damages resulting from the default, irrespective of whether the County elects to terminate the Agreement, 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 Licenser shall also remain liable for any liabilities and claims related to the Licenser's default. The County may also bring any suit or proceeding for specific performance or for an injunction.

ARTICLE 29. PATENT AND COPYRIGHT INDEMNIFICATION

- a) The Licenser 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 Licenser 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.
- b) 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 Licenser shall have the obligation to, at its own 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), (ii) procure for the County, at the Licenser's expense, the rights provided under this Agreement to use the item(s), or (iii) cease providing the infringing item(s) and refund the County pro rata for any fees paid in advance for those items.
- c) The Licenser shall be solely responsible for determining and informing the County whether a prospective supplier or Subcontractor is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Licenser shall enter into agreements with all suppliers and Subcontractors at the Licenser's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.

ARTICLE 30. CONFIDENTIALITY

- a) All materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained by the Licensor from the County in connection with the Services performed under this Agreement, or the results of such Services 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 Licensor 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 Licensor 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.

The Documentation, the License Software and all financial information relating to the Licensor or its personnel constitute Confidential Information and may not, without the consent of the Licensor, be used or publicly disclosed by the County except as otherwise stated in this Agreement. In addition to the foregoing, all Licensor employee information and Licensor financial information shall be considered Confidential Information and shall be subject to all the requirements stated herein. Neither the County 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 Licensor.

- b) The Licensor 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 Licensor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.
- c) In the event of a breach of this Article by either party damages may not be an adequate remedy and the non-breaching party shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by one party, upon the completion of the Services performed hereunder, the other party shall immediately turn over to the other party all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the other party or its employees, agents, Subcontractors, or suppliers without the other party's prior written consent. A certificate evidencing compliance with this provision and signed by an officer of the other party shall accompany such materials.

ARTICLE 31. 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 Licensor 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 Licensor 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 Licensor 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 Licensor thereof. This includes mainframe, minis, telecommunications, personal computers, and all information technology software.

The Licensor will report to the County any information discovered or which is disclosed to the Licensor 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 Licensor's authority to prevent improper use, disclosure, or removal.

ARTICLE 32. PROPRIETARY RIGHTS

- a) The Licensor 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 Licensor hereunder which the Licensor as well as its employees, agents, Subcontractors and suppliers may use only in connection with the performance of Services under this Agreement. The Licensor shall not, without the prior written consent of the County, use such documentation on any other project in which the Licensor or its employees, agents, Subcontractors, or suppliers are or may become engaged. Submission or distribution by the Licensor 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) The Licensor and its Subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder. Notwithstanding the foregoing, the Licensor hereby grants, and shall require that its Subcontractors and suppliers grant, if the County so desires, a perpetual, revocable and right and license to use for its own use the 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.

ARTICLE 33. VENDOR REGISTRATION/CONFLICT OF INTEREST

- a) Vendor Registration
The Contractor shall be a registered vendor with the County – Internal Services Department, Strategic Procurement Division, for the duration of this Agreement. In becoming a registered vendor with Miami-Dade County, the vendor's Federal Employer Identification Number (FEIN) must be provided, via submission of Form W-9 and 147c Letter, as required by the Internal Revenue Service (IRS). If no FEIN exists, the Social Security Number of the owner must be provided as the legal entity identifier. 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
- Payments to individual/Contractor for goods and services provided to Miami-Dade County
- Tax reporting purposes
- Provision of unique identifier in the vendor database used for searching and sorting departmental records

The Contractor confirms its knowledge of and commitment to comply with the following:

- | | |
|---|--|
| 1. Miami-Dade County Ownership Disclosure Affidavit
(Section 2-8.1 of the Code of Miami-Dade County) | (Article I, Section 2-8.1(i) 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) | 8. Miami-Dade County Family Leave Affidavit
(Article V of Chapter 11 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) | 9. Miami-Dade County Living Wage Affidavit
(Section 2-8.9 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) | 10. Miami-Dade County Domestic Leave and Reporting Affidavit (Article VIII, Section 11A-60 - 11A-67 of the Code of Miami-Dade County) |
| 5. Miami-Dade County Debarment Disclosure Affidavit
(Section 10.38 of the Code of Miami-Dade County) | 11. Miami-Dade County Verification of Employment Eligibility (E-Verify) Affidavit
(Section 448.095, of the Florida State Statutes) |
| 6. Miami-Dade County Vendor Obligation to County Affidavit
(Section 2-8.1 of the Code of Miami-Dade County) | 12. Miami-Dade County Pay Parity Affidavit
(Resolution No. R-1072-17) |
| 7. Miami-Dade County Code of Business Ethics Affidavit | 13. Miami-Dade County Suspected Workers' Compensation Fraud Affidavit |

(Resolution No. R-919-18)

Dade County and Title 49 of the Code of Federal Regulations.

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

16. Antitrust Laws

15. 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-

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 34. 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 Licensor 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 Licensor'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 Licensor, 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 Licensor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Licensor 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 Board; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Implementing Order No. 3-38; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter of one percent (0.25%) in any exempted contract at the time of award.***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present, and proposed County and 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 Licensor from the Inspector General or IPSIG retained by the Inspector General, the Licensor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the Contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful Subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 35. FEDERAL, STATE, AND LOCAL COMPLIANCE REQUIREMENTS

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

- a) Equal Employment Opportunity clause provided under 41 C.F.R. Part 60-1.3 in accordance with Executive Order 11246, "Equal Employment Opportunity", as amended.
- b) Miami-Dade County Small Business Enterprises Development Participation Provisions.
- c) The Clean Air Act (42 U.S.C. § 7401-7671q.) and the Federal Water Pollution Contract Act (33 U.S.C. §§ 1251-1387), as amended.
- d) The Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by the Department of Labor regulations (29 C.F.R. Part 5).
- e) The Copeland "Anti-Kickback" Act (40 U.S.C. § 3145) as supplemented by the Department of Labor regulations (29 C.F.R. Part 2).
- f) Section 2-11.1 of the Code of Miami-Dade County, "Conflict of Interest and Code of Ethics".
- g) Section 10-38 of the Code of Miami-Dade County, "Debarment of Contractors from County Work".
- h) Section 11A-60 - 11A-67 of the Code of Miami-Dade County, "Domestic Leave".
- i) Section 21-255 of the Code of Miami-Dade County, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.
- j) The Equal Pay Act of 1963, as amended (29 U.S.C. § 206(d)).
- k) Section 448.07 of the Florida Statutes "Wage Rate Discrimination Based on Sex Prohibited".
- l) Chapter 11A of the Code of Miami-Dade County (§ 11A-1 *et seq.*) "Discrimination".
- m) Chapter 22 of the Code of Miami-Dade County (§ 22-1 *et seq.*) "Wage Theft".
- n) Chapter 8A, Article XIX, of the Code of Miami-Dade County (§ 8A-400 *et seq.*) "Business Regulations".
- o) Any other laws prohibiting wage rate discrimination based on sex.

- p) Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).
- q) Executive Order 12549 "Debarment and Suspension", which stipulates that no contract(s) are "to be awarded at any tier or to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs".
- r) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07) and regulations issued pursuant thereto (24 C.F.R. Part 146).

Pursuant to Resolution No. R-1072-17, by entering into this Contract, the Licensors are certifying that the Licensors are in compliance with, and will continue to comply with, the provisions of items "f" through "k" above.

The Licensors 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 Licensors for failure to obtain and maintain required licenses, certifications, permits and/or inspections shall be borne by the Licensors. The Project Manager shall verify the certification(s), license(s), and permit(s) for the Licensors prior to authorizing Work and as needed.

Notwithstanding any other provision of this Agreement, Licensors 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 Licensors, constitute a violation of any law or regulation to which Licensors are subject, including but not limited to laws and regulations requiring that Licensors conduct its operations in a safe and sound manner.

ARTICLE 36. NONDISCRIMINATION

During the performance of this Contract, Licensors agree 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 Licensors attest 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 Licensors or any owner, subsidiary or other firm affiliated with or related to the Licensors 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 Licensors submit a false affidavit pursuant to this Resolution or the Licensors violate the Act or the Resolution during the term of this Contract, even if the Licensors was not in violation at the time it submitted its affidavit.

ARTICLE 37. CONFLICT OF INTEREST

The Licensors represent 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 Licensors in this Agreement. This Agreement is entered into by the Licensors 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 Licensors 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 Licensors or to the best of the Licensors's knowledge any Subcontractor

or supplier to the Licensor.

- c) Neither the Licensor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Licensor shall have an interest which is in conflict with the Licensor'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 Licensor 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 Licensor 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, Licensor shall promptly bring such information to the attention of the Project Manager. Licensor shall thereafter cooperate with the County's review and investigation of such information and comply with the instructions Licensor receives from the Project Manager regarding remedying the situation.

ARTICLE 38. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

Under no circumstances shall the Licensor 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 Licensor 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 Work to be performed hereunder except upon prior written approval and instruction of the County; and
- c) Except as may be required by law, the Licensor and its employees, agents, Subcontractors, and suppliers will not represent, directly or indirectly, that any Work, Deliverables or Services provided by the Licensor or such parties has been approved or endorsed by the County.

ARTICLE 39. BANKRUPTCY

The County may terminate this Contract, if, during the term of any contract the Licensor has with the County, the Licensor 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 Licensor under federal bankruptcy law or any state insolvency law.

ARTICLE 40. GOVERNING LAW

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

ARTICLE 41. COUNTY USER ACCESS PROGRAM (UAP)

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 Licensor providing goods or services under this Contract shall invoice the Contract price and shall accept as payment thereof the Contract price less the 2% UAP as full and complete payment for the goods and/or services specified on the invoice. The County shall

retain the 2% UAP for use by the County to help defray the cost of the procurement program. Licensor 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 Licensor must obtain the participation number from the entity prior to filling any order placed pursuant to this Section. Licensor participation in this joint purchase portion of the UAP, however, is voluntary. The Licensor shall notify the ordering entity, in writing, within three 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 Licensor 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 Licensor 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 Licensor and shall be paid by the ordering entity less the 2% UAP.

c) Contractor Compliance

If a Contractor fails to comply with this Article, that Contractor may be considered in default by the County in accordance with Article 26 of this Contract.

ARTICLE 42. INTEREST OF MEMBERS, OFFICERS OR EMPLOYEES AND FORMER MEMBERS, OFFICERS OR EMPLOYEES

No member, officer, or employee of the County, no member of the governing body of the locality in which the Project is situated, no member of the governing body in which the County was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this Contract or the proceeds thereof.

ARTICLE 43. FIRST SOURCE HIRING REFERRAL PROGRAM

Pursuant to Section 2-2113 of the Code, for all contracts for goods and services, the Licensor, prior to hiring to fill each vacancy arising under a County contract shall (1) first notify Career Source South Florida ("CSSF"), the designated Referral Agency, of the vacancy and list the vacancy with CSSF according to the Code, and (2) make good faith efforts as determined by the County to fill a minimum of fifty percent (50%) of its employment needs under the County contract through the CSSF. If no suitable candidates can be employed after a Referral Period of three to five days, the Licensor is free to fill its vacancies from other sources. Licensor 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 Licensor 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 44. 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 45. VERIFICATION OF EMPLOYMENT ELIGIBILITY (E-VERIFY)

By entering into this Contract, the Licensor becomes obligated to comply with the provisions of Section 448.095 of the Florida Statutes, titled "Verification of Employment Eligibility". This includes but is not limited to utilization of the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all newly hired employees by the Contractor effective January 1, 2021 and requiring all Subcontractors to provide an affidavit attesting that the Subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply may lead to termination of this Contract, or if a Subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination and the Licensor may be liable for any additional costs incurred by the County resulting from the termination of the Contract. If this Contract is terminated for a violation of the statute by the Licensor, the Licensor may not be awarded a public contract for a period of one year after the date of termination. Public and private employers must enroll in the E-Verify System (<http://www.uscis.gov/e-verify>) and retain the I-9 Forms for inspection.

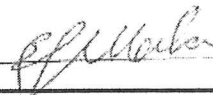
ARTICLE 46. SURVIVAL

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 Licensor 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 last date that the Agreement is executed below,

Licensor

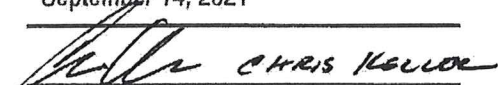
Miami-Dade County

By: 

Name: Betros A. Wakim

Title: President

Date: September 14, 2021

Attest: 

Corporate Secretary/Notary Public

By: _____

Name: Daniella Levine Cava

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

SCOPE OF SERVICES

This contract will allow MDAD (Customer) to continue the purchase of the Licensed Program's annual software maintenance, and the application license fee. The Licensed Program is used by the Customer to support key business functions such as carrier activity tracking, billing and invoicing, company contract management, agreement management, concession sales management, and aviation statistics. The Licensed Program serves as a medium to allow the Customer to render services essential to airlines, passengers, concessionaires, and other service providers which operate on airport premises. This Scope of Services details the type of services and deliverables that may be requested by the Customer. The Licensor agrees to provide the services required under the Contract and as specifically described in this Scope of Services.

1. Definitions

- 1.1. "Enhancement." Any modification or addition that, when made or added to the Licensed Program, materially changes its utility, efficiency, functional capability, or application, but that does not constitute solely an Error Correction. Enhancements may be designated by Licensor as minor or major, depending on Licensor's assessment of their value and of the function added to the preexisting Licensed program.
- 1.2. "Error." Any failure of the Licensed Program to substantially conform to its functional specifications as published from time to time by Licensor. However, any nonconformity resulting from Customer's misuse, improper use, alteration, or damage of the Licensed Program, or Customer's combining or merging the Licensed Program with any hardware or software not supplied or identified as compatible by Licensor, shall not be considered an Error.
- 1.3. "Error Correction." Either a modification or an addition that, when made or added to the Licensed Program, establishes substantial conformity of the Licensed Program to the functional specifications, or a procedure or routine that, when observed in the regular operation of the Licensed Program, eliminates the practical adverse effect on Customer of such nonconformity.
- 1.4. "Licensed Program." The computer programs described in Appendix A attached hereto, including any extracts from such programs, derivative works of such programs, or collective works including such programs (such as subsequent Releases) to the extent offered to Customer under this Agreement or the License Agreement.
- 1.5. "Normal Working Hours." The hours between 8:00 a.m. and 7:00 p.m. Eastern Standard (or Daylight) Time, on Mondays through Fridays, excluding the scheduled holidays of Licensor.
- 1.6. "Releases." New versions of the Licensed Program, which may include both Error Corrections and Enhancements.

2. General Scope of Work

- 2.1. Licensor shall maintain a trained staff capable of rendering the services set forth in this Agreement.
- 2.2. During the Agreement Term, Licensor shall render the following services as indicated below in support of the Licensed Program, during Normal Working Hours at Miami International Airport and Miami –Dade County General Aviation Airports,
 - 2.2.1. Telephone Assistance. Licensor shall maintain a telephone hotline that allows up to three (3) persons designated by Customer to seek technical or operation assistance in use of the Licensed Program.
 - 2.2.2. Software Maintenance. Customer shall report to Licensor in a written notice Errors for which it desires Licensor to provide an Error Correction. Licensor shall, within eight (8) hours of verifying that an Error is present, initiate work in a diligent manner toward development of an Error Correction. Licensor shall be responsible for using reasonable diligence to correct verifiable and reproducible Errors when reported by Customer to Licensor. Following completion of the Error Correction, Licensor shall provide the Error Correction through a "temporary fix" consisting of sufficient programming and operating instructions to implement the Error Correction. Licensor shall include the Error Correction in all subsequent Releases of the Licensed Program. Licensor shall not be responsible for correcting Errors in any version of the Licensed Program other than the most recent Release of the Licensed Program, provided that Licensor shall continue to support prior Releases superseded by recent releases for a reasonable period sufficient to allow Customer to implement the newest Release, not to exceed one hundred and eighty (180) days. Licensor needs to maintain a test environment where MDAD's production environment can be duplicated so long as MDAD is running a version of the software that is supported by Licensor.
 - 2.2.3. Customer Training. Direct training on the configuration, operation and use of the licensed system is not included in the Support and Maintenance Agreement. Technical assistance on configuration or data issues will be provided, with the assumption that the customer representative requesting assistance has basic competency in the area where

assistance is required. Customer on-site training is available from Licensor's consulting staff. Training costs are billed on a time and materials basis as described in Appendix B.

- 2.2.4. Customer-Requested Enhancements. Customer requests for enhancements to the Licensed Program will be reviewed by Licensor and disposed of in one of the following ways: (1) Accepted for development and inclusion in a future release at no direct cost. (2) Offered to the Customer as a "Customization", with source code and support through the current major release version only. The "Customized" Enhancement is offered at Licensor's then-published rates. (3) Rejected, with explanation and offers of alternatives.
- 2.2.5. Major Enhancements – New Modules. Licensor may, from time to time, offer major Enhancements in the form of new modules to its customers generally. Such Enhancements will be offered at Licensor's then published rates for an additional license fee.
- 2.2.6. Major Enhancements – Technology Changes. Licensor may, from time to time, offer major Enhancements that involve technology changes to its customers generally. Such Enhancements and training, if necessary, will be included in a New Release for no additional fee. Installation, configuration, documentation and implementation of third party products that may be required to put the new technology into production are not included in this Agreement. Licensor will provide support on install scripts and error correction on installation instructions created by Licensor, and reasonable support on interpretation of installation instructions based on the assumption that the installer is properly qualified to perform the install tasks. New Technology changes may include the use of "Open Source Software", and Licensor may provide Open Source Software and instructions for its installation and use, subject to additional licensing requirements that will be made known to Customer. The direct support of Open Source Software under this agreement is limited to code modifications and additions created by Licensor.

2.3. New Releases. Licensor may, from time to time, issue new Releases of the Licensed Program to its customers generally, containing Error Corrections, minor Enhancements, and, in certain instances if Licensor so elects, major Enhancements. Licensor shall provide Customer with electronic access to each new Release. Each New Release is delivered with a "Release Notes" document. The document provides full instructions for a new installation and how to upgrade from the previous version. The installation or upgrade may require installation and/or reconfiguration of third party products, including hardware, software and network communications items. Licensor will provide explanation and interpretation of the Release Notes, however, work to install, upgrade, maintain or configure third party products is not included in this Support and Maintenance Agreement. Licensor does offer consulting and implementation services, at the published rates, to provide installation of third party products subject to a separate, agreed scope of work.

2.4. Upgrade Assistance. Licensor shall provide reasonable assistance to help Customer install and operate each New Release of the Licensor products covered by this agreement, provided that such assistance, if required to be provided at Customer's facility, require system configuration changes or data manipulation to accommodate Customer's changed requirements or customizations, shall be subject to the supplemental charges set forth in Appendix B attached hereto.

3. Customer Duties

3. For the purposes of this Agreement, the following Customer Duties shall apply to the respective capitalized terms.

3.1. Customer shall pay Licensor its fees and charges based on the rate schedule set forth in Appendix B attached hereto.

3.2. Customer shall reimburse Licensor for any out-of-pocket expenses incurred by Licensor in rendering services to Customer more than fifty (50) miles from one of Licensor's locations under this Agreement, including travel to and from the Customer site, lodging, meals, telephone and shipping, as may be necessary in connection with duties performed under this Agreement by Licensor.

3.3. Customer shall pay to Licensor the annual maintenance fee designated in Appendix B.

3.4. Customer shall be responsible for procuring, installing, and maintaining all equipment, telephone lines, communications interfaces, and other hardware necessary to obtain from Licensor the services called for by this Agreement.

3.5. Customer shall provide Licensor with database dumps, as requested, and with sufficient support and test time on the Customer's computer system to duplicate the error, certify that the error is with the Licensed Program, and certify that the error has been corrected.

4. Software Support Description

1. Problems will be reported to the MDAD Help Desk (305-869-5900) so that they can contact the appropriate MDAD on-call staff.

2. If the MDAD on-call staff cannot resolve the problem, they will contact the Licensor AOIS Help Desk (1-407-370-8974).
3. If the on-call Licensor AOIS staff cannot assist MDAD in resolving the problem, the issue will be escalated to the 8am to 7pm Licensor PROPworks help desk. MDAD does not expect the PROPworks support staff to be available before 8am but if the problem is a critical software issue (i.e. system down or major functionality not available), MDAD expects the PROPworks support staff to work beyond their scheduled hours if needed.

5. Site Change Management Process

- a. The Licensor Customer Support group shall coordinate with MDAD staff to perform planned "Live Site" upgrades and updates.
- b. System and User Application Changes – The definition of System upgrades/updates is any platform change that has the potential of affecting the operation of the entire system or all participating users.
- c. County / Properties, Finance, Airside, Risk Management, ISD, Technical Support Approval Required, to be coordinated by ISD – of additions or modification to the System including end-user devices.
- d. The Licensor will receive change requests only from the MDAD Project Manager, who will represent various MDAD entities (e.g., Properties, Finance, ISD, Technical Support, Airside, Risk Management etc.). Upon receipt, the Licensor shall present the request to, and consult with County regarding any required County approval, testing and update/upgrade scheduling. Change requests may also be the result of platform updates or bug fixes identified internally within the Licensor's organization.
- e. The Licensor will continue to send the Propworks newsletter documenting all updates/fixes, patches, and versions that have been tested and certified and are available for deployment. The newsletter will also contain software version release expirations, Propworks User Conference and other relevant Propworks user information.
- f. Change Category – A determination of whether the change request has the potential of affecting the successful operation of the entire system or a routine update/upgrade for an individual Application or configuration. If a change request identified by Licensor as routine update/upgrade ends up affecting the successful operation of the system, MDAD will require additional Licensor support as needed until the system functionality is restored.
- g. Lab Test and Risk Analyst – All change requests will be first performed on the Licensor or MIA Support (Test) system to verify the operational status, assess the potential risk to the system and develop install/upgrade procedures. If the change test and verification process is not successful the requester will be notified of the rejection and must correct the issue and resubmit the request.
- h. User Application Change Request – Upon successful internal testing and verification, the change will be scheduled. The Licensor shall coordinate with MDAD staff and if applicable there on-site service personnel for updates and testing. The Licensor shall generate and provide a written procedure, which will instruct staff on performing the necessary change/update (e.g., Peripheral Firmware Upgrades).
- i. Installation and Activation – The assigned Customer Support Engineer shall be available to assist MDAD staff in the installation and activation of the change request. All change procedures shall include the requirement for saving the previously functioning application/configuration backup information in the event a "Fallback" is required.
- j. Site Documentation – The Licensor shall maintain a record (CSR) of all changes and approvals.
- k. Licensor shall assist MDAD staff in conducting load/stress tests as required by projects and tasks prior to rollout's of certain aspects specifically needed as we deploy new modules; new functionality, changes to business processes; or when we deploy project related devices.

6. Hardware Implementation Assistance and Maintenance

- a. There is currently no hardware in this contract, but should there be a need over the contracts period the following would apply:
 1. Quantities in this contract for extended warranty and maintenance are estimates based upon current contractual installation requirements

2. The contractor shall maintain maintenance records that can be reviewed by the County upon request that shows equipment location, in-service dates, remaining warranty and status.
3. The contractor shall provide expert off-site software system support including on-site first level software support for hardware repair and PROPworks system maintenance.

7. Working with MDAD Departments

- a. The Licensor shall work with designated Airport Staff on various levels of support, including working to resolve Help Desk Tickets.

8. Fault Reporting

MDAD Help Desk (NOC- Network Operations Center) will log and be able produce a number of pre-defined call activity reports, such as:

- a. Number of calls in reporting period
- b. Calculation of Service Level Compliance
- c. Number of Faults by User
- d. Fault and resolution details including temporary work around and final resolution.
- e. Detail of Host, Communications or other 3rd party problems
- f. Mean Time To Repair (MTTR)
- g. Mean Time Between Failures (MTBF)
- h. Repetitive calls by Module; Device; or User.

9. Termination Assistance

- a. If Contract or any maintenance portion thereof, including support of 3rd party Software or Hardware is terminated for any reason, the Licensor shall provide the County with all necessary assistance to allow the Services to continue without interruption or adverse effect on the County, Tenants, Airlines, and to facilitate the orderly transition of Services to the County or its designee.

10. Software Extended Warranty

- a. Software Extended Warranties. The warranty includes software updates to repair faults and upgrades to comply with publisher's new releases.
- b. If faulty software cannot be corrected, the Licensor shall propose a substitute of equal or better capability, functionality and user interface. The Customer will test and accept the substitute.

Appendix B – Payment Schedule

APPENDIX B – PAYMENT SCHEDULE**A. License Fees for the Term**

Software Description	Maintenance Term	Fees
Annual Propworks application license fee, Maintenance and Support	2021	\$62,855.44
Annual PROPworks application license fee, Maintenance and Support	2022	\$110,603.91
Annual PROPworks application license fee, Maintenance and Support	2023	\$113,922.03
Annual PROPworks application license fee, Maintenance and Support	2024	\$117,339.69
Annual PROPworks application license fee, Maintenance and Support	2025	\$120,859.88
Annual PROPworks application license fee, Maintenance and Support	2026	\$124,485.68
TOTAL CONTRACT VALUE		\$650,066.63

Covered Programs		
Core Modules	Optional Modules available through Software Modifications	Third Party Products
Company/Contract Module Agreement Module Billing and Invoicing Module Sales Management Module	Space Management Module (Non-Graphic) Aeronautical Statistics Module Tenant Alterations Tracking Module Utility Management Module Carrier Activity Tracking Module Cashier Module Risk Management Module Custom Reports	BI Plus

B. Labor Rates

The following Labor Rates apply to Customer Training and Upgrade Assistance

Labor Rates	Hourly Rates	Daily Rates
PROPworks Project / Program / Solution Manager / Consulting / Manager	\$185	\$1,480
PROPworks Project / Program Manager / Director of Consulting	\$210	\$1,680