

Memorandum



Date: October 6, 2022

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

Agenda Item No. 8(F)(6)

From: Daniella Levine Cava
Mayor

Resolution No. R-921-22

Subject: Recommendation for Approval to Award a Designated Purchase Contract: Stair Trucks at MIA

Summary

This item is for the award of a five-year contract for the purchase of stair trucks, consisting of truck/chassis and airstair units, and related services for Miami-Dade Aviation Department (Aviation). Aviation will purchase two trucks with airstair units, transportation and offloading of the trucks, assembly of stair trucks, and on-site commissioning and training services. This purchase is necessary to comply with the United States Department of Transportation (USDOT)/Federal Aviation Administration (FAA) mandate and to meet the Federal American with Disabilities Act (ADA) requirements. Competition for these stair trucks is not practicable at this time because no other vendors were identified that could provide these stair trucks. Additionally, the recommended vendor does not have dealers or distributors for this acquisition to be competitive, as such it will be a Designated Purchase.

Recommendation

It is recommended that the Board of County Commissioners approve this request for award of Designated Purchase Contract No. BW-10193, *Stair Trucks at MIA*, to ACCESSAIR Systems, Inc. (Accessair) for the Miami-Dade Aviation Department (Aviation) for a five-year term in the amount of \$763,106. Approval of a designated purchase is requested, pursuant to Section 2-8.1(b)(3) of the Miami-Dade County Code, by a two-thirds vote of the Board members present, to authorize award of a contract for stair trucks at Miami International Airport (MIA). There is no existing or previous County contract for this purchase. The Small Business Enterprise (SBE) contract measures and Local Preference do not apply as this is a designated purchase contract award. There is one SBE certified firm under the commodity code assigned to this project.

Background

To comply with USDOT/ FAA mandates and meet Federal ADA requirements, Aviation needs to purchase one ADA compliant stair truck with an integrated wheelchair lift that has a completely enclosed see-through polycarbonate tinted weather canopy for its airside operations. Aviation also needs to purchase one stair truck that is completely open enabling rapid access to the aircraft as it will be used for situations such as emergency evacuations, medical diversions, air rage, police interventions and aircraft fires for its fire rescue operations. This turnkey purchase includes two trucks/chassis with two complete airstair units, transportation of trucks/chassis and airstair units to MIA and offloading, assembly of stair trucks at MIA, and commissioning and training on site.

The Internal Services Department issued a Request for Information (RFI) to potential vendors able to provide similar products to ascertain if competition was available. There were 7736 vendors invited through BidSync, of which 38 viewed the RFI. Email blasts were sent to over 100 national vendors/manufacturers identified through market research notifying them of the RFI advertising. No vendors responded to the RFI.

Accordingly, it is in the County's best interest to award this designated purchase contract pursuant to Section 2-8.1(b)(3) of the County Code for the purchase of the required stair trucks.

Scope

The scope of this item is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact for the five-year term is \$763,106.

Department	Allocation	Funding Source	Contract Manager
Aviation	\$763,106	Proprietary Revenue	Sylvia Novela
Total:	\$763,106		

Track Record/Monitor

Natalya Vasilyeva 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, renewal or extension provisions, pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38.

Vendor Recommended for Award

Pursuant to Resolution No. R-477-18, the vendor is recommended for award in accordance with established procedures and is non-local. The lack of local vendor participation is attributable to no vendors being capable of providing these items.

Vendor	Principal Address	Local Address*	Number of Employee Residents	Principal
			1) Miami-Dade 2) Percentage*	
ACCESSAIR Systems, Inc.	1905, Rue Pasteur Sainte-Catherine Canada	None	0	Guy Dostie
			0%	

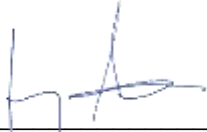
*Provided pursuant to Resolution No. R-1011-15. Percentage of employee residents is the percentage of vendor's employees who reside in Miami-Dade County as compared to the vendor's total workforce.

Due Diligence

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

Applicable Ordinances and Contract Measures

- The two percent User Access Program provision does not apply.
- The Small Business Enterprise contract measures and Local Preference do not apply as this is a designated purchase contract award.
- The Living Wage does not apply as the services to be procured are not covered under the Ordinance.

A handwritten signature in blue ink, appearing to read 'Jimmy Morales', is written over a horizontal line.

Jimmy Morales
Chief Operations Officer



MEMORANDUM

(Revised)

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

DATE: October 6, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(F)(6)

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)(6)
10-6-22

RESOLUTION NO. _____ R-921-22

RESOLUTION AUTHORIZING DESIGNATED PURCHASE PURSUANT TO SECTION 2-8.1(B)(3) OF THE COUNTY CODE BY A TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT; AUTHORIZING AWARD OF CONTRACT NO. BW-10193 FOR THE PURCHASE OF STAIR TRUCKS AT MIA TO ACCESSAIR SYSTEMS, INC. IN AN AMOUNT NOT TO EXCEED \$763,106.00 FOR A FIVE-YEAR TERM FOR THE MIAMI-DADE AVIATION DEPARTMENT; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY RENEWAL, 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:

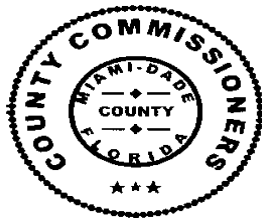
Section 1. This Board finds it is in the best interest of Miami-Dade County to award Contract No. BW-10193 as a designated purchase, in substantially the form attached and made a part hereof, for the purchase of Stair Trucks at MIA to ACCESSAIR Systems, Inc. in an amount not to exceed \$763,106.00 for a five-year term for the Miami-Dade Aviation Department, pursuant to section 2-8.1(b)(3) of the Code of Miami-Dade County, by a two-thirds vote of the Board members present.

Section 2. This Board authorizes the County Mayor or County Mayor's designee to exercise all provisions of the contract, including any renewal, 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 **Sally A. Heyman** 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	absent		
Sen. René García	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	absent	Kionne L. McGhee	aye
Jean Monestime	aye	Raquel A. Regalado	aye
Rebeca Sosa	aye	Sen. Javier D. Souto	aye

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of October, 2022. 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

Basia Pruna

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in black ink, appearing to be "Eduardo W. Gonzalez".

Eduardo W. Gonzalez

Stair Trucks at MIA
Agreement No. BW-10193

THIS AGREEMENT made and entered into as of this _____ day of _____ (Effective Date) by and between ACCESSAIR Systems Inc., a Quebec Canada corporation, having its principal office at 1905, Rue Pasteur Sainte-Catherine, QC J5C 1B7, Canada (the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 NW 1st Street, Miami, Florida 33128 (the "County") (collectively, the "Parties").

WITNESSETH:

WHEREAS, the Contractor has offered to provide stair trucks at the Miami-International Airport (MIA), on a non-exclusive basis, that shall conform to the **Scope of Services (Appendix A)**, and the requirements of this Agreement; and

WHEREAS, the County desires to procure from the Contractor such stair trucks for the County, in accordance with the terms and conditions of this Agreement;

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

ARTICLE 1. **DEFINITIONS**

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

- a) The words "**Agreement**" or "**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.
- b) The words "**Article**" or "**Articles**" to mean the terms and conditions delineated in this Agreement.
- 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 "**Contractor**" or "**ACCESSAIR**" to mean ACCESSAIR Systems Inc. and its permitted successors.
- e) The word "**Days**" to mean calendar days.
- f) 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.
- g) The words "**Department**" or "**MDAD**" shall mean the Miami-Dade Aviation Department. Wherein in this Solicitation document, rights are reserved to the County, MDAD may exercise such rights.
- h)
- i) The words "**Developed Works**" to mean all rights, title, and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its Subcontractors specifically for the County.
- j) The words "**Effective Date**" to mean the date entered on the Recitals of this Agreement.
- k) The words words "**General Allowance Account**" to mean an account in which the stated dollar amount is included in this Agreement, per Appendix B - Price Schedule, for the purpose of funding unforeseen conditions including, but not limited to, additional services, maintenance, parts purchases, and future training, which shall be authorized by purchase order prior to the commencement of the Work.
- l) The words "**Licensed Software**" to mean the software component(s) provided pursuant to the Contract.

- m) The words **"Project Manager"** to mean the County Mayor or the duly authorized representative designated to manage the Project.
- n) The words **"Scope of Services"** to mean the document appended hereto as Appendix A, which details the Services to be performed by the Contractor.
- o) The words **"Service"**, **"Services"**, or **"Work"** to mean the provision of stair trucks in accordance with the Scope of Services and all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.
- p) The word **"Subcontractor"** or **"Subconsultant"** to mean any person, entity, firm, or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.

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 50, 2) Appendix A – Scope of Services, and 3) Appendix B – Price Schedule.

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. **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.

ARTICLE 6. **NOTICE REQUIREMENTS**

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

(1) **To the County**

- a) to the Project Manager:

Miami-Dade County
Aviation Department
Attention: Fred Herbert

Phone: (305) 876-7542
E-mail: fhherbert@flymia.com

and

- b) to the Contract Manager: Namita Uppal

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 Contractor**

ACCESSAIR Systems Inc.
1905, Rue Pasteur Sainte-Catherine
QC J5C 1B7, Canada

Attention: Max DelPinto
Phone: 514-220-6485
E-mail: mdelpinto@accessairsystems.com

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

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

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

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

ARTICLE 8. PRICING

Prices shall remain firm and fixed for the term of the Contract, including any extension periods, pursuant to Appendix B; however, the Contractor may offer incentive discounts to the County at any time during the Contract term, including any extension thereof. The Contractor agrees that the prices, as detailed in the **Appendix B - Price Schedule**, includes:

- A. Contractor's overhead and profit;
- B. all salaries, labor, overtime, insurance, benefits, living allowances, telephone cost (land/cell), computers, and printers;
- C. travel to and from the job site(s), air, hotel, cost of logistics, shipping, tools, and any expense associated with unplanned/emergency on-site visits by the Contractor or third party factory technicians to resolve issues;
- D. applicable Canadian brokerage fees, duties, taxes and customs clearance;
- E. running test equipment;
- F. all software and systems support, and warranties
- G. all Subcontractor and vendor costs; and
- H. any other or additional cost associated with performing the Scope of Services.

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The County will pay the Contractor's prices quoted in the **Appendix B - Price Schedule** upon inspection, completion, approval and final acceptance of the stair trucks by MDAD. Supporting documentation will be required for inspection's final acceptance.

The Contractor may bill the County upon invoices certified by the Contractor pursuant to **Appendix B – Price Schedule**. All invoices shall be taken from the books of account kept by the Contractor, shall be supported by copies of payroll distribution, receipt bills or other documents reasonably required by the County, shall show the County's contract number, and shall have a unique invoice number assigned by the Contractor. It is the policy of Miami-Dade County that payment for all purchases by County agencies and the Public Health Trust (the "Trust"), shall be made in a timely manner and that interest payments be made on late payments. All firms, including Small Business Enterprises, providing goods and services to the County, shall receive payment to maintain sufficient cash flow. In accordance with Section 218.74 of the Florida Statutes, and Section 2-8.1.4 of the Code of Miami-Dade County (the "Code"), the time at which payment shall be due from the County or Trust shall be forty-five (45) 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 and 2-8.1.1.1.2 of the Code. All payments due from the County or Trust, and not made within the time specified by this section shall bear

interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. Further, proceedings to resolve disputes for payment of obligations shall be concluded by final written decision of the County Mayor, or his or her designee(s), not later than sixty (60) days after the date on which the proper invoice was received by the County or Trust.

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

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

Miami-Dade County Aviation Department
PO Box 526624
Miami, FL 33152-6624
Attention: Accounts Payable
OR
Email to: payables@miami-airport.com

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

ARTICLE 10. **DELIVERY**

The stair trucks to be provided shall be delivered to the County, and maintained if applicable to the contract, in full compliance with Scope of Services set forth in this Contract. The Contractor shall furnish and make fully operational the stair trucks within 60 calendar days from reception of the chassis at MIA. Both stair trucks do not have to be delivered at one time. MDAD will accept staggered delivery per a mutually agreed upon schedule; however, all must be delivered within the required timeframe as stipulated on the purchase order.

ARTICLE 11.

All deliveries shall be made in accordance with good commercial practice and all required delivery timeframes shall be adhered to by the Contractor; except in such cases where the delivery will be delayed due to acts of nature, strikes, or other causes beyond the control of the vendor. In these cases, the Contractor shall notify MDAD of the delays in advance of the original delivery date so that a revised delivery schedule can be appropriately considered by MDAD.

ARTICLE 12. **ACCEPTANCE**

The stair truck(s) will be accepted and dated by MDAD when all requirements and conditions stated in this Contract have been met, including correcting deficiencies and providing required documentation. Thereafter, if the stair truck(s) is determined to not meet the Scope of Services stipulated in this Contract, either prior to acceptance or upon initial inspection, the stair truck(s) will be returned to the Contractor at their expense. At the County's sole option, the County will notify the Contractor to provide a replacement for the stair truck(s). The Contractor shall not assess any additional charge(s) for any conforming action taken by the County under this clause.

ARTICLE 13. **INDEMNIFICATION**

The Contractor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Contractor or its employees, agents, servants, partners principals or Subcontractors. The Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon.

The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by

the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents, and instrumentalities as herein provided.

ARTICLE 14. **INSURANCE**

Upon County's notification, the Contractor 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 \$5,000,000 per occurrence, and \$5,000,000 in the aggregate, not to exclude Products and Completed Operations. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
3. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Work, in an amount not less than \$1,000,000* combined single limit per occurrence for bodily injury and property damage.

***Under no circumstances are Contractors permitted on the Aviation Department, Aircraft Operating Airside (A.O.A) at Miami International Airport without increasing automobile coverage to \$5 million. Only vehicles owned or leased by a company will be authorized. Vehicles owned by individuals will not be authorized. \$1 million limit applies at all other airports.**

*** *Excess/Umbrella Liability may be used to supplement minimum liability coverage requirements.
Follow form basis is required if providing Excess Liability.***

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.

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 Contractor shall have an additional five business days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within fifteen (15) business days, the Contractor shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such timeframe for submission has been extended by the County.

The Contractor shall assure that the 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 Contractor 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 Contractor shall be responsible for all direct and indirect costs associated with such termination.

ARTICLE 15. MANNER OF PERFORMANCE

- a) The Contractor shall provide the Work described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Work described herein and to full and prompt cooperation by the Contractor in all aspects of the Work. At the request of the County, the Contractor shall promptly remove from the Project any Contractor's employee, Subcontractor, or any other person performing Work hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.
- b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for 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 Contractor's personnel performing Services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and/or demotion of such Contractor's personnel.
- c) The Contractor 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. The Contractor agrees to adjust its personnel staffing levels or to replace any its personnel if so, directed upon reasonable request from the County, should the County make a determination, in its sole discretion, that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.
- d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character, and licenses as necessary to perform the Work described herein, in a competent and professional manner.
- e) The Contractor shall 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 Contractor shall comply with all provisions of all federal, state, and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

ARTICLE 16. PERSONNEL

- a) All employees of the Contractor shall be considered to be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County.
- b) The Contractor shall provide competent, knowledgeable, fully trained staff to perform work on this Agreement.
- c) Contractor's on-site employees and subcontractors whose full salary is paid under this Agreement, are not permitted to work on projects outside the Services as outlined in this Agreement, shall be dedicated solely to the fulfillment of the Contractor's obligations under this Agreement, and shall not engage in any type of activity to entities other than MDAD and the customers of the Department during said working hours under this Agreement.
- d) Contractor will abide by all Federal, State and Local regulations on wages and hours of an employee dealing with the employment relationship between Contractor and its employees, including but not limited to the Florida Human Relations Act, the Federal National Labor Relations Act, the Federal Fair Labor Standards Act, the Federal Civil Rights Act of 1964 as amended, and the Americans with Disabilities Act.

- e) The Contractor acknowledges and agrees that the Contractor, its Subcontractors, and all personnel are subject to all Federal, State, and Local laws.
- f) All Contractor personnel shall pass all required courses to secure a valid MDAD ID badge.
 - a. **Identification Badges for Restricted Areas:** The Contractor shall be responsible for requesting the Department to issue identification badges to all employees and other personnel under its control who require access to restricted areas on the Airport as a part of their regularly assigned duties, and shall return the identification badges of all personnel transferred or terminated from the employee of the Contractor of Airport assignment and upon termination of this Agreement. The Contractor shall promptly report to the Department the names of all persons who were employed by the Contractor from whom they were unable to obtain the return of Department issued identification badges. In the event that an identification badge is not returned because of a failure by the Contractor, the Contractor shall pay, from its own funds, the Department's established charge for lost or stolen identification badges. The Department shall have the right to require the Contractor to conduct background investigations, criminal history checks and to furnish certain data on such employees before the issuance of such identification badges, to include the fingerprinting of employee applications for such badges.
- g) The Contractor's personnel shall be instructed that no gratuities shall be solicited or accepted for any reason whatsoever from the tenant, customers or other persons at MIA. The Contractor shall be responsible for ensuring that all articles found by its employees on MDAD's premises are turned over to MDAD or MDAD's designated agent in charge of such articles.
- h) A valid Florida Driver's License (Commercial Drive License, if applicable) will be required of all personnel operating motor vehicles or motorized equipment on roadways in or around MIA. Each of the Contractor's motor vehicles brought onto the County's premises shall have the Contractor's business name and/or logo prominently displayed on both front doors of such vehicle. The Contractor shall maintain all required AOA access and insurance to date for all employees and vehicles.
- i) While working on airport property, all Contractor's personnel shall wear neat-appearing uniforms with the company name and/or logo and footwear of a style that complies with all legal and safety requirements, including and without limitation, the requirements of OSHA.
- j) The Contractor agrees to replace any of its personnel or subcontractors if so directed by the County, should the County make a determination, in its sole discretion that said individual is not performing in a manner consistent with the requirements of such a position or if whose continued employment on County property is not in the best interest of the County. Contractor shall replace such personnel with employees satisfactory to the County.
- k) If a Contractor's employee's license or certification that has been issued by the Contractor, or other licensing body, which is required in order to perform his or her duties under this Agreement, is revoked, suspended, the employee shall be subject to immediate removal, and another employee with the required license or certification shall be tendered for MDAD approval.
- l) The Contractor shall require that any employee performing Work for the Contractor under this Agreement who is arrested on-duty or off-duty shall within a reasonable amount of time, not to exceed three (3) Days, notify the Contractor, who will immediately notify the Project Manager.
- m) Except as may be required by law, the Contractor and its employees, agents, Subcontractors and suppliers shall not represent, directly or indirectly, that any product or Service provided by the Contractor or such other parties, has been approved or endorsed by the County.
- n) In the event the Contractor needs to substitute personnel, 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 17. **INDEPENDENT CONTRACTOR RELATIONSHIP**

The Contractor 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 pursuant to this Agreement shall always, and in all places, be subject to the Contractor's sole direction, supervision, and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the Work, and in all respects the Contractor's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees and agents of the County.

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

ARTICLE 18. DISPUTE RESOLUTION PROCEDURE

- a) The Contractor 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 Contractor shall be bound by all determinations or orders and shall promptly comply with every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. **Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.**
- 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 Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Mayor participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the County Mayor for a decision, together with all evidence and other pertinent information 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 Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.
- f) This Article will survive the termination or expiration of this Agreement.

ARTICLE 19. 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 Contractor, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for such defense or settlement costs from the Contractor.

ARTICLE 20. **QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING**

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

ARTICLE 21. **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 Contractor's books, documents, papers and records and of its Subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

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

ARTICLE 22. **CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT**

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

ARTICLE 23. **SUBCONTRACTUAL RELATIONS**

- a) If the Contractor causes any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts, omissions, and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.
- b) The Contractor, before making any subcontract for any portion of the Work, will state in writing to the County the name of the proposed Subcontractor, the portion of the Work which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the County.
- c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Work to be performed. Such Work performed by such Subcontractor will strictly comply with the requirements of this Contract.
- d) In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Work in a satisfactory manner. To be considered skilled and

experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed Work of the same general type which is required to be performed under this Agreement.

- e) The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the Subcontractor will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's and County's proprietary and confidential information. Contractor shall furnish to the County copies of all subcontracts between Contractor and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County in the event the County finds the Contractor in breach of this Contract, permitting the County to request completion by the Subcontractor of its performance obligations under the subcontract. The clause shall include an option for the County to pay the Subcontractor directly for the performance by such Subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any Subcontractor hereunder as more fully described herein.

ARTICLE 24. **ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS**

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

ARTICLE 25. **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 26. **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 Contractor commits an Event of Default (as defined below in Article 24) and fails to cure said Event of Default (as delineated below in Article 24), or (ii) Contractor 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 23(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 Contractors attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material misstatement, the Contractor may be debarred from County contracting in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the Code.
- e) In the event that the County exercises its right to terminate this Agreement, the Contractor shall, upon receipt of such notice, unless otherwise directed by the County:
 - i. stop Work on the date specified in the notice (the "Effective Termination Date");
 - ii. take such action as may be necessary for the protection and preservation of the County's materials and property;
 - iii. cancel orders;

- iv. assign to the County and deliver to any location designated by the County any non-cancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services;
 - v. take no action which will increase the amounts payable by the County under this Agreement; and
 - vi. reimburse the County a proration of the fees paid per the compensation listed in Appendix B.
- f) In the event that the County exercises its right to terminate this Agreement, the Contractor will be compensated as stated in the payment Articles herein for the:
- i. portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and
 - ii. non-cancelable Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement, but not incorporated in the Services.
- g) All compensation pursuant to this Article are subject to audit.
- h) In the event the Contractor fails to cure an Event of Default timely, the County may terminate this Agreement, and the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports, and data.

ARTICLE 27. DEFAULT

- A. Without limiting the generality of the foregoing, and in addition to those instances referred to herein as a breach, an Event of Default shall include the following:
- 1. The Contractor has not delivered Deliverables on a timely basis;
 - 2. The Contractor has refused or failed to supply enough properly skilled personnel;
 - 3. The Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;
 - 4. The Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
 - 5. The Contractor has failed to obtain the approval of the County where required by this Agreement;
 - 6. The Contractor has failed to provide "adequate assurances" as required under subsection b below;
 - 7. The Contractor has failed in the representation of any warranties stated herein.
- B. Assurance on Contractor's Ability to Perform
- When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the County may request that the Contractor, within the timeframe set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with the terms of this Agreement.
- 1. In the event the County shall terminate this Agreement for default, the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.
- C. Notice of Default – Opportunity to Cure

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

D. Remedies in the Event of Default

1. If an Event of Default occurs, the Contractor shall be liable for all damages resulting from the default, including but not limited to:
 - i. 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
 - ii. such other direct damages.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default, "except as follows. In no event, shall the Contractor 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 Contractor 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 Contractor under this Agreement." The County may also bring any suit or proceeding for specific performance or for an injunction

ARTICLE 28. **WORKSITE**

1. **Cleaning of worksite(s)**: Contractor, at its expense, shall remove or cause to be removed from the worksites and properly dispose of in MDAD provided containers, all trash and refuse of any nature whatsoever which might accumulate and arise from the operations hereunder. If the Contractor enters into agreements for the janitorial and trash removal service within MIA, such service providers must have permits issued by MDAD to do business at MIA. Trash shall not be stored in any area visible to the public nor cause a private or public hazard through its means of storage. All edible items must be contained so as to minimize exposure to pests. If the respective locations are not properly maintained and kept clean, in the opinion of the Department, Contractor will be so advised and shall take immediate corrective action, within twenty-four (24) hours upon written or verbal notice from MDAD.
2. **Repair of Damages**: Contractor shall repair all damages to the worksite(s) caused by Contractor, its employees, agents, independent contractors or patrons. The Department may, at its option, choose to do the work with its own forces or by contract or to require Contractor to perform or contract the work.
3. **Garbage and Trash Disposal**: Contractor shall remove from the worksite(s) all garbage, trash and refuse of any nature whatsoever which might accumulate and arise from any operations or performance of Services. Such garbage, trash refuse shall be stored and disposed of only in the manner approved by the Department.
4. **Equipment**: The County shall not be responsible for any damage to persons or property because of the use, misuse or failure of any equipment used by Contractor or by any of its employees, representatives, or subcontractors even though such equipment may be furnished, rented or loaned to Contractor by the County or its users or representatives.
5. **Safety Precautions**: The Contractor shall utilize maximum safety precautions. Tools and equipment will be in a good state of repair, safe to use, and be used in a manner in which they were intended. No materials or equipment will be left unattended at any time.

ARTICLE 29. FORCE MAJEURE

Performance by each party shall be pursued with commercially reasonable efforts in all requirements under this Agreement; however, except as otherwise expressly provided herein, neither party shall be liable to the other for any loss or damage for delay due to causes that (i) were beyond the reasonable control and (ii) were not caused by the negligence or lack of commercially reasonable efforts of the affected party or its subcontractors or suppliers. The parties agree that, provided the conditions stated in (i) and (ii) above apply, the following are causes or events of force majeure: acts of civil or military authority (including courts and regulatory agencies), acts of God (excluding normal or seasonal weather conditions), riot or insurrection, inability to obtain required permits or licenses, blockades, embargoes, sabotage, epidemics and unusually severe floods, or acts or decisions of the Federal Aviation Administration, the Department of Transportation, the Transportation Security Administration, or the Environmental Protection Agency. The party affected shall provide written notice to the other party indicating the nature, cause, date of commencement thereof, the anticipated extent of such delay and whether it is anticipated that any completion or delivery dates will be affected thereby, and shall exercise due diligence to mitigate the effect of the delay. The parties agree that the commercial impacts of COVID-19 are currently known to the parties, and that commercial impacts related to COVID-19 shall not constitute force majeure events.

In the event of any delay resulting from such causes, and provided the affected party has promptly notified the other and exercised commercially reasonable efforts as provided in subsection a) above the time for performance under this Agreement (including the payment of monies) shall be extended for a period of time reasonably necessary to overcome the effect of such delay.

ARTICLE 30. WARRANTY

The Contractor shall provide the County a warranty throughout the term of the Agreement and any extension exercised by the County, as further described below:

a) Type of Warranty Coverage Required

The Contractor shall warrant its Work against faulty labor for a minimum of 365 calendar days, and its products, equipment and/or defective material for a minimum period of one (1) year after the date of acceptance of the labor, products, materials and/or equipment by MDAD. This warranty requirement shall remain in force for the full period identified above; regardless of whether the Contractor is under contract with the County at the time of defect. Any payment by the County on behalf of the goods or services received from the Contractor does not constitute a waiver of these warranty provisions.

Warranty of equipment supplied by the Contractor, but not manufactured by the Contractor will have the standard warranty furnished by manufacturer identified on the name plate.

b) International Manufacturer's Standard Warranty

The International chassis shall be warrantied at a minimum, as follows:

- Base Coverage - 36 months or 36,000 miles
- Engine Coverage(Unlimited Hours) - International® 6.6: 60 months or 100,000 miles
- Axle Coverage - Axles: 36 months or 36,000 miles
- Cab Structure/Corrosion - 60 months, unlimited mileage

c) Correcting Defects Covered Under Warranty

The Contractor shall be responsible for promptly correcting any deficiency, at no cost to the County, within thirty (30) calendar days after MDAD notifies the Contractor of such deficiency in writing. If the Contractor fails to honor the warranty and/or fails to correct or replace the defective work or items within the period specified, the County may, at its discretion, notify the Contractor, in writing, that the Contractor may be debarred as a County Contractor and/or subject to contractual default if the corrections or replacements are not completed to the satisfaction of the MDAD within thirty (30) calendar days of receipt of the notice. If the Contractor fails to satisfy the warranty within the period specified in the notice, the County may (a) place the Contractor in default of its contract, and/or (b) procure the products or services from another vendor and charge the Contractor for any additional costs that are incurred by the County for this work or items; either through a credit memorandum or through invoicing.

d) Correcting Repeat Failures Covered Under Warranty

If any warranty repair experiences a repeat failure within fifteen (15) calendar days following the repair due to faulty workmanship supplied by Contractor, it hereby understands and agrees that it will repair the failure and incur any and all costs associated with the repeat failure within two (2) business days after notification of the failure by MDAD.

ARTICLE 31. PATENT AND COPYRIGHT INDEMNIFICATION

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

ARTICLE 32. CONFIDENTIALITY

- a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its Subcontractors in the course of the performance of such Services, or the results of such Services, or for which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, Subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information and County financial information shall be considered Confidential Information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, Subcontractors, or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state, or local law in regard to the privacy of individuals.
- b) The Contractor shall advise each of its employees, agents, Subcontractors, and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or Subcontractor's or supplier's employees, present or former. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.
- c) In the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive

relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents, Subcontractors, or suppliers without the prior written consent of the County. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

ARTICLE 33. **PROPRIETARY INFORMATION**

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

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

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

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

ARTICLE 34. **PROPRIETARY RIGHTS**

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

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

ARTICLE 35. **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:

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. Miami-Dade County Ownership Disclosure Affidavit
(Section 2-8.1 of the Code of Miami-Dade County) 2. Miami-Dade County Employment Disclosure Affidavit
(Section 2-8.1(d)(2) of the Code of Miami-Dade County) 3. Miami-Dade County Employment Drug-free Workplace Certification
(Section 2-8.1.2(b) of the Code of Miami-Dade County) 4. Miami-Dade County Disability and Nondiscrimination Affidavit
(Section 2-8.1.5 of the Code of Miami-Dade County) 5. Miami-Dade County Debarment Disclosure Affidavit
(Section 10.38 of the Code of Miami-Dade County) 6. Miami-Dade County Vendor Obligation to County Affidavit
(Section 2-8.1 of the Code of Miami-Dade County) 7. Miami-Dade County Code of Business Ethics Affidavit
(Article I, Section 2-8.1(i) of the Code of Miami-Dade County) 8. Miami-Dade County Family Leave Affidavit
(Article V of Chapter 11 of the Code of Miami-Dade County) 9. Miami-Dade County Living Wage Affidavit
(Section 2-8.9 of the Code of Miami-Dade County) 10. Miami-Dade County Domestic Leave and Reporting Affidavit (Article VIII, Section 11A-60 - 11A-67 of the Code of Miami-Dade County) | <ol style="list-style-type: none"> 11. Miami-Dade County Verification of Employment Eligibility (E-Verify) Affidavit
(Section 448.095, of the Florida State Statutes) 12. Miami-Dade County Pay Parity Affidavit
(Resolution No. R-1072-17) 13. Miami-Dade County Suspected Workers' Compensation Fraud Affidavit
(Resolution No. R-919-18) 14. Office of the Inspector General
(Section 2-1076 of the Code of Miami-Dade County) 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-Dade County and Title 49 of the Code of Federal Regulations. 16. Antitrust Laws
By acceptance of any contract, the Contractor agrees to comply with all antitrust laws of the United States and the State of Florida. |
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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 36. **INSPECTOR GENERAL REVIEWS****Independent Private Sector Inspector General Reviews**

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

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. The cost of the audit for this Contract shall be one quarter of one percent (0.25%) of the total Contract amount which cost shall be included in the total Contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all Contract renewals and extensions.

Exception: The above application of one quarter of one percent (0.25%) fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the 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 Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the Contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful Subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 37. **FEDERAL, STATE, AND LOCAL COMPLIANCE REQUIREMENTS**

As applicable, Contractor 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 Contractor is certifying that the Contractor is in compliance with, and will continue to comply with, the provisions of items "f" through "k" above.

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

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

ARTICLE 38. **NONDISCRIMINATION**

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

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

ARTICLE 39. **CONFLICT OF INTEREST**

The Contractor represents that:

- a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment, or compensation, whether tangible or intangible, in connection with the award of this Agreement.
- b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent, or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:
- i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the Services, Deliverables or Work, to which this Agreement relates or in any portion of the revenues; or
 - ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any Subcontractor or supplier to the Contractor.
- c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an

interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.

- d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information and comply with the instructions Contractor receives from the Project Manager regarding remedying the situation.

ARTICLE 40. **PRESS RELEASE OR OTHER PUBLIC COMMUNICATION**

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

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

ARTICLE 41. **BANKRUPTCY**

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

ARTICLE 42. **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 43. **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 44. **LIENS**

The Contractor is prohibited from placing a lien on County property. This prohibition shall apply to all Subcontractors.

ARTICLE 45. FIRST SOURCE HIRING REFERRAL PROGRAM

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

ARTICLE 46. 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 47. VERIFICATION OF EMPLOYMENT ELIGIBILITY (E-VERIFY)

By entering into this Contract, the Contractor 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 Contractor 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 Contractor, the Contractor 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 48. SURVIVAL

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

ARTICLE 49. MIAMI-DADE COUNTY UNITED STATES SOCCER FEDERATION 2026 WORLD CUP

The terms of this agreement are subordinate to the terms of the Airport Agreement submitted by Miami-Dade County to the United States Soccer Federation on February 21, 2018. In carrying out its obligations under this Agreement, the Consultant shall not take or omit any

action which is inconsistent with, or in derogation of, the County's obligations under the Airport Agreement. Where the Consultant's rights or obligations under this Agreement are in conflict with the County's obligations under the Airport Agreement, and upon notice by the County to Consultant, the terms of this Agreement shall be deemed conformed to the County's obligations under the Airport Agreement. Where such conformance would cause a material change in this Agreement, Consultant shall have the right, upon written notice to the County within five (5) days of receipt of notice of such a conflict, to terminate this Agreement for convenience; in such termination, the Consultant shall have no cause of action for money damages of any kind, including but not limited to direct damages, unamortized costs or debt, stored or ordered materials, indirect damages, lost profits, loss of opportunity, loss of goodwill, or otherwise. In the event that the Agreement does not elect to terminate this Agreement within the time specified herein, this Agreement shall be deemed to have been amended via consent of the parties to conform its terms to the requirements of the Airport Agreement, but only to the extent needed to avoid conflict with same.

ARTICLE 50. FEDERAL AVIATION ADMINISTRATION (FAA) PROVISIONS

i) **Compliance with Nondiscrimination Requirements**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, Required Contract Provisions Issued on January 29, 2016 Page 19 AIP Grants and Obligated Sponsors Airports (ARP) unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.
7. During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:
 - Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);

- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
 - The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
 - Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
 - The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
 - Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
 - The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not);
 - Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
 - The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123 (prohibits discrimination on the basis of race, color, national origin, and sex);
 - Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
 - Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
 - Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).
- ii) All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.
- The [contractor | consultant] has full responsibility to monitor compliance to the referenced statute or regulation. The [contractor | consultant] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division
- iii) All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor’s compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

ARTICLE 51. **GENERAL ALLOWANCE ACCOUNT**

Pursuant to Section 2-8.1 of the Code, an allowance of ten percent (10%) of the project base amount, not exceeding \$68,853, may be used by the County for unforeseen conditions. Any General Allowance Account expenses shall be approved by the County in advance and authorized by a purchase order. Any portion of this sum for which payment is not authorized in writing by the Project Manager shall remain the property of the County. The unused monies in the General Allowance Account shall remain property of the County. When Service is to be performed under the General Allowance Account, if any, it shall be integrated into the Agreement as a part of the Agreement as awarded.

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IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the last date that the Agreement is executed below,

Contractor

Miami-Dade County

By:



Name:

GUY DOSTIE

Title:

PRESIDENT

Date:

MAY 24, 2022

Attest:

Corporate Secretary/Notary Public

By:

Name:

Daniella Levine Cava

Title:

Mayor

Date:

Attest:

Clerk of the Board

Corporate Seal/Notary Seal



Diane Pelletier

Approved as to form
and legal sufficiency

Assistant County Attorney

APPENDIX A – SCOPE OF SERVICES**1. Scope of Work**

ACCESSAIR shall furnish all labor, equipment, and materials to provide two (2) stair trucks which shall consist of the truck/chassis and the mounted airstair unit. ACCESSAIR will manufacture the stair trucks in accordance with the following specifications and applicable documents: North American International codes, SAE Standards for Airstairs, ASME, UL, and IATA. standards for Passenger Boarding Stairs No. AHM 910, AHM 913, AHM 915. ACCESSAIR shall meet all requirements stated herein without separate upgrades, options or retrofits, and provide a total stair truck product inclusive of the following:

A. Truck/Chassis: - 2022 International Model CV515 SFA Diesel Chassis or newer to support each Air Stair Unit APS60 and APS60FR including:

- GVWR 19,500 Lbs. Wheelbase 169", CA 84"
- Diesel motor in line 6.7-liter model OHV Power stroke V8
- Dual rear wheels
- Automatic transmission
- Hydraulic split disc/disc anti-lock braking system
- Power steering
- Gauges; tachometer, trip odometer, voltmeter, oil pressure, coolant
- Temperature and fuel gauge
- 40-gallon (151 liter) fuel tank
- Front multi-leaf springs
- Rear multi-leaf springs
- Steel full width bumper
- Front tow hooks
- Cab step running boards
- Black manual fold-away mirrors
- Dome light, sun visor, and auxiliary power point
- All position safety belts
- Vinyl bench seat and floor trim (40/20/40)
- Turning radius at approx. 7.4 meters
- Tires 225/70Rx 19.5G BSW AS (6)
- C-2 OCR regeneration Command
- Idle up function for PTO
- Color: Standard Oxford White

B. Complete Air Stair Unit APS60 for Airside Operations which includes and meets the following requirements:

- 1) Protective enclosure: A completely enclosed see-through weather canopy (tinted polycarbonate roof) at the aircraft fuselage and at the bottom of the stair unit for the bus (dual canopy).
- 2) Quick release hydraulic stabilizers: A minimum total of six (6) stabilizers to assure stability of truck at front, sides and rear.
- 3) ADA Compliant to include Wheelchair Lift: An integrated wheelchair lift that can open up inside the stair tunnel for ADA compliancy. This wheelchair lift system will enable the enplaning and deplaning of wheelchair passengers without having to use an additional vehicle or extra personnel.
- 4) Accommodates aircrafts from B737 (ADG Group II) to A380 (ADG Group VI) in size (lower deck only).
- 5) Fully-illuminated steps, side and surface illumination, flood light to illuminate front, side and back of vehicle as well as upper platform and beacon light.

- 6) Dimensions: Platform height at forward edge – Max: (Stair fully extended) 228 in (5.8 m); Min: (Stair fully retracted) 96 in (244 cm), Upper platform size (width x depth) 100 in W (254 cm) x 92 ¾ in D (235 cm); Step Width: 60 in (152 cm).

C. Complete Air Stair Unit APS60FR for Fire Rescue Operations which includes and meets the following requirements:

- 1) Ability to provide rapid access to aircraft and/or evacuations during emergency situations such as medical diversions, air rage, police interventions and aircraft fires.
- 2) Ability to pass the Tilt Table Testing with the FAA.
- 3) Quick release hydraulic stabilizers: A minimum total of six (6) stabilizers to assure stability of truck at front, sides and rear.
- 4) Accommodates aircrafts from B737 (ADG Group II) to A380 (ADG Group VI) in size (lower deck only).
- 5) Fully-illuminated steps, side and surface illumination, flood light to illuminate front, side and back of vehicle as well as upper platform and beacon light.
- 6) Dimensions: Platform height at forward edge – Max: (Stair fully extended) 228 in (5.8 m); Min: (Stair fully retracted) 96 in (244 cm), Upper platform size (width x depth) 120 in W (304.8 cm) x 92 ¾ in D (235 cm); Step Width: 60 in (152 cm).
- 7) Water hose system: A one (1) inch high pressure hose and reel, an auxiliary 1 -1/2 inch quick connect for high rise pack, a stainless-steel telescopic supply pipe with a watertight mechanical seal and a 2 1/2-inch fire truck connector.
- 8) Interlock system: A stabilizer interlock system that prevents the operator from movement during operation which assures the safety of the passengers, operator, and possible damage to the vehicle.
- 9) Quick Docking system - a telescopic platform with a lateral movement of 30.5 cm (12"). This allows operator to do horizontal adjustments of platform complete with an 8" swivel movement from side to side to compensate for operation misalignment. This system facilitates parking and saves precious time during emergency situations.

2. Transportation

ACCESSAIR shall be responsible for transportation of each truck/chassis to MIA, as well as transportation of each airstair unit to MIA and offloading unit.

3. Commissioning and Training at MIA

ACCESSAIR shall provide technical personnel for commissioning and training of County employees within ten (10) calendar days after the stair trucks are accepted by MDAD. ACCESSAIR shall provide a minimum of one, five-day training session for each stair truck at a location and time that will be determined by MDAD. Any associated costs including training materials, time, travel, lodging and meals are included in Appendix B – Price Schedule .

The training session(s) shall include:

A. Operations

- 1) Review pre-operation check.
- 2) View video on operations.
- 3) Review safety features.
- 4) Review planing and deplaning operation procedure with a simulation control panel.
- 5) Hands-on training session of all of the above (1 – 4).
- 6) Each person trained will receive back-up documents and a certificate of training completion.

B. Maintenance

- 1) Review complete operation program as described above, in A. Operations.
- 2) Review maintenance manual.
- 3) Review preventative maintenance program.
- 4) Review troubleshooting documents.
- 5) Review each component function and installation procedure.
- 6) Hands-on demo of operation and preventative maintenance.

C. For Fire Rescue

In addition to A and B above, ACCESSAIR will provide an in-person emergency training module complete with fire hoses and emergency procedures for the fire rescue equipment.

4. Equipment Shall Be Most Recent Model Available

ACCESSAIR shall provide equipment that is the most recent model available. Any optional components which are required in accordance with the requirements herein shall be considered standard equipment for this Contract. The equipment shall conform to all applicable federal (including OSHA), state, and local safety requirements. All components (whether primary or ancillary) of the equipment shall be in accordance with current Society of Automotive Engineering (SAE) standards and recommended practices, as applicable.

5. Schedule

ACCESSAIR shall provide a project schedule to MDAD for approval within ten (10) calendar days after purchase order which shall include mobilization, lead times, manufacturing/fabrication, inspections, installation, and testing.

6. Parts

ACCESSAIR shall guarantee availability of parts for ten (10) years and shall carry inventories of spare parts such as filters, gaskets, seals, belts, and washers.

7. Manuals

Upon delivery, ACCESSAIR shall provide one (1) operation and maintenance manual for each stair truck in hard copies and jump drives. Each manual shall contain chassis manual, hydraulic drawings, electrical drawings and specifications, illustrated parts list, operation, and maintenance segments.

APPENDIX B – PRICE SCHEDULE

Description	Price
STAIR TRUCK FOR AIRSIDE OPERATIONS CONSISTING OF: Complete APS60 Air Stair Unit with Dual Canopy 2022 International Model CV515 SFA Diesel Chassis or newer Transportation of Air Stair Unit to MIA and offload Assemble Air Stair Unit at MIA – Mount on Chassis Commissioning and Training at MIA Price is comprised of all costs including, but not limited to, all equipment, labor, materials, supplies, fuel and incidental expenses.	\$371,569
STAIR TRUCK FOR FIRE RESCUE OPERATIONS CONSISTING OF: Complete APS60FR Air Stair Unit 2022 International Model CV515 SFA Diesel Chassis or newer Transportation of Air Stair Unit to MIA and offload Assemble Air Stair Unit at MIA – Mount on Chassis Commissioning and Training at MIA Price is comprised of all costs including, but not limited to, all equipment, labor, materials, supplies, fuel and incidental expenses.	\$322,164
GENERAL ALLOWANCE ACCOUNT: For unforeseen contingencies at ten percent (10%) of the project base amount for the life of the contract.	\$69,373
GRAND TOTAL	\$763,106