

Date: May 16, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

Agenda Item No. 8(N)(1)

From: Daniella Levine Cava
Mayor

Resolution No. R-462-23

Subject: Contract Award Recommendation for a Professional Services Agreement for Construction, Engineering, and Inspection Services for the Dadeland South Intermodal Station to New Millennium Engineering, Inc. and Authorizing the Use of People's Transportation Plan Bond Program Funds for Such Purposes

Executive Summary

The purpose of this item is to gain approval from the Board of County Commissioners (Board) for award of a Professional Services Agreement (PSA) for Construction, Engineering, and Inspection (CEI) Services for the Dadeland South Intermodal Station to New Millennium Engineering, Inc. for a maximum compensation of \$3,551,593.10 for a term of two years and six months. The awardee shall provide contract administration, inspection and materials sampling and testing to support the Dadeland South Intermodal Project.

Recommendation

This item recommends a PSA for CEI Services – Contract No. CIP207-DTPW20-CEI and ISD Project No. E20-DTPW-04 – to New Millennium Engineering, Inc. for a total contract amount not to exceed \$3,551,593.10, inclusive of a contingency allowance amount of \$322,872.10. This award term is two years and six months. The PSA supports the Dadeland South Intermodal Station Project by monitoring and inspecting the work performed by the selected design-builder to ensure compliance with contract, design criteria and other requirements.

This contract award recommendation is placed for Board review pursuant to County Code Section 29-124(f) and may only be considered by the Board if the Citizens' Independent Transportation Trust (CITT) has forwarded a recommendation to the Board prior to the date scheduled for Board consideration or 45 days have elapsed since the filing with the Clerk of the Board of this contract award recommendation. If the CITT has not forwarded a recommendation and 45 days have not elapsed since the filing of this award recommendation, a request for withdrawal of this item will be submitted.

Scope

This PSA is to provide CEI services for contract administration, inspection, and materials sampling and testing in support of the Dadeland South Intermodal Project. The Project will also include improvements/refurbishment to the existing station to enhance passenger amenities and overall experience. A more detailed scope of services can be found in Exhibit 1.

Project Location

The project is located at the Dadeland South Metrorail Station, 9150 Dadeland Boulevard, Miami, Florida 33156 within Commission District 7, which is represented by Commissioner Raquel A. Regalado.

Delegation of Authority

The authority of the County Mayor or County Mayor's designee to execute and implement this contract, including exercising all the provisions therein, is consistent with those authorities granted under the County Code.

Fiscal Impact/Funding Source

The fiscal impact for the contract is \$3,551,593.10, which includes a contingency allowance amount of \$322,872.10 for unforeseen work. There are no operation and maintenance costs as this is a PSA for CEI services. This PSA is funded from the Fiscal Year (FY) 2021-22 Adopted Budget & Multi-Year Capital Plan through the following funding source:

<u>Funding Source</u>	<u>Program</u>	<u>Project Number</u>	<u>Fund Code</u>	<u>Amount</u>
People's Transportation Plan Bond Program	2000001203 Dadeland South Intermodal Station	3002252	ET062	\$3,551,593.10

Total: \$3,551,593.10

Track Record/Monitor

According to SBD's database, there are no violations on record within the last three years for New Millennium Engineering, Inc. An SBE-A&E sub-consultant goal of 20 percent has been established for this project. According to the Firm History Report provided by SBD, within the last three years, New Millennium Engineering, Inc., has not held any contracts as a prime and there were no evaluations found in the Capital Improvements Information System (CIIS).

Additional information can be obtained upon request to Julie Whiteside, A/E Consultant Selection Coordinator, Internal Services Department and/or Alfredo E. Munoz, Chief of Capital Improvements, DTPW. Bassam Moubayed, CFM, Chief, Construction Division, DTPW, is responsible for the implementation and administration of this PSA.

Background

DTPW has a need to establish a PSA to provide CEI services for the Dadeland South Intermodal Station Project. The Dadeland South Intermodal Station is a major connecting point for bus routes on the South Dade TransitWay. The project consists of improvements/refurbishment to the existing station to enhance passenger amenities and experience.

A Notice to Professional Consultants was advertised on July 10, 2020. Prior to the submission deadline, the NTPC solicitation was downloaded 214 times. Five proposals were received by the submittal deadline of August 31, 2020. All respondents were found in compliance with the technical certification and requirements established for this solicitation. In addition, all proposers were found compliant by SBD for the SBE-A&E requirements.

On October 20, 2020, a First-Tier meeting was held with all five teams. The Competitive Selection Committee (CSC) appointed by the County Mayor evaluated the proposals received. The firms

were evaluated in accordance with Section 2-10.4 of the County Code, Implementing Order 3-34, and Administrative Order 3-39. Local Preference was not applicable to the First-Tier evaluations because all five proposers are local firms; therefore, the final ranking was based on total ordinal scores. The firms were ranked as follows:

Ranking	Firm
1	New Millennium Engineering, Inc.
2	Gannett Fleming, Inc.
3	305 Consulting Engineers, LLC
4	Rummel, Klepper & Kahl, LLP
5	Calvin, Giordano & Associates, Inc.

Based on the CSC's professional judgement, the information provided in the proposals was deemed sufficient to determine the experience and qualifications of the firms. As a result, and by a majority vote, the CSC decided to forego Second-Tier proceedings and recommended that negotiations be conducted. Negotiations started on March 9, 2021. After four negotiations meetings, the Negotiation Committee arrived at a schedule of rates that was fair and reasonable to provide the services under the project. Based on the above, it is recommended that this agreement be awarded in the not to exceed amount of \$3,551,593.10 (inclusive of a contingency allowance amount of \$322.872.10), to New Millennium Engineering, Inc.

It is anticipated that the Notice to Proceed to New Millennium Engineering, Inc. will be issued within 30 days of Board approval. Included below are the subconsultants that New Millennium Engineering, Inc. has identified for the project.

Sub-Consultants:

Alpha Construction and Engineering Corporation
Architects International, Inc.
Castillo Engineering Inc.
EAC Consulting, Inc.

GCES Engineering Services, LLC
Jakes Associates, Inc.
Pinnacle Consulting Enterprises, Inc.
Spectrumhaven, LLC



Jimmy Morales
Chief Operations Officer

"Exhibit 1"

CIP 207: Dadeland South Intermodal Station Project Scope of Work

(extracted from DCP narrative Section 1.2)

The Project construction shall include furnishing all labor, equipment, materials, testing, and construction quality control, for final acceptance by DTPW of the Project components. In addition to furnishing and installation, the Design-Build Firm shall be responsible for the design, permitting, integration, acceptance and testing, providing documentation (manuals) and warranties, commissioning, and training (as required). The Design-Build Firm shall provide all the necessary investigations including site investigations, surveys, geotechnical investigations, and utility locates. The Design-Build Firm shall be responsible for coordinating with utility agencies/owners (UA/Os) for the required utility adjustments and/or relocations. The Design-Build Firm shall be responsible for conducting all contamination remediation and mitigation activities. The Design-Build Firm shall be responsible for conducting all safety and security related activities to obtain Safety Certification for the Project from the DTPW Office of Safety and Security.

The scope encompasses, but is not limited to, all related site/civil infrastructure; architecture; landscape architecture; structural engineering; mechanical/ventilation, electrical and plumbing engineering; and transit control, communications and information systems. The scope of work also includes all utility adjustments, new utility services, required studies and modeling, architectural and engineering designs, analysis of 'sustainable systems' to attain "Silver"- or higher-level LEED for Transit Stations certification, and fire/life safety systems. The Design-Build Firm shall prepare all surveys; geotechnical engineering reports; drainage reports; structural calculations; designs; construction documents including drawings, specifications, as-built documentation, and shop drawings and product submittals; as well as obtain all permits including, but not limited to, environmental, construction, and building permitting. Additionally, the Design-Build Firm shall perform all necessary inspections, testing, and all construction administration including preparation of schedules, project commissioning, and any supportive ancillary tasks to the primary scope of services to successfully complete all phases of the Project. Beginning no later than five (5) days after DTPW has issued concurrence on designated construction staging areas and continuing until the final acceptance of the entire Project by DTPW, the Design-Build Firm shall be responsible for security, protection from vandalism and theft, and maintenance activities within all areas blocked off from public access and zoned for construction activities. This will include designated areas within the existing park-and-ride surface lot, pick-up/drop off area and northern Station entrance and paid area as defined in the Design Criteria Package, and any addition construction and staging areas located within the Project limits.

The Design-Build Firm shall be responsible to coordinate work with stakeholder agencies, including, but not limited to: FDOT, local neighborhoods, utility agency owners, and other authorities having jurisdiction. The Design-Build Firm shall also be responsible to interface and coordinate with the County's Office of Resiliency, Department of Cultural Affairs for Art in Public Places (AIPP) during the design and construction phases of the Project, and perform any required presentations to the Transportation Aesthetics Review Committee (TARC), the Miami-Dade County Citizens' Independent Transportation Trust (CITT), and the Bicycle Pedestrian Advisory Committee (BPAC) of the Transportation Planning Organization (TPO). Throughout the duration of design and construction, the Design-Build Firm shall involve and inform the public through an approved public involvement program.

The Design-Build Firm shall be responsible for the design and construction of all Project components including, but not limited to, several canopy structures to provide weather protection for transit

CIP 207: Dadeland South Intermodal Station Project

Scope of Work

passengers on the BRT platform, between the Station's west side entrance and the Datran Center and parking garage, Metrorail platform and connecting elements between the Metrorail platform and the drop-off/pick-up area; demolition and replacement of new preassembled buildings; drainage improvements to the existing guideway structure and canopies, vertical circulation elements including replacement and addition of elevators, replacement of an existing escalator, and refurbishments to existing stairways; reconfiguration of the existing drop-off/pick-up area; and refurbishments and improvements to the existing Metrorail platform, concourse level of the Station, and surface park-and-ride lot, as defined in the DCP.

The Project scope includes roadway improvements within the Station's internal bus circulation roadway, along Dadeland Boulevard, at the Datran Drive intersection with the Transitway. It also includes the design and construction of a new at-grade bike path connection between The Underline and South Dade Trail; signalization modifications at the intersection of Dadeland Boulevard and at roadway crossings in order to accommodate the new at-grade bike path connection. Along Dadeland Boulevard, a dedicated bus only staging area shall be provided to accommodate a minimum of two articulated buses with provisions for independent departure. The Project shall also provide Dynamic Messaging Systems; Supervisory Control and Data Acquisition (SCADA), including integration with the DTPW Bus Operations Control Center and the Train Operations Control Center; closed circuit television (CCTV); Next Bus Arrival signs; safety and security systems; secure access control; additional WiFi access points; emergency call boxes; furniture, fixtures and equipment; signage, including a station identification pylon, wayfinding signage to all transit platforms, park-and-ride facilities, drop-off/pick-up area, and safe crossing locations for pedestrians, bicyclists and drivers; specialty lighting; lightning protection; landscaping and hardscaping; bicycle amenities; and other systems required for the functionality of the Project.



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: May 16, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(N)(1)

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(N)(1)
5-16-23

RESOLUTION NO. _____ R-462-23

RESOLUTION APPROVING AWARD OF A PROFESSIONAL SERVICES AGREEMENT BETWEEN MIAMI-DADE COUNTY AND NEW MILLENNIUM ENGINEERING, INC. FOR CONSTRUCTION, ENGINEERING AND INSPECTION SERVICES FOR THE DADELAND SOUTH INTERMODAL STATION, CONTRACT NO. CIP207-DTPW20-CEI, IN THE AMOUNT NOT TO EXCEED \$3,551,593.10, INCLUSIVE OF A CONTINGENCY ALLOWANCE OF \$322,872.10; AUTHORIZING THE USE OF PEOPLE'S TRANSPORTATION PLAN BOND PROGRAM FUNDS FOR THE DADELAND SOUTH INTERMODAL STATION PROJECT WHICH WAS ADDED TO THE FIVE-YEAR IMPLEMENTATION PLAN ON FEBRUARY 19, 2020; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE SAME AND TO EXERCISE THE PROVISIONS CONTAINED THEREIN

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

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

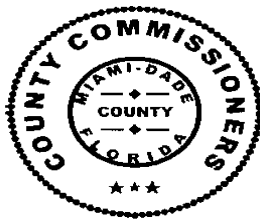
Section 1. This Board approves the contract award of a Professional Services Agreement between Miami-Dade County and New Millennium Engineering, Inc. for the Construction, Engineering and Inspection Services for the Dadeland South Intermodal Station Project, Contract No. CIP207-DTPW20-CEI, in an amount not to exceed \$3,551,593.10, inclusive of the contingency allowance of \$322,872.10; and authorizes the use of People's Transportation Plan Bond Program funds for the Dadeland South Intermodal Station Project, which was added to the Five-Year Implementation Plan on February 19, 2020.

Section 2. This Board authorizes the County Mayor or County Mayor's designee to execute the Professional Services Agreement, in substantially the form attached hereto and made a part hereof, and to exercise all provisions contained therein.

The foregoing resolution was offered by Commissioner **Danielle Cohen Higgins** , who moved its adoption. The motion was seconded by Commissioner **Oliver G. Gilbert, III** and upon being put to a vote, the vote was as follows:

Oliver G. Gilbert, III, Chairman	aye		
Anthony Rodríguez, Vice Chairman	aye		
Marleine Bastien	aye	Juan Carlos Bermudez	aye
Kevin Marino Cabrera	aye	Sen. René García	aye
Roberto J. Gonzalez	aye	Keon Hardemon	aye
Danielle Cohen Higgins	aye	Eileen Higgins	absent
Kionne L. McGhee	aye	Raquel A. Regalado	aye
Micky Steinberg	absent		

The Chairperson thereupon declared this resolution duly passed and adopted this 16th day of May, 2023. 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

LUIS G. MONTALDO, CLERK AD INTERIM

By: Basia Pruna
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in dark ink, appearing to be "B. Libhaber".

Bruce Libhaber

PROFESSIONAL SERVICES AGREEMENT

BETWEEN

MIAMI-DADE COUNTY

AND

NEW MILLENNIUM ENGINEERING, INC.

FOR

**CONSTRUCTION, ENGINEERING AND INSPECTION
SERVICES FOR THE DADELAND SOUTH INTERMODAL
STATION**

CONTRACT NO: CIP207-DTPW20-CEI

ISD PROJECT NO: E20-DTPW-04

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EXHIBITS

- A. PROPOSAL PACKAGE
- B. CONSULTANT'S PROPOSAL INCLUSIVE OF REIMBURSABLE (DIRECT) EXPENSES
- C. MAXIMUM DIRECT HOURLY RATES PER CLASSIFICATION
- D. OVERHEAD RATES

DEFINITIONS

The following definition and terms are provided as clarification of the provisions for this Professional Services Agreement (P.S.A.).

1. **Approval** is as follows: receipt of written notice from the Consultant that all work has been completed and the COUNTY has reviewed this work and determined that said work has been fully performed in conformance with the contract documents.
2. **Consultant** is the person or organization licensed to practice architecture and/or engineering in the State of Florida and is referred to throughout the P.S.A. as singular in number and masculine in gender, authorized by law to enter into the contract and perform the services requested in this P.S.A.
3. **Contracting Officer** is the Director of Miami-Dade Transportation and Public Works.
4. **Contracting Officer's Representative** is the person designated by the Contracting Officer to act on his or her behalf in the administration of the contract within the limits of their respective authorization.
5. **Principal** is a design professional who oversees the firm's services in connection with a specific project. A principal ensures that the project is completed in a cost-effective and timely manner. This includes allocating and directing staff according to their disciplines, allocating resources needed for the project and ensuring that the project is being completed accurately and in accordance with safety and organizational policies. Principal is often defined as (1) significant (>5%) owner, shareholder or partner of the firm, (2) a director or officer of the firm or (3) both.
6. **Professional Services Agreement (PSA)** is an agreement to provide professional or management consulting services such as administration, designing, feasibility studies, or legal or technical advice.
7. **Subconsultant** means any and all persons, firms or entities which will be engaged by the CONSULTANT to provide services under this P.S.A. The term is synonymous with "subcontractor".
8. **Contract Documents** as design plans, specifications, cost estimates, and permit applications.
9. **Field Overhead Rate** is the overhead rate to use when field personnel or personnel on loan are performing duties in the field, outside of the home office of the consultant and/or subconsultant, and at County offices (which shall mean that they are under the direct supervision of the County and the County provides office space, computers and communication equipment, for more than 30 consecutive days)

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT is made and entered into this ____ day of _____, 2023 by and between Miami-Dade County, a political subdivision of the State of Florida, hereinafter referred to as the "COUNTY" and NEW MILLENNIUM ENGINEERING, INC., hereinafter referred to as the "CONSULTANT".

WITNESSETH

For and in consideration of the mutual agreements hereinafter contained, the COUNTY hereby retains the CONSULTANT, and the CONSULTANT hereby covenants to provide Construction, Engineering and Inspection (CEI) services for contract administration, inspection, and materials sampling and testing in support of the Dadeland South Intermodal Project, Contract No: CIP207-DTPW20-CEI, hereinafter referred to as the "Project."

SECTION I - COUNTY OBLIGATIONS

The COUNTY agrees that DTPW shall furnish to the CONSULTANT any plans and any other data available in the COUNTY files pertaining to the work to be performed under this Agreement. The CONSULTANT is responsible to request any and all plans and data not furnished, which the CONSULTANT knows or should know, is necessary or appropriate for the performance of the services described herein.

The COUNTY shall provide the CONSULTANT with access to the project site(s) during CONSULTANT'S scheduled work times.

The Contracting Officer's Representative or his designee of DTPW, hereinafter referred to as the "COR", shall issue written authorization to proceed to the CONSULTANT for the work to be performed hereunder. In case of emergency, the COUNTY reserves the right to issue verbal authorizations to the CONSULTANT with the understanding that written confirmation shall follow within 72 hours with an effective date of the written work order Notice-to-Proceed being coincident with the date of verbal authorization.

Performance evaluations of the services rendered under this Agreement shall be performed by DTPW staff throughout the term of the contract and shall be utilized by the COUNTY as evaluation criteria for future solicitations.

SECTION II - PROFESSIONAL SERVICES

Department of Transportation and Public Works (DTPW) has a need to establish a Professional Services Agreement (PSA) to provide Construction, Engineering and Inspection (CEI) services for contract administration, inspection, and materials sampling and testing in support of the Dadeland South Intermodal Project (the "Project"). The Project will also include improvements/refurbishment to the existing station to enhance passenger amenities and experience.

The Scope of Services for ISD Project No. E20-DTPW-04 includes:

General: The Consultant will administer, monitor and inspect the work performed by the selected Design-Builder to ensure compliance with the Design-Build Contract requirements, construction and design criteria, standards, plans, specifications and special provisions. The Consultant will observe the work to determine the progress and quality of work; identify and report discrepancies to DTPW and direct the Design-Builder to correct such observed discrepancies. In addition, the Consultant will inform the DTPW Construction Project Manager of any significant omissions, substitutions, defects and deficiencies noted in the work of the Design-Builder and the corrective actions necessary.

The Consultant will provide support to DTPW including, but not limited to: administration during the design and construction phases of the Design-Build Contract, performance of duties such as design-build program logistics; planning; schedule reviews and monitoring; monitoring of permits; design support; plans review and resident engineering; office engineering; on-site inspection services; quality control; testing analyses; contract administration; construction safety and security coordination and compliance; construction survey checks and analysis; manage budget for the project; assist with cash flow reports; monitor the Design-Builder's progress; monitor and review construction cost estimates, invoices/requisitions analyses and recommendations; process shop drawings; review, prepare and respond, track and process requests for information and field change requests; analysis, negotiation with recommendations for approval/rejection of supplemental agreements and change orders; safety certification; and perform contract closeout phases of the Project.

The Consultant shall provide these professional services on-site, consistent with the daily activities of the Design-Builder, per the Design-Builder's schedule, to provide quality assurance and compliance with plans, specifications, appropriate codes, and adherence to schedules. Since bus service must be maintained at all times during construction with minimum service disruptions, it is anticipated that the Design-Builder's schedule may include work done during nights, weekends, holidays, etc., year-round.

On-Site Inspections: The Consultant will monitor the Design-Builder's on-site construction activities and inspect materials entering into the work in accordance with the Design Criteria Package, plans, specifications, and special provisions for the Design-Build Contract to determine that the Project is constructed in reasonable conformity with such documents. The Consultant shall maintain detailed, accurate records of the Design-Builder's daily operations and of significant events that affect the work. In addition, the Consultant will monitor and inspect the Design-Builder's Work Zone Traffic Control

Plan and review modifications to the Work Zone Traffic Control Plan in accordance with the DTPW requirements.

Sampling and Testing: The Consultant will perform sampling and testing of component materials and completed work in accordance with the construction contract documents, including all specifications and special provisions. In complying with this scope, the Consultant will provide daily surveillance of the Design-Builder's Quality Control activities and perform the sampling and testing of materials and completed work items for verification and acceptance. Documentation reports on sampling and testing performed by the Consultant shall be submitted during the same week that the construction work is done. The Consultant may be required to perform inspection and sampling of materials and components at locations remote from the project site and may perform testing of materials normally done in a laboratory remote from the project site.

Engineering Services: The Consultant will be responsible to coordinate the Design-Build contract administration activities of all parties involved in completing the project. Engineering services shall include maintaining the required level of surveillance of Design-Builder activities, and interpreting plans, specifications, and special provisions for the Design-Build contract. The Consultant will maintain complete, accurate records of all activities, meetings, and events relating to the Project and properly document all project changes. The following services shall be performed: scheduling and attendance to weekly progress meetings, as well as attendance to pre-construction meetings, internal meetings with DTPW staff, meetings with regulatory agencies, utility agency owners and any other meetings required prior to project final acceptance.

The Consultant will verify that the Design-Builder is conducting inspections, preparing reports and monitoring all storm water pollution prevention measures associated with the Project. If the Project requires the use of the National Pollutant Discharge Elimination System (NPDES) general permit, the Consultant will provide at least one inspector who has successfully completed the "Florida Stormwater,

Erosion, and Sedimentation Control Training and Certification Program for Inspectors and Contractors”. The Consultant’s inspector will be familiar with the requirements set forth on pages 4412 to 4435 of the Federal Register, Volume 57, Number 187, issued Friday, September 5, 1992, titled "Final NPDES General Permits for Storm Water Discharges from Construction Sites" and the Department’s guidelines.

In addition, the Consultant will analyze the Design-Builder’s schedule(s) [i.e. baseline(s), revised baseline(s), updates, as-built, etc.] for compliance with the contract documents. Elements including, but not limited to, completeness, logic, durations, activity, flow, milestone dates, concurrency, resource allotment, and delays will be reviewed. The Consultant will verify the schedule conforms with the construction phasing and Maintenance Of Traffic sequences, including all contract modifications, and will provide a written review of the schedule identifying significant omissions, improbable or unreasonable activity durations, errors in logic, and any other concerns.

The Consultant will analyze problems that arise on the Project and proposals submitted by the Design-Builder, work to resolve such issues, and process the necessary paperwork. The Consultant will be responsible to monitor, inspect and document utility construction for conformance with Utility Agency’s Standards and the Utility Agency’s Approved Materials List; facilitate coordination and communication between Utility Agency’s representatives, DTPW staff and Utility Agency contractors that may be executing the work. The Consultant will assist with potential utility conflicts and the resolution of utility issues including DTPW and local government owned facilities.

The Consultant will identify, review, and track progress of any local, state, and/or other DTPW and utility agreements. The Consultant will address work progress, track reimbursement activities, and address any betterment and salvage determination, as well as prepare all necessary documentation to support reimbursement activities, betterment and salvage determination.

Public Information Services: The Consultant will provide Public Information Services and be proactive in keeping the community aware of the status, project phasing, bus service, and vehicular and

pedestrian traffic impacts of the Project. With approval from DTPW, the Consultant may prepare and disseminate information to the public, elected officials and the media of any upcoming events, which will affect bus service and traffic flow. The Consultant will be responsible to produce and distribute all publications (letters, flyers, brochures and news releases) necessary for this contract. Prior to release, DTPW will approve all responses, letters, news releases and the like. For work in the Florida Department of Transportation (FDOT) right-of-way, the Consultant shall also coordinate with the FDOT Public Information Office and FDOT shall also approve all responses, letters, news releases and the like. It is expected that the Consultant will provide timely, professional responses to project inquiries including emails, telephone calls and other correspondence. In addition, the Consultant will coordinate general public information meetings, open houses, and community meetings as directed by DTPW's representatives.

Project Documentation and Reporting: The Consultant will prepare and submit to the DTPW Construction Project Manager daily inspection reports and a monthly Construction Status Report in a format agreed upon by DTPW. In addition, the Consultant will prepare all meeting agendas and meeting minutes associated with the Project. It is expected that the Consultant will video tape the pre-construction conditions throughout the project limits, document noteworthy incidents or events during construction, as well as provide a digital photo log or video of project activities, with heavy emphasis on potential claim items/issues and on areas of real/potential public controversy. Photographs shall be taken the day prior to the start of construction and continue as needed throughout the Project. Photographs shall be taken the days of Substantial Completion and Final Acceptance. Services will be in compliance with Florida Statute 287.055.

In connection with Professional Services to be rendered pursuant to this Agreement, the CONSULTANT further agrees to:

- A.** Maintain an adequate staff of qualified personnel available at all times to ensure its completion within the terms specified in the applicable Work Order. The COUNTY has the right to approve and regulate the CONSULTANT's workforce and approve specific CONSULTANT employees. The COUNTY has the right to have any CONSULTANT employee removed from the work, if, in the COUNTY's sole judgement, such employee's conduct or performance is detrimental to the project. The CONSULTANT shall not replace any employee or firm in the team initially proposed by the CONSULTANT without prior COUNTY approval.
- B.** The CONSULTANT shall submit a list of employees intended to be engaged in the work under this Agreement, including their classification and salary rates.
- C.** Comply with all federal, state and local laws, regulations, codes, ordinances, resolutions and administrative orders applicable to the work.
- D.** Cooperate fully with the COUNTY in the scheduling and coordination of all phases of the work.
- E.** Report the status of the work to the COR upon request and hold pertinent data, records, and other products open to the inspection of the COR at any time. The Consultant shall reference all correspondence and work with the Work Order Number.
- F.** Submit for COUNTY review reports and other data representative of the work's progress which may be stipulated in the applicable Work Order, as applicable. Submit for COUNTY approval the final work products upon incorporation of any modifications requested by the COUNTY during any previous review.
- G.** Confer with the COUNTY at any time during the further development and implementation of improvements for which the CONSULTANT has provided services as to interpretation of documents, correction of errors and omissions and preparations of any necessary revisions thereof. The CONSULTANT shall not be compensated for the correction the the CONSULTANT'S errors and omissions.

H. Make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of this Agreement, without first notifying the COUNTY and securing its consent in writing. The CONSULTANT also agrees that it shall not publish, copyright or patent any of the data furnished in compliance with this Agreement, that being understood that under SECTION VIII - OWNERSHIP OF DOCUMENTS hereof such data or information is the property of the COUNTY.

I. The CONSULTANT shall communicate with the COUNTY by electronic means to the greatest extent possible as directed by the COUNTY.

The CONSULTANT shall develop an effective Quality Assurance Plan and Quality Control Guidelines incorporated herein by reference. The Quality Assurance Plan shall be submitted to the Engineering, Planning and Development Section of DTPW for approval within ten (10) days of the effective date of Notice-to-Proceed. The implementation and maintenance of the Quality Assurance Plan and other contract requirements will be subject to COUNTY Quality Assurance Audits.

SECTION III - TIME FOR COMPLETION

Services to be rendered by the CONSULTANT for each section of the work shall commence upon receipt of a written Work Order from the COR subsequent to the execution of this Agreement, and shall be completed within the time stated in the Work Order. A reasonable extension of time shall be granted in the event there is a delay to the project or should weather conditions or acts of God render performance of the CONSULTANT'S duties impossible. Such extensions of time shall not be cause for any claim of the CONSULTANT for extra compensation.

SECTION IV - COMPENSATION

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

A. FEE AS A MULTIPLIER OF DIRECT SALARY COST AND FIXED HOURLY RATE

1. The fee for professional planning services rendered by the CONSULTANTS personnel, principals excluded, shall be computed based on the direct salary cost, as reported to the Internal Revenue Service, for the time of said personnel engaged directly in the work, times the following negotiated multipliers (Labor rates are subject to County approval as per paragraph 4 below):

FIRM	OFFICE MULTIPLIER	FIELD MULTIPLIER
NEW MILLENNIUM ENGINEERING, INC.	2.8	2.2

Office Personnel shall mean personnel that are located in the home offices of the CONSULTANT and or Sub-consultant(s). Field Personnel/personnel on loan shall mean personnel that are performing duties outside of the home offices of the CONSULTANT and or Sub-consultant(s), for more than 30 days. In addition, Personnel on Loan shall mean that they are under the direct supervision of the COUNTY's DTPW and DTPW provides office space, computers and communication equipment. Time worked by the CONSULTANT and/or Sub-consultant(s) for this entire period shall be at the Field/on loan personnel rate. This fee shall constitute full compensation to the CONSULTANT for costs incurred in the performance of the work such as overhead, fringe benefits, operating margin and all other costs not covered by reimbursable expenses.

Furthermore, the maximum direct raw hourly rates, per classification, for the Consultant and Sub-consultants are capped and shall not exceed the caps listed in Exhibit "C" of this Agreement.

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

3. The maximum direct hourly rates per classification, excluding overhead billable under this contract shall not exceed the caps as listed in Exhibit "C" – MAXIMUM HOURLY RATES PER CLASSIFICATION unless authorized by the COR in writing and shall apply to all employees except Principals.
4. The burdened direct labor charges shall constitute full compensation to the CONSULTANT for costs incurred in the performance of the work such as labor, overhead, fringe benefits and all other costs not covered by reimbursable expenses or fixed fees.
5. Overtime work considered necessary and previously authorized by the COR in writing shall be compensated at time-and-a-half of the labor rate normally paid to the employee for personnel below the level of Senior Inspector. Overtime is defined as work in excess of 40 hours per week. Principals shall not receive additional compensation for performance of overtime work.
6. Labor rates shall be in accordance with the current list of employees maintained by the COR or designee. Rates supplied by the CONSULTANT and made a part hereof as Exhibit "C" shall be consistent with prevailing local wage rates paid for similar work to similar employee classifications and subject to COR approval prior to starting work. The CONSULTANT is permitted to submit a written request for annual wage increases for its employees once annually from the effective date of the contract, for review and approval by the COR. Yearly wage rate increases for these employees shall be no higher than raises of other similar employees in the firm and subject to approval by the COR, which approval shall not be unreasonably withheld. Annual wage increases for these employees shall be no higher than five percent (5%) unless otherwise approved by the COR. This provision is not meant to limit the hourly rate at which the CONSULTANT pays their employees; it only limits the hourly rate that the COUNTY will use to reimburse and pay the CONSULTANT.

In no way will an employee's hourly rate exceed the maximum amount per classification stipulated in the contract without written approval by the COR. The COR may approve higher raises in limited cases subject to the CONSULTANT documenting special circumstances.

7. PRINCIPALS

The CONSULTANT shall be compensated at the following rate for the time of principals engaged directly in the work. The CONSULTANT is permitted to submit a written request for annual wage increases for its principals once annually from the effective date of the contract, for review and approval by the COR. Annual rate increases for Principals shall be at a maximum of 5% per year and subject to approval by the COR in writing, approval of which shall not be unreasonably withheld. This rate shall not be subject to the overhead rates or fee and shall be applied to the time spent on requested work by the following Principals:

PRINCIPALS	HOURLY RATES
Steven McCue, PE	\$170.00

Note: The CONSULTANT shall not bill for more than 40 hours for the Principal, per year. Additional hours must be previously authorized by the COR.

The Maximum compensable hours for the Principal shall not exceed 40 hours annually from the effective date of the contract. Additional hours must be previously authorized by the COR in writing.

B. LUMP SUM FEE

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

C. REIMBURSABLE (DIRECT) EXPENSES

The CONSULTANT shall be compensated on a direct reimbursement basis for certain work related expenditures not covered by burdened direct labor, provided such expenditures are reasonable and previously authorized by the COR. Reimbursable expenses (excluding vehicles) may include field office, utilities, furnishings, expenses for document reproduction (reproduction costs for internal coordination, reviews and other in-house uses will not be reimbursed), rental of specialized equipment, and purchase of special instruments necessary for the efficient performance of the work, provided that such instruments remain the property of the COUNTY upon work completion. These expenses shall be reimbursed on a direct cost basis. No separate additional payment shall be authorized for the use of CADD workstations (computers).

Expenses for travel (except commuting), transportation and subsistence by CONSULTANT personnel in the furtherance of the work will be reimbursed according to the provisions of County Administrative Orders 6-1 and 6-3 and Florida Statute Section 112, as presently written or hereafter amended. The CONSULTANT shall obtain prior authorization from the COUNTY for all travel expenses. Failure to obtain such prior authorization may be grounds for nonpayment of travel expenses. To be compensated for travel within the County, the CONSULTANT shall maintain accurate mileage records electronically and include original signatures upon submittal, along with their invoices.

COUNTY compensation for Subconsultant work shall be in accordance with this Section and Section XII- SUBCONTRACTING.

D. GEOTECHNICAL SERVICES

The CONSULTANT shall be compensated based on the fixed rates in the most recent rates negotiated at the work order level for the performance of all geotechnical engineering services required.

1. Geotechnical Engineering

In the event supplementary geotechnical engineering work is required during the performance of work under this contract and such work is authorized by the COR, the CONSULTANT shall be compensated for performance of said work in accordance with the provisions of Section IV(A) hereof. The geotechnical engineering rates shall not exceed the negotiated rates under the latest Miami-Dade County Department of Transportation and Public Work's Professional Services Agreement for Soils, Foundations and Geotechnical Testing Services.

F. MAXIMUM COMPENSATION

Although the COUNTY makes no assurances that any work orders will be issued to the CONSULTANT, the total payments to the CONSULTANT pursuant to this Agreement shall not exceed \$3,551,593.10 (inclusive of base and contingency allowance account).

G. EXCEEDING EXPENDITURES

If at any time the CONSULTANT has reason to believe that the expenditures in the next 60 days will exceed 75% of the maximum compensation amount for any work order, the CONSULTANT shall notify the COUNTY in writing to that effect. The CONSULTANT shall also provide a revised estimate to complete the work under the applicable work order. The CONSULTANT shall not be obligated to incur costs in excess of the contract ceiling.

H. SUBCONSULTANT COMPENSATION

COUNTY compensation for Subconsultant work shall be in accordance with Section XII
SUBCONTRACTING.

SECTION V - METHOD OF PAYMENT

The COUNTY agrees to make monthly or partial payments to the CONSULTANT, based on properly submitted invoices, for all authorized work performed during the previous calendar month or other mutually agreed invoicing period. The CONSULTANT agrees to provide with every invoice copies of any records necessary to substantiate payment requests to the COUNTY such as time sheets, detailing the task where the time has been spent, monthly progress reports and hours/costs expenditure reports, in a format acceptable to the COUNTY. The CONSULTANT shall submit duly certified invoices in duplicate and one electronic format to the COR in a format acceptable to the COUNTY. Each invoice shall make reference to the particular Work Order which authorized the services performed and/or expenses incurred. The amount of invoices submitted shall be comprised of the amounts due for all services performed including time sheets and/or reimbursable expenses incurred to date in connection with authorized work, less previous payments.

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

Payments shall be made in accordance with one of the following methods, as identified in each Work Order:

A. TIME & MATERIALS FOR PROFESSIONAL FEES AND/OR REIMBURSABLE EXPENSES

The amounts due for professional services and/or reimbursable expenses shall be calculated in accordance with Subsection IV. Invoiced reimbursable expenses must be substantiated with copies of receipts and other documentation as necessary.

B. LUMP SUM FEE

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

SECTION VI - SCHEDULE OF WORK

The COUNTY shall have the sole right to determine on which units or sections of the work the CONSULTANT shall proceed and in what order. A work order issued by the COR shall cover in detail the scope, specific deliverables, time for completion, method of payment and compensation for the Professional Services requested in connection with each unit or section of work.

SECTION VII - RIGHT OF DECISIONS AND DISPUTE RESOLUTION

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

In the event the CONSULTANT and COUNTY are unable to resolve their differences concerning any determination made by the COR or any dispute or claim arising under or relating to the Contract, either the CONSULTANT or COUNTY may initiate a dispute in accordance with the procedure set forth

in this Section. Exhaustion of these procedures shall be a precondition to any lawsuit permitted hereunder.

The parties to this contract hereby authorize the DTPW Director, functioning as the Contracting Officer or designee, to decide all questions, disputes or claims of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Contract except issues or disputes related to the CONSULTANT's performance evaluation and this decision shall be conclusive, final and binding on the parties, subject only to the limited right of review specified below. The CONSULTANT and the COUNTY are entitled to a hearing before the Contracting Officer, or his/her designee, at which both CONSULTANT and the COUNTY may present evidence and live testimony, in accordance with the Florida Rules of Evidence, and the right to cross-examine each other's witnesses. No depositions will be taken.

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

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

SECTION VIII - OWNERSHIP OF DOCUMENTS

All notes, correspondence, documents, models, photographs, reports, investigations, and any other documents and copyrights thereto for services performed or produced in the performance of this Agreement, whether in paper or other hard copy medium or in electronic medium, except with respect to copyrighted standard details and designs owned by the CONSULTANT or owned by a third party and licensed to the CONSULTANT for use and reproduction, shall become the property of the COUNTY

without restrictions or limitations. However, the COUNTY may grant an exclusive license of the copyright to the CONSULTANT for reusing and reproducing copyrighted materials or portions thereof as authorized by the COUNTY in advance and in writing. In addition, the CONSULTANT shall not disclose, release, or make available any document to any third party without prior written approval from the COUNTY. The CONSULTANT shall warrant to the COUNTY that he/she has been granted a license to use and reproduce any standard details and designs owned by a third party and used or reproduced by the CONSULTANT in the performance of this Agreement. Nothing contained herein shall be deemed to exclude any document from Chapter 119 of the Florida Statutes. When each individual section of work requested pursuant to this Agreement is completed and accepted, all of the above data shall be delivered to the COR.

SECTION IX - REUSE OF DOCUMENTS

The CONSULTANT may reuse data from other sections of the work included in this Agreement provided irrelevant material is deleted. The COUNTY shall not be re-invoiced for such reused data. The COR shall not accept any reused data containing an excess of irrelevant material which has no connection with the applicable portion of the work.

SECTION X – OFFICIAL NOTICES

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

The CONSULTANT designates the following individual as the project manager to act as the point-of-contact with the COUNTY and is authorized by the CONSULTANT to receive official notices and submit invoices.

Project Manager: David Tinder, PE
Address: 4868 SW 72nd Avenue
Miami, FL 33155
Telephone: (305) 670-2350
Email: dtinder@nmdceng.net

SECTION XI - AUDIT RIGHTS

The CONSULTANT hereby agrees that the COUNTY may perform audits of the CONSULTANT's books of accounts and records related to the work. Such audits may be performed at the COUNTY'S discretion.

Such audits may be performed by the COUNTY or may be arranged by the COUNTY. Alternatively, the COUNTY may cause an independent certified public accounting firm to perform the audit within the time herein described below. The CONSULTANT shall maintain all books of accounts, records, documents and other evidence of accounting procedures and practices sufficient to properly document all expenses incurred and anticipated to be incurred in the performance of this Contract, including justification of the negotiated overhead rates and direct labor rates. The materials described above shall be made available at the office of the CONSULTANT, at reasonable times, for inspection, audit or reproduction, within three (3) years following final payment under this Contract and the closing of all other pending matters.

In addition to the above requirements, the COUNTY's authorized designee shall have the right to audit the CONSULTANT's books of accounts and records relating to performance of this Contract at any time within three (3) years following final payment under this Contract and the closing of all other pending matters.

For purposes of verifying that certified cost or pricing data submitted or identified by the CONSULTANT in conjunction with the negotiation of this Agreement or any modification/change order

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to this Agreement, the CONSULTANT shall, for a period of three (3) years after Final Acceptance under this Agreement:

- A. Maintain such certified cost of pricing data, including books, records, documents, papers, computations, projections and other supporting data. All such certified cost or pricing data shall be clearly identified, readily accessible and, to the extent feasible, kept separate and apart from all unrelated documents.
- B. Permit an authorized representative of the COUNTY to examine such books, records, documents, papers, computations, projections and other supporting data.
- C. In the event any information provided by the CONSULTANT during initial contract negotiations or any supplemental agreement negotiations or any other information is later determined by the COUNTY not to have been complete, accurate or current at the time of the submittal, the COUNTY shall be entitled to an appropriate correction of the total compensation amount. If this determination is made by the COUNTY after final payment, the COUNTY shall use all available means to recover said funds including withholding funds due the CONSULTANT on other COUNTY contracts.

The CONSULTANT agrees to insert these audit clauses in all of its subcontracts.

SECTION XII - SUBCONTRACTING

The CONSULTANT shall not assign or transfer any portion of the work under this Agreement other than as provided for herein without the prior written consent of the COUNTY. Subconsultants included in the CONSULTANT's proposal are deemed to be approved by the COUNTY.

The CONSULTANT may, if they so desire and if approved by the COUNTY, employ Special Professional Consultants to assist in performing specialized portions of the work. Payment of such Special Professional Consultants employed at the option of the CONSULTANT and subject to written approval by the COUNTY shall be the responsibility of the CONSULTANT and shall not be cause for

any increase in compensation to the CONSULTANT for the performance of the work included in the Work Order.

The COUNTY may, if it deems such action necessary to the satisfactory and expeditious completion of the authorized work, direct the CONSULTANT to engage the services of a Designated Professional Consultant(s) to assist the CONSULTANT in the performance of specialized portions of the services. The CONSULTANT shall comply with such directive. Employment of such a Designated Professional Consultant(s) at the direction of the COUNTY by Work Order shall constitute additional services under the provisions of this Agreement and the CONSULTANT shall be reimbursed therefore in accordance with negotiated fees at the time such additional services are requested by the COUNTY.

Failure to obtain COR approval of a Subconsultant prior to commencement of that Subconsultant's services may be grounds for non-payment of any services performed prior to approval.

A. SUBCONSULTANTS

1. The compensation for services rendered by the Subconsultant's personnel, Principals excluded, shall be computed based on the direct salary cost, as reported to the IRS, for all time said personnel engaged directly in the work, times the following multipliers:

FIRM	MULTIPLIERS	
	OFFICE	FIELD
Alpha Construction and Engineering Corporation	2.8	2.2
Architects International, Inc.	2.8	2.2
Castillo Engineering Inc.	2.8	2.2
EAC Consulting, Inc.	2.8	2.2
EV Services, Inc.	2.8	2.2
GCES Engineering Services, LLC	2.8	2.2
Jakes Associates, Inc.	2.8	2.2
Manuel G. Vera and Associates, Inc.	2.8	2.2
Pinnacle Consulting Enterprises, Inc.	2.8	2.2
Spectrumhaven, LLC	2.8	2.2

1. The CONSULTANT shall be compensated for Geotechnical Engineering Services based on negotiated rates established in the most recent contract with DTPW.
2. The COUNTY has the right to verify these multipliers through an audit.
3. The maximum direct hourly rates per classification, excluding overhead, allowed under this contract shall not exceed the caps as listed in EXHIBIT C – MAXIMUM DIRECT HOURLY RATES PER CLASSIFICATION, unless authorized by the COR in writing, and shall apply to all sub-consultant employees. The burdened direct labor charges shall constitute full compensation to the Subconsultant for costs incurred in the performance of the work such as labor, overhead, fringe benefits and all other costs not covered by reimbursable expenses or fixed fee.
4. Overtime work considered necessary and previously authorized by the COR in writing shall be compensated at time-and-a-half of the rate established by Subsection IV-A(1) hereof for personnel below the level of Senior Inspector. Overtime is defined as work in excess of 40 hours per week.
5. Labor rates supplied by the CONSULTANT on behalf of the Subconsultant and made a part hereof shall be consistent with prevailing local wage rates paid for similar work to similar employees classifications and subject to COUNTY approval prior to starting work. Subconsultants are permitted to submit a written request for wage increases for its employees once annually from the effective date of the contract, for review and approval by the COR. Annual wage increases for these employees shall be no higher than five percent (5%) and shall be consistent with other similar employees unless otherwise approved by the COR.

6. All services provided by the Subconsultants shall be pursuant to appropriate agreements between the CONSULTANT and the Subconsultants which shall contain provisions that preserve and protect the rights of the COUNTY under this Agreement, and indemnify and hold harmless the COUNTY and the services shall be compensated in accordance with Section IV-COMPENSATION. Nothing contained in this Agreement shall create any contractual relationship between the COUNTY and the Subconsultants.
7. Subconsultants may not be utilized on the work unless their utilization has been approved in advance by the COUNTY in writing. Subconsultants included in CONSULTANT's Proposal are deemed to be approved by the County. The COUNTY reserves the right at any time to withdraw the approval of such Subconsultant, if it decides that the services performed by the Subconsultant, are not acceptable to the COUNTY.
8. The CONSULTANT shall not change any Subconsultant without prior approval of the COUNTY in response to a written request from the CONSULTANT stating the reasons for any proposed substitution. Any request to add a Subconsultant shall include substantiation of Subconsultant's overhead acceptable to the COUNTY.
9. PRINCIPALS

Subconsultants shall be compensated at the rate of \$ 170.00 per hour for the time of principals engaged directly in the work. Subconsultants are permitted to submit a written request for annual wage increases for its principals once annually from the effective date of the contract, for review and approval by the COR. Annual rate increases for Principals shall be at a maximum of 5% per year and subject to approval by the COR in writing, approval of which shall not be unreasonably withheld. This rate shall not be subject to the overhead rates or fee and shall be applied to the time spent on requested work by the Principals.

FIRM	PRINCIPAL NAME
Alpha Construction and Engineering Corporation	Jesus Martinez
Architects International, Inc.	Juan Crespi
Castillo Engineering Inc.	Pacifico Castillo
EAC Consulting, Inc.	Rick Crooks
EV Services, Inc.	Esther Monzon-Aguirre
GCES Engineering Services, LLC	Alex Montenegro
Jakes Associates, Inc.	John David Mori
Manuel G. Vera and Associates, Inc.	Manny Vera
Pinnacle Consulting Enterprises, Inc.	Arturo Perez
Spectrumhaven, LLC	Samuel Trotman

Note: SUB-CONSULTANTS shall not bill for more than 40 hours for the Principal, per year. Additional hours must be previously authorized by the COR.

The Maximum compensable hours for the Principal shall not exceed 40 hours annually from the effective date of the contract. Additional hours must be previously authorized by the COR in writing.

B. NON-EXCLUSIVITY

Notwithstanding any provision of this non-exclusive agreement, the COUNTY is not precluded from retaining or utilizing any other Consultant to perform any professional services as defined herein and the CONSULTANT waives any claim it might have against the COUNTY as a result of the COUNTY electing to retain or utilize such other Consultant to perform any such professional services, except that if the COUNTY retains or utilizes such other Consultant to perform such services subsequent to the starting date and before the completion date of the agreement of the CONSULTANT, and if the new Consultant is directed to perform the same services, the CONSULTANT shall be entitled to compensation as provided in this Section.

SECTION XIII - CERTIFICATION

The CONSULTANT certifies that no companies or persons, other than bonafide employees working solely for the CONSULTANT or the CONSULTANT'S COUNTY-approved Subconsultants, have been retained or employed to solicit or secure this Agreement or have been paid or guaranteed payment of any fees, commissions, percentage fees, gifts or any other considerations contingent upon or resulting from the award or making of this Agreement. The CONSULTANT also certifies that no COUNTY personnel, whether a full-time or part-time employee, has or shall be retained or employed in any capacity, by the CONSULTANT or the CONSULTANT'S COUNTY-approved Subconsultants, to accomplish the work contemplated under the terms of this Agreement. For breach or violation of this Certification, the County Mayor or designee shall have the right to annul this Agreement without liability.

SECTION XIV - TERMINATION OF AGREEMENT

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

SANCTIONS FOR CONTRACTUAL VIOLATIONS - Proposal and contract documents shall provide that, notwithstanding any other penalties for firms that have discriminated in violation of Article VII of

Chapter 11A of the Code, the COUNTY may terminate the contract or require the termination or cancellation of the sub-consultant contract. In addition, a violation by a respondent or sub-consultant to the respondent, or failure to comply with the Administrative Order (A.O.) 3-39 may result in the imposition of one or more of the sanctions listed in the A.O.

SECTION XV - DURATION OF AGREEMENT

This Agreement shall remain in full force and effect for a **period of two and one-half years after** its date of execution (although actual completion of the services hereunder may extend beyond such term) or until depletion of the funds allocated to pay for the cost of services, whichever occurs first, unless terminated by mutual consent of the parties hereto or as provided in SECTION XIII, SECTION XIV and SECTION XVI hereof. The contract contains one, one year option to renew period exercised at the sole discretion of the County's Mayor or Mayor's Designee, and shall comply with the original terms and conditions, and any amendments thereof. The performance of specifically and properly authorized services which may extend beyond the Agreement's two and one-half years' effective term shall be compensated in accordance to Section IV hereof.

Actual completion of the services hereunder may extend beyond such term provided that action is taken in accordance with any of the methods described under Subsections A through C below:

(A) Method One – A time extension is provided for additional unforeseen work performed outside the scope of the original Agreement that affects the work schedule or previously approved changes using contingency time allocated in the Contract award memo.

(B) Method Two – A time extension is provided for additional unforeseen work performed outside the scope of the original Agreement that affects the work schedule or previously approved changes and is approved via a formal Supplemental Agreement.

(C) Method Three – A work order (or multiple work orders) has been issued prior to the Agreement's original expiration date that clearly states the tasks, method of payment, dollar amount, and work order expiration date.

Once a revised Agreement or a new work order expiration date has been approved in accordance with one of the methods described above, the Agreement completion date shall be based on either the revised expiration date or the date that all funding has been expended, whichever occurs first.

SECTION XVI - DEFAULT

In the event the CONSULTANT fails to comply with the provisions of this Agreement, the COR may declare the CONSULTANT in default by thirty (30) days prior written notification. In such event, the CONSULTANT shall only be compensated for any completed professional services as of the date written notice of default is served. In the event partial payment has been made for such professional services not completed, the CONSULTANT shall return such sums to the COUNTY within ten (10) days after receipt of written notice that said sums are due. The CONSULTANT shall not be compensated on a percentage of the professional services which have been performed at the time the COR declares a default. Any dispute arising out of this Section shall be resolved in accordance with Section VII – RIGHT OF DECISIONS AND DISPUTE RESOLUTION.

SECTION XVII - INDEMNIFICATION AND INSURANCE

Pursuant to Section 725.08, Florida Statutes, and notwithstanding the provisions of Section 725.06, Florida Statutes, the CONSULTANT shall indemnify and hold harmless the COUNTY and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this AGREEMENT.

To the extent this indemnification clause or any other indemnification clause in this AGREEMENT does not comply with Chapter 725, Florida Statutes, as may be amended, this provision and all aspects of the Contract shall hereby be interpreted as the Parties' intention for the indemnification clauses and Contract to comply with Chapter 725, Florida Statutes, as may be amended.

The CONSULTANT shall pay liabilities and losses in connection therewith and shall pay all costs, judgments and attorney's fees for such claims which are finally determined to have been caused by the CONSULTANT'S negligence, recklessness or intentionally wrongful conduct of the CONSULTANT or its employees or agents. The CONSULTANT expressly understands and agrees that any insurance protection required by this AGREEMENT or otherwise provided by the CONSULTANT shall in no way limit the responsibility to indemnify and hold harmless the COUNTY and its officers and employees.

The CONSULTANT agrees and recognizes that the COUNTY shall not be held liable or responsible for any claims, which may result from any negligent, reckless, or intentionally wrongful actions, errors, or omissions of (in accordance with Florida Statutes Section 725.08) the CONSULTANT in which the COUNTY participated either through review or concurrence of the CONSULTANT'S actions. In reviewing, approving or rejecting any submissions by the Contractor or other acts of the CONSULTANT, the COUNTY in no way assumes or shares any responsibility or liability of the CONSULTANT or Subconsultants under this AGREEMENT.

This Section shall survive expiration or termination of this AGREEMENT.

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

The CONSULTANT shall furnish to the COUNTY, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Worker's Compensation Insurance for all employees of the Consultant as required by Florida Statute 440.
- B. Commercial General Liability in an amount not less than \$1,000,000 per occurrence, and \$2,000,000 in the aggregate. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
- D. Professional Liability Insurance for all professional services and/or functions required by the agreement in an amount not less than \$2,000,000 per claim, and \$5,000,000 in the aggregate.

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.

NOTE: MIAMI DADE COUNTY CONTRACT NUMBER AND TITLE OF CONTRACT MUST APPEAR ON EACH CERTIFICATE.

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

Compliance with the foregoing requirements shall not relieve the Consultant of his liability and obligation under this section or under any other section of this agreement.

SECTION XVIII-ORDINANCES, RESOLUTIONS AND OTHER REQUIREMENTS

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

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

- (1) A source of income statement;
- (2) A current certified financial statement;
- (3) A copy of the CONSULTANT'S Current Federal Income Tax Return.

F. E-VERIFY - The attention of the Consultant is hereby directed to the requirements of the State of Florida Office of the Governor Executive Order No. 11-02. The Consultant hereby agrees to utilize the U.S. Department of Homeland Security's E Verify system, in accordance with the terms governing use of the system, to confirm the employment eligibility of all persons assigned or authorized by the Consultant to perform work pursuant to the Contract with the County.

G. 1.49 PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY

The CONSULTANT shall comply with the Public Records Laws of the State of Florida, including but not limited to: (1) keeping and maintaining all public records that ordinarily and necessarily would be required by Miami-Dade County (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, F.S., 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 CONSULTANT 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 the agreement and shall be enforced

in accordance with the terms of the agreement.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'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 1 STREET, SUITE 1300, MIAMI, FLORIDA 33128.

- H. The CONSULTANT further agrees to comply with the requirements of the County Ordinances, Resolutions and State regulations.

The CONSULTANT further agrees to comply with any other Ordinance or Resolution of the County that may become effective before the execution by both parties of this Agreement. In the event any ordinance or resolution potentially impacting price is adopted by the Board subsequent to completions of negotiations but prior to adoption of this contract by the Board, CONSULTANT may seek adjustment of the contract price. Failure on the part of the CONSULTANT to notify the COUNTY of its intent to seek an adjustment to the contract price prior to the Contract approval of the the Board shall constitute a waiver of any such claims or adjustments.

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

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

In accordance with Florida Statute 287.055, the CONSULTANT hereby certifies and warrants that wage rates and other factual unit costs, as submitted in support of the compensation provided in

Section IV, are accurate, complete and current as of the date of this Agreement. It is further agreed that said compensation shall be adjusted to exclude any significant costs where the COUNTY shall determine that the price of services was increased due to inaccurate, incomplete or unclear wage rates or other factual unit costs. All such compensation adjustments shall be made within three (3) years from the date of final billing or acceptance of the work by the COUNTY, whichever is later.

SECTION XX - EQUAL OPPORTUNITY

A. EQUAL EMPLOYMENT OPPORTUNITY

The CONSULTANT shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, ancestry, familial status, pregnancy, sexual orientation, marital status, disability, gender identity or gender express, place of birth or national origin, or status as victim of domestic violence, dating violence or stalking. The CONSULTANT shall take affirmative actions to insure that applicants are employed and that employees are treated during their employment without regard to their race, religion, color, ancestry, sex, familial status, pregnancy, age, sexual orientation, marital status, physical handicap or national origin, gender identity or gender express, or status as victim of domestic violence, dating violence or stalking. Evidence of such actions shall be reported on forms supplied by the COUNTY.

Such actions shall include, but shall not be limited to the following: employment; upgrading, transfer or demotion; recruitment or recruitment advertising; layoff or termination; rates of pay or other form of compensation and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the COUNTY setting forth the provisions of this Equal Opportunity Clause.

The CONSULTANT shall comply with all applicable provisions of the Civil Rights Acts of 1964; Section 11A of the Miami-Dade County Code; Executive Order 11246 of September 24,

1965 as amended by Executive Order 11375; Executive Order 11625 of October 13, 1971; the Age Discrimination in Employment Act, effective June 12, 1968; the rules and regulations, and relevant orders of the Secretary of Labor; Sections 112.041, 112.042 and 112.0113, Florida Statutes, Chapter 760 (Florida Civil Rights Act of 1992, as amended) and Miami- Dade County Ordinance 75-46, effective June 28, 1975.

B. NONDISCRIMINATION

During the performance of this Agreement, the CONSULTANT agrees to state in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, age, sexual orientation, marital status, physical handicap or national origin. If requested to do so, the CONSULTANT shall furnish all information and reports required by Executive Order 11246 of September 24, 1965 as amended by Executive Order 11375 and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to their books, records and accounts by the COUNTY, and compliance review agencies for purposes of investigation to ascertain compliance with such rules and regulations and orders. The CONSULTANT further agrees that he/she will comply with the requirements of the Americans with Disabilities Act.

C. COMMUNITY BUSINESS ENTERPRISES SUBCONTRACTING PROGRAM

The CONSULTANT must make a good faith effort to meet the twenty (20%) percent Small Business Enterprise-Architectural and Engineering (SBE-A/E) goal established for this contract and to comply with all the provisions of the SBE-A/E Requirements.

SECTION XXI - OFFICE OF MIAMI-DADE COUNTY INSPECTOR GENERAL

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

The Miami-Dade Office of Inspector General is authorized to investigate County affairs and empowered to review past, present and proposed County and Public Health Trust programs, accounts, records, contracts and transactions. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of witnesses and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process including but not limited to project design, bid specifications, (bid/proposal) submittals, activities of the (Contractor/ Vendor/ Consultant), its officers, agents and employees, lobbyists, County and Public Health Trust staff and elected officials in order to ensure compliance with contract specifications and to detect fraud and corruption.

Upon ten (10) days written notice to the (Contractor/ Vendor/ Consultant) shall make all requested records and documents available to the Inspector General for inspection and copying. The Inspector General shall have the right to inspect and copy all documents and records in the (Contractor/Vendor/Consultant's) possession, custody or control which in the Inspector General's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements from and with successful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, (bid/proposal) and contract documents, back-change documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records and supporting documentation for the aforesaid documents and records.

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

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

The provisions in this section shall apply to the (Contractor/Vendor/Consultant), its officers, agents, employees, subcontractors/subconsultants and suppliers. The (Contractor/Vendor/Consultant) shall

incorporate the provisions in this section in all subcontracts and all other agreements executed by the (Contractor/Vendor/Consultant) in connection with the performance of this contract.

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

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Trust; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. Notwithstanding the foregoing, the Trust may authorize the inclusion of the fee assessment of one-quarter (1/4) of one percent in any exempted contract at the time of award.

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all Trust contracts including, but not limited to, those contracts specifically exempted above.

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

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

Upon (10) ten days written notice to Contractor/Consultant from an IPSIG, the Contractor/Consultant shall make all requested records and documents available to the IPSIG for inspection and copying. The IPSIG shall have the right to examine all documents and records in the Contractor's/Consultant's possession, custody or control which, in the IPSIG's sole judgment pertain to performance of the Contract, including but not limited to, original estimate files; change order estimate files; worksheets; proposals and agreements from and with successful and unsuccessful subcontractors/subconsultants and suppliers; all project-related correspondence, memoranda, instructions, financial documents, construction documents, bid and contract documents, back-charge document; all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received; payroll and personnel records; and supporting documentation for the aforesaid documents and records.

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

SECTION XXII – FORCE MAJEURE

Force Majeure shall mean an act of God, epidemic, lightning, earthquake, fire, explosion, hurricane, flood or similar occurrence, strike, an act of a public enemy, or blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, which has had

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

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

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

SECTION XXIII – MISCELLANEOUS

A. Business Applications and Forms. The CONSULTANT shall be a registered vendor with the COUNTY for the duration of this Agreement. It is the responsibility of the CONSULTANT to update and file the Vendor Registration Application on the COUNTY's Vendor Registration Site for any changes for the duration of this Agreement, including any option years. The Proposer is responsible for submitting the

Vendor Registration Application on the COUNTY's Vendor Registration Site at <https://www.miamidade.gov/Vendor/NewVendor/Enrollment>.

Section 2-11.1(d) of Miami-Dade County Code, requires any county employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County from competing or applying for any such contract as it pertains to this solicitation, must first request a conflict of interest opinion from the COUNTY's Ethic Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County and that any such contract, agreement or business engagement entered in violation of this subsection, as amended, shall render this Agreement voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

B. Standard of Care. Notwithstanding any other provisions to the contrary, in the performance of its Services, CONSULTANT shall exercise that degree of care and skill customarily exercised by other professionals performing similar services in the same locality and time period. COUNTY recognizes that opinions relating to environmental, geologic, and geotechnical conditions are based on limited data and that actual conditions may vary from those encountered at the times and locations where the data are obtained, despite the use of due professional care. CONSULTANT is not responsible for designing or advising on or otherwise taking measures to prevent or mitigate the effect of any act of terrorism or any action that may be taken in controlling, preventing, suppressing or in any way relating to an act of terrorism.

C. Responsibility for Others. CONSULTANT shall be responsible to COUNTY for CONSULTANT Services and the services of CONSULTANT Subconsultants. CONSULTANT shall not be responsible for

the acts or omissions of other parties engaged by COUNTY nor for their construction means, methods, techniques, sequences, or procedures, or their health and safety precautions and programs.

D. Cost Estimates. CONSULTANT's opinions of construction and materials costs estimates provided herein are to be made on the basis of CONSULTANT's experience and qualifications and represent CONSULTANT's best judgment as an experienced and qualified professional generally familiar with the industry. However, since CONSULTANT has no control over the costs of labor, materials, equipment, or services furnished by others, or over any CONSULTANT's methods of determining prices or over competitive bidding, or market conditions, CONSULTANT cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from the opinions prepared by CONSULTANT.

E. No Third-Party Rights. This Agreement shall not create any rights or benefits to parties other than COUNTY and CONSULTANT.

F. Right of Entry. COUNTY grants to CONSULTANT, and, if the project site is not owned by COUNTY, warrants that permission has been granted for, a right of entry from time to time by CONSULTANT, its employees, agents and Subconsultants, upon the project site for the purpose of providing the Services. COUNTY recognizes that the use of investigative equipment and practices may unavoidably alter the existing site conditions and affect the environment in the area being studied, despite the use of reasonable care.

G. The Parties may from time to time by mutual agreement seek to modify, extend or enlarge the services under a Work Order ("Modification"). In the event the Parties agree to a Modification to add additional services, or to make other modifications to the services, CONSULTANT's compensation, the schedule and any other relevant terms and conditions to the applicable Work Order shall be equitably adjusted prior to performance of such services.

H. In no event shall either party, affiliates and subsidiaries or their respective director, officers or employees be liable to the other for any indirect, incidental, special consequential or punitive damages

whatsoever (including, without limitations, lost profits, loss of revenue, loss of use or interruption of Business) arising out of or related to this agreement, even if advised of the possibility of such damages.

I. Pursuant to Florida Statute Section 558.0035, under no circumstances shall any present or future, direct or indirect, officers, directors, participants, advisors, managers, employees, agents or affiliates of designer, or any of their heirs, successors or assigns, be individually held liable for negligence.

J. Assignability: DTPW may assign its rights and obligations under the Agreement to any successor to the rights and functions of DTOW or to any governmental agency to the extent required by applicable laws or governmental regulations or to the extent that DTPW deems necessary or advisable under the circumstances.

K. Assignment: The Consultant shall not assign, transfer, or otherwise dispose of this Agreement, including any rights, title or interest therein, or their power to execute such Contract to any person, company or corporation without the prior written consent to the County. The County's consent for an assignment will not be reasonably withheld.

L. Affirmative Action: The CONSULTANT's Affirmative Action Plan, as approved by the DTPW's Office of Civil Rights, and any approved update thereof, is hereby incorporated as contractual obligations of the CONSULTANT to the COUNTY hereunder. The COR shall undertake and perform the affirmative actions specified herein. The COR may declare the CONSULTANT in default of this agreement for failure of the CONSULTANT to comply with the requirements of this paragraph.

SECTION XXIV – PROMPT PAYMENT

It is the policy of Miami-Dade County that payment for all purchases by County agencies and the Public Health Trust shall be made within forty-five (45) days from the date of an invoice and interest payments made on late payments. The CONSULTANT's attention is directed to Florida Statutes, Section 218.74 and Section 2-8.1.4 of the Miami-Dade County Code, providing for expedited payments to small businesses by county agencies and the Public Health Trust; creating dispute resolution procedures for

payment of county and Public Health Trust obligations; and requiring the CONSULTANT to issue prompt payments, and have the same dispute resolution procedures as the COUNTY, for all small business subconsultants. Failure of the CONSULTANT to issue prompt payment to small business, or to adhere to its dispute resolution procedures, may be cause for suspension, termination, and debarment, in accordance with the terms of the county contract or Public Health Trust contract and debarment procedures of the COUNTY. The CONSULTANT agrees to provide the COUNTY with a copy of its dispute resolution process.

SECTION XXV – ESTIMATE TIME FOR CONTINGENCY

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

SECTION XXVI - CONTINGENCY ALLOWANCE

This project is a Professional Services Agreement; therefore, an estimated Allowance Account of \$ 322,872.10 is permissible, per Miami-Dade County Code Section 2-8.1. This Allowance Account will be used by the Department of Transportation and Public Works for unforeseen conditions necessitating additional services, resulting in additions to the basic fee. It is understood that any unspent portion of the allowance account is to remain with the COUNTY.

SECTION XXVII - SCRUTINIZED COMPANY

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

SECTION XXVIII – ERRORS AND OMISSIONS

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

A. Errors

It is specifically agreed that any changes categorized by the COUNTY as an error in the contract documents prepared by the Consultant will constitute an additional cost to the COUNTY that would not have been incurred without the error. The damages to the COUNTY for errors shall be calculated as one hundred percent (100%) of the total cost of the change and includes direct and indirect costs. Indirect costs may include delay damages caused by the error.

B. Omissions

It is further specifically agreed for purposes of this agreement that any changes categorized by the COUNTY as an omission in the contract documents prepared by the Consultant will constitute an additional cost to the COUNTY that would not have been incurred without the omission. The damages to the COUNTY for omissions shall be calculated as fifteen percent (15%) of the total direct cost of the change and one hundred percent (100%) of the indirect costs. Indirect costs may include delay damages caused by the omission.

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

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

SECTION XXIX - ENTIRETY OF AGREEMENT

Nothing in this Agreement shall be construed to make any party hereunder the agent, employee, partner or joint venturer of the other, nor will any CONSULTANT firm hereunder be considered the beneficiary of any of the duties or rights created by this Agreement between the COUNTY and any other consulting firm hereunder.

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

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

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

PURSUANT TO FLORIDA STATUTE CHAPTER 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR DAMAGES RESULTING FROM NEGLIGENCE.

IN WITNESS THEREOF the parties hereto have executed these presents this _____ day of _____, 2023.

ATTEST:

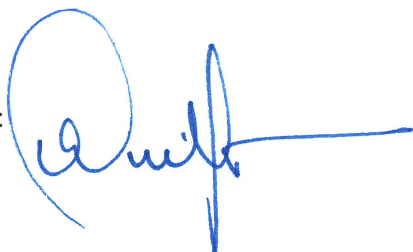
LUIS G. MONTALDO, CLERK AD
INTERIM

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

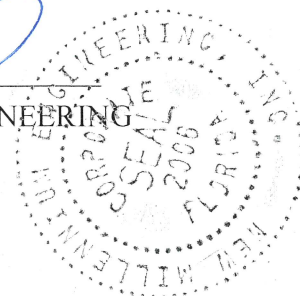
By: _____

By: _____
COUNTY MAYOR OR DESIGNEE

ATTEST:



NEW MILLENNIUM ENGINEERING
INC.
(Corporate Seal)



By: ARIEL MILAN

By: EUGENIO L. OCHOA

Approved by County Attorney

as to Form and Legal Sufficiency: _____



Memorandum



To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Javier A. Betancourt, Executive Director 

Date: April 26, 2023

Re: **CITT AGENDA ITEM 7A:**
RESOLUTION BY THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST
RECOMMENDING THE BOARD OF COUNTY COMMISSIONERS (BCC) APPROVE
AWARD OF A PROFESSIONAL SERVICES AGREEMENT BETWEEN MIAMI-DADE
COUNTY AND NEW MILLENNIUM ENGINEERING, INC. FOR CONSTRUCTION,
ENGINEERING AND INSPECTION SERVICES FOR THE DADELAND SOUTH
INTERMODAL STATION, CONTRACT NO. CIP207-DTPW20-CEI, IN THE AMOUNT
NOT TO EXCEED **\$3,551,593.10**, INCLUSIVE OF A CONTINGENCY ALLOWANCE OF
\$322,872.10; AUTHORIZE THE USE OF PEOPLE'S TRANSPORTATION PLAN BOND
PROGRAM FUNDS FOR THE DADELAND SOUTH INTERMODAL STATION PROJECT
WHICH WAS ADDED TO THE FIVE-YEAR IMPLEMENTATION PLAN ON FEBRUARY
19, 2020; AND AUTHORIZE THE COUNTY MAYOR OR THE COUNTY MAYOR'S
DESIGNEE TO EXECUTE THE SAME AND TO EXERCISE THE PROVISIONS
CONTAINED THEREIN (**DTPW – BCC LEGISLTATIVE FILE NO. 230590**) **SURTAX
FUNDS ARE REQUESTED**

On April 26, 2023, the CITT voted (7-0) to forward a favorable recommendation to the Board of County Commissioners (BCC) for the approval of the above referenced item, CITT Resolution No. 23-006. The vote was as follows:

Oscar J. Braynon, Chairperson – Absent
Robert Wolfarth, 1st Vice-Chairperson – Aye

Hon. Peggy Bell – Aye
Joseph Curbelo – Absent
Qjuezari Harvey – Aye
Paul J. Schwiep, Esq. – Aye
Mary Street, Esq. – Aye

Omar K. Bradford, Esq. – Absent
Meg Daly – Absent
Robert Ruano – Aye
L. Elijah Stiers, Esq. – Absent
Ernest Thomas – Aye

c: Jimmy Morales, Chief Operations Officer
Bruce Libhaber, Assistant County Attorney