

Date: July 16, 2024

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

Agenda Item No. 8(P)(5)

From: Daniella Levine Cava
Mayor



Resolution No. R-683-24

Subject: Recommendation to Award a Contract for Psychological Testing and Evaluation

Summary

This item is for the purchase of psychological testing and evaluation services for Miami-Dade Corrections and Rehabilitation (MDCR), Fire Rescue (MDFR), and Police (MDPD) departments. The contract will allow psychological testing for individuals applying for County employment for the following positions: MDCR correctional officers; MDPD police officers, public service aides, dispatchers, and complaint officers; and MDFR firefighters, helicopter pilots, co-pilots, chief pilots, and dispatchers. Additionally, psychological testing may include fitness-for-duty evaluations for County personnel on an as-needed basis. The evaluations are essential during the hiring process as the employees must be able to tolerate the stresses of working in a fast-paced environment, follow rules, use resources responsibly, behave in a trustworthy manner, use good judgment, and refrain from off-duty behavior that would reflect poorly on the County.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve a competitive contract award, *Contract No. EVN0000264, Psychological Testing and Evaluation*, to Law Enforcement Psychological and Counseling Associates, Inc. for MDCR, MDFR, and MDPD in the amount of \$3,622,750 for a five-year term. This contract will replace *EPFRFP-01613* approved under delegated authority.

Background

A Request for Proposals was issued under full and open competition on August 18, 2023. On the closing date of September 21, 2023, the County received three proposals, all from local firms. Upon review of the proposals, staff identified a potential responsiveness issue for one of the Proposers and on September 26, 2023 requested a legal review of the proposal. On October 3, 2023, the County Attorney's Office opined that the proposal was responsive. Several delays were experienced during the evaluation of proposals, and the evaluation meeting was conducted on February 26, 2024. Negotiations commenced on April 9, 2024 and concluded on May 5, 2024. A copy of the Report of the Competitive Selection Committee with details of the evaluation process is attached.

The contract provides for psychological testing and evaluation services to assess the psychological suitability of candidates for law enforcement positions during the hiring process. These evaluations provide assurance that candidates are free of job-relevant emotional and mental impairments, possess adequate stress resilience and emotional stability, and can meet the behavioral, social, and cognitive demands of public safety. The psychological evaluations will be conducted by Florida Board of Psychology-licensed clinical psychologists who will analyze the data, conduct the clinical interview, and present a recommendation to the appropriate hiring body of whether a candidate is mentally and emotionally capable, as well as mature enough, to work in the law enforcement/public safety field.

Scope

The scope of this item is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact for the five-year term is \$3,622,750. The current contract is valued at \$1,000,000 for three years and six months and expires on November 30, 2024. The annualized allocation under the proposed contract is higher than the current contract due to a higher estimated number of testing and higher proposed rates, between 20 to 27 percent as compared to current rates.

Department	Allocation	Funding Source	Contract Manager
MDCR	\$1,545,000	General Fund	John Prats
MDFR	\$901,500	Fire District	Marianela Betancourt
MDPD	\$1,176,250	General Fund	Nicholas Santos
Total	\$3,622,750		

Note: This contract contains termination for convenience provisions, which can be exercised if the commodities and/or services in this item are affected by the establishment of the constitutional offices. Staff will add assignment clauses to the contract as it may be affected by the establishment of constitutional offices.

Track Record/Monitor

Pearl Bethel of the Strategic Procurement Department (SPD) is the Procurement Contracting Manager.

Delegated Authority

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

Vendor Recommended for Award

Vendor	Principal Address	Local Address	Number of Employee Residents	Principal
			1) Miami-Dade 2) Percentage*	
Law Enforcement Psychological and Counseling Associates, Inc.	9960 NW 116 Way Suite 112 Miami, FL	Same	6	Brian Mangan
			60%	

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

Vendors Not Recommended for Award

Vendor	Local Address	Reason for Not Recommending
IMA Evaluation, LLC	Yes	Evaluation Scores/Ranking
Sky Health Miami	Yes	

Due Diligence

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

Pursuant to Resolution No. R-140-15, prior to re-procurement, a full review of the scope of services was conducted to ensure the replacement contract reflects the County's current needs. The review included conducting market research, posting a draft solicitation for industry comment, and holding meetings and drafting sessions with the user department. The scope of services was updated to remove language that was no longer needed and update the estimated number of candidates to be tested.

Applicability of Ordinances and Contract Measures

- The two percent User Access Program applies.
- The Small Business Enterprise Selection Factor and Local Preference applied.
- The Living Wage Ordinance does not apply.

Attachment



James Reyes
Chief of Public Safety

Memorandum



Date: March 14, 2024

To: Namita Uppal, C.P.M.
Director and Chief Procurement Officer
Strategic Procurement Department

Thru: Lydia Osborne, Ph.D., CPPO, CPPB, NIGP-CPP *Lydia Osborne*
Assistant Director
Strategic Procurement Department
Princess Brown *Princess Brown*
Selection Committee Coordinator

Subject: Report of Competitive Selection Committee for RFP No. EVN0000264, Psychological Testing and Evaluation

The Strategic Procurement Department (SPD) issued a competitive Request for Proposals on August 18, 2023, on behalf of the Miami-Dade County Police Department (MDPD), Miami-Dade County Corrections Department (MDCR) and the Miami-Dade County Fire Department (MDFR) to obtain proposals from qualified firms to provide psychological testing for those candidates applying for County employment in the following positions: police officers, correctional officers, police public service aides, police dispatchers, police complaint officers, firefighters, fire department helicopter chief pilots, pilots, co-pilots and fire rescue dispatchers. The County anticipates awarding a contract for five (5) years.

On September 21, 2023, three (3) proposals were received in response to the solicitation. The Competitive Selection Committee (Committee) has completed the evaluation of proposals following the guidelines published in the solicitation.

Competitive Selection Committee meeting dates:

January 2, 2024, and January 11, 2024 (Kick-off Meeting)
February 26, 2024 (Evaluation, Scoring and Recommendation)

Verification of compliance with contract measures:

A Small Business Enterprise selection factor was assigned to this solicitation. None of the proposers qualified for the selection factor.

Verification of compliance with minimum qualification requirements and responsiveness:

The solicitation had minimum qualification requirements which were reviewed by the Selection Committee Coordinator. All the proposers met the requirements.

The proposals were reviewed for responsiveness; no issues were identified.

Local Certified Veteran's Business Enterprise Preference:

Veteran's Preference was considered. None of the proposers qualified for the preference.

Office of the Inspector General (OIG) and/or Commission on Ethics and Public Trust (COE) Reports, Findings and/or Enforcement Documentation for Proposer and Subcontractor(s):

Staff submitted a request to OIG and COE on September 26, 2023. Responses were received on September 26, 2023, advising there were no findings.

Office of the Commission Auditor (OCA) Background Check:

Staff submitted Committee member's completed Neutrality Affidavits and Resumes to OCA on January 9, 2024, and January 12, 2024. A response was received on January 22, 2024. OCA submitted the results

of the background checks to the COE for further review of findings. A response was received from COE on February 5, 2024.

Summary of scores:

The Committee decided not to hold oral presentations. The final scores are as follows:

Proposer	Technical Score (max.270)	Price Score (max. 30)	Total Combined Score (max.300)
Law Enforcement Psychological & Counseling Associates, Inc.	260	28	288
IMA Evaluations, LLC	227	13	240
Sky Health Miami	53	15	68

Upon review of the scores, there were several variances identified that exceeded 33% of the average score award by all Committee members by criteria. Committee members were afforded the opportunity to discuss their variances, and once finalized all Committee members had variances for Sky Health Miami for three of the four criteria.

- Mr. Prats explained that his scores were below average because they did not submit anything to evaluate.
- Mr. Bernard explained that his scores were above average because although the information provided was not satisfactory, they did take the time to submit something.
- Ms. Hughes-Fillette too explained that Sky Health did submit something, and she scored them accordingly. She also stated that the information submitted was not relevant enough for her to determine if it was appropriate for this solicitation.

Based on the scores, Law Enforcement Psychological & Counseling Associates, Inc. (LEPCA) is the highest ranked proposer. It would not be practical to remove the scores of the Committee as they all had variances. It is important to note that despite these variances, individual rankings of all Committee members were same.

Local Preference:

Local Preference was considered but did not affect the outcome as the top two highest ranked firms are both local.

Other information:

There were several delays in scheduling the evaluation meeting. A request for names of potential Committee members was sent to departments on September 26, 2023. A response was received on November 29, 2023, and forwarded to SBD. The appointment of the Committee was approved by the Mayor on December 6, 2023. Holidays and scheduling conflicts also caused a delay in scheduling the Kick-off and Evaluation meetings.

Administrative Leave Eligibility:

The following County employees served as scoring members of the Committee and timely completed all committee-related duties, including submittal of the Neutrality Affidavit within three business days from Selection Committee Coordinator's notification dated December 27, 2023; initial scoring within 30 calendar days of Selection Committee Coordinator's completion of required reviews, and are hereby entitled to one (1) day of paid administrative leave pursuant to Implementing Order No. 3-34:

Employee's Name	Employee's Department
John Prats	MDCR
Seraphin Bernard	MDCR
Jessica Hughes-Fillette	Human Resources

Negotiations:

The Committee recommends that the County enter into negotiations with the highest ranked proposer, LEPCA. The following individuals will participate in the negotiations:

John Prats, Commander, MDCR
Princess Brown, Procurement Contracting Officer, SPD

Technical and operational assistance and feedback will be requested from appropriate staff as needed during the negotiation process.

Consensus Statement:

As the incumbent, LEPCA demonstrated that they have the necessary experience, expertise, and qualifications to provide the required services for Miami-Dade County. The firm is comprised of highly qualified, experienced individuals with substantial expertise, professional degrees, certifications and possesses extensive experience in working with comparable agencies. LEPCA provided a detailed, descriptive approach to providing the services stated within the solicitation.

Copies of the score sheets are attached for each Committee member, as well as a composite score sheet. Your approval of the Committee's recommendation is requested.

Approved

Rita Silva

for

Namita Uppal, C.P.M.
Director and Chief Procurement Officer

3/25/24
Date

RFP No. EVN0000264
TITLE: Psychological Testing Evaluation
EVALUATION OF PROPOSALS

COMPOSITE

EVALUATION CRITERIA	PROPOSERS	Maximum Points Per Member	Maximum Total Points (3_members)	Sky Health Miami	IMA Evaluations, LLC	Law Enforcement Psychological & Counseling Associates, Inc.
	Proposer's relevant experience, qualifications, and past performance	35	105	10	80	101
	Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors.	30	90	20	83	86
	Proposer's approach to providing the Services requested in this Solicitation	25	75	23	64	73
	Total Technical Points	90	270	53	227	260
	Price Points	10	30	15	13	28
	TOTAL POINTS	100	300	68	240	288
Ranking				3	2	1

Signature: 	Print Name: Princess Brown	Date: 2/26/2024
Chairperson		
Stacy-Ann Brown	Print Name: Stacy-Ann Brown	2/26/2024
Reviewer		

RFP No. EVN0000264

**TITLE: Psychological Testing Evaluation
EVALUATION OF PROPOSALS**

COMMITTEE MEMBER NAME:

John C. Prats

EVALUATION CRITERIA	PROPOSERS	Maximum Points	Sky Health Miami	IMA Evaluations, LLC	Law Enforcement Psychological & Counseling Associates, Inc.
Proposer's relevant experience, qualifications, and past performance		35	0	20	34
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors.		30	5	25	29
Proposer's approach to providing the Services requested in this Solicitation		25	1	20	25
Total Technical Points		90	6	65	88
Price Points		10	5	5	9
TOTAL POINTS		100	11	70	97

I understand that by typing my name into the signature block, I am electronically

John C. Prats

SIGNATURE

2/26/24

DATE

RFP No. EVN0000264

TITLE: Psychological Testing Evaluation
EVALUATION OF PROPOSALS

COMMITTEE MEMBER NAME: SERAPHIN W. BERNARD

EVALUATION CRITERIA	PROPOSERS	Maximum Points	Sky Health Miami	IMA Evaluations, LLC	Law Enforcement Psychological & Counseling Associates, Inc.
Proposer's relevant experience, qualifications, and past performance		35	5	30	35
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors.		30	5	30	28
Proposer's approach to providing the Services requested in this Solicitation		25	12	22	25
Total Technical Points		90	0	0	0
Price Points		10	5	5	10
TOTAL POINTS		100	0	0	0

I understand that by typing my name into the signature block, I am electronically



SIGNATURE

02/26/2024

DATE

RFP No. EVN0000264

**TITLE: Psychological Testing Evaluation
EVALUATION OF PROPOSALS**

COMMITTEE MEMBER NAME: *Jessica Hughes-Fillette*

EVALUATION CRITERIA	PROPOSERS	Maximum Points	Sky Health Miami	IMA Evaluations, LLC	Law Enforcement Psychological & Counseling Associates, Inc.
Proposer's relevant experience, qualifications, and past performance		35	5	30	32
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors.		30	10	28	29
Proposer's approach to providing the Services requested in this Solicitation		25	10	22	23
Total Technical Points		90	25	80	84
Price Points		10	5	3	9
TOTAL POINTS		100	30	83	93

I understand that by typing my name into the signature block, I am electronically



SIGNATURE

2/26/2024
DATE

RFP No. EVN0000264
TITLE: Psychological Testing Evaluation
EVALUATION OF PROPOSALS

Evaluation of scores (Variance)

FIRM'S NAME	EVALUATION CRITERIA	Maximum Points Per Member	Committee Members			Average	Low Disparity	High Disparity
			John Parts	Seraphin Bernard	Jessica Hughes			
Sky Health Miami	Proposer's relevant experience, qualifications, and past performance	35	0	5	5	3.33	2.23	4.43
	Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors.	30	5	5	10	6.67	4.47	8.87
	Proposer's approach to providing the Services requested in this Solicitation	25	1	12	10	7.67	5.14	10.20
	Price	10	5	5	5	5.00	3.35	6.65
IMA Evaluations, LLC	Proposer's relevant experience, qualifications, and past performance	35	20	30	30	26.67	17.87	35.47
	Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors.	30	25	30	28	27.67	18.54	36.80
	Proposer's approach to providing the Services requested in this Solicitation	25	20	22	22	21.33	14.29	28.37
	Price	10	5	5	3	4.33	2.90	5.76
Law Enforcement Psychological & Counseling Associates, Inc.	Proposer's relevant experience, qualifications, and past performance	35	34	35	32	33.67	22.56	44.78
	Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors.	30	29	28	29	28.67	19.21	38.13
	Proposer's approach to providing the Services requested in this Solicitation	25	25	25	23	24.33	16.30	32.36
	Price	10	9	10	9	9.33	6.25	12.41



MEMORANDUM

(Revised)

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

DATE: July 16, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

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

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(P)(5)
7-16-24

RESOLUTION NO. R-683-24

RESOLUTION APPROVING AWARD OF CONTRACT NO. EVN0000264 TO LAW ENFORCEMENT PSYCHOLOGICAL AND COUNSELING ASSOCIATES, INC. FOR PSYCHOLOGICAL TESTING AND EVALUATION FOR THE MIAMI-DADE CORRECTIONS AND REHABILITATION, FIRE RESCUE AND POLICE DEPARTMENTS IN A TOTAL AMOUNT NOT TO EXCEED \$3,622,750.00 FOR A FIVE-YEAR TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME FOR AND ON BEHALF OF MIAMI-DADE COUNTY, AND TO EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION OR EXTENSIONS, PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38

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

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

Section 1. This Board approves award of Contract No. EVN0000264 to Law Enforcement Psychological and Counseling Associates, Inc., in substantially the form attached and made a part hereof, for Psychological Testing and Evaluation for the Miami-Dade Corrections and Rehabilitation, Fire Rescue, and Police Departments in a total amount not to exceed \$3,622,750.00 for a five-year term.

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

The foregoing resolution was offered by Commissioner **Anthony Rodriguez**, who moved its adoption. The motion was seconded by Commissioner **Danielle Cohen Higgins** 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	absent
Kevin Marino Cabrera	absent	Sen. René García	aye
Roberto J. Gonzalez	aye	Keon Hardemon	aye
Danielle Cohen Higgins	aye	Eileen Higgins	aye
Kionne L. McGhee	aye	Raquel A. Regalado	aye
Micky Steinberg	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 16th day of July, 2024. 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

JUAN FERNANDEZ-BARQUIN, CLERK

By: **Basia Pruna**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

SMG

Sophia Guzzo

Contract No. EVN0000264
Psychological Testing and Evaluation

THIS AGREEMENT for the provision of psychological testing and evaluation services, made and entered into as of this _____ day of _____ by and between Law Enforcement Psychological & Counseling Associates, Inc., a corporation organized and existing under the laws of the State of Florida, having its principal office at 9960 Northwest 116th Way, Suite 12, Medley, FL 33178 (the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 NW 1st Street, Miami, Florida 33128 (the "County") (collectively, the "Parties").

WITNESSETH:

WHEREAS, the Contractor has offered to provide psychological testing and evaluations, on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A), Miami-Dade County's Request for Proposal ("RFP") Event No. EVN0000264 and all associated addenda and attachments, and the requirements of this Agreement; and

WHEREAS, the Contractor has submitted a written proposal dated September 21, 2023 (the "Contractor's Proposal") which is incorporated herein by reference; and

WHEREAS, the County desires to procure from the Contractor such psychological testing and evaluation services for the County, in accordance with the terms and conditions of this Agreement;

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

ARTICLE 1. DEFINITIONS

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

- a) The words "Article" or "Articles" to mean the terms and conditions delineated in this Agreement.
- b) The word "Contract" or "Agreement" to mean collectively the (i) Articles, (ii) Scope of Services, (iii) Price Schedule, (iv) all other appendices and attachments hereto, and (v) all amendments issued hereto, and Contractor's Proposal.
- c) The words "Contract Manager" to mean the Chief Procurement Officer, Strategic Procurement Department, or the duly authorized representative designated to manage the Contract.
- d) The word "Contractor" to mean Law Enforcement Psychological & Counseling Associates, Inc. and its permitted successors.
- e) The word "Days" to mean calendar days.
- f) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the Project Manager for review and approval pursuant to the terms of this Agreement.
- g) The words "Florida Board of Psychology" to mean a board that was legislatively established to ensure that every psychologist practicing in the state of Florida meets the minimum requirements for safe practice. It is responsible for licensing, monitoring, disciplining, and educating psychologists to assure competency and safety to practice in Florida.
- h) The words "Joint Venture" to mean shall mean an association of two or more persons, partnerships, corporations, or other business entities under a contractual agreement to conduct a specific business enterprise for a specified period with both sharing profits and losses.
- i) The words "Project Manager" to mean the County Mayor or the duly authorized representative designated to manage the Project.
- j) The word "Psychology" to mean the scientific study of the human mind and its functions, especially those affecting behavior in

a given context.

- k) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the Work to be performed by the Contractor.
- l) The words "Service" or "Services" to mean the provision of psychological testing and evaluations services in accordance with the Scope of Services.
- m) The word "Subcontractor" or "Subconsultant" to mean any person, entity, firm, or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.
- n) The word "Work" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) Articles 1 through 46 2) Appendix A, 3) Appendix B, and 4) Miami-Dade County's Event No. EVN0000264 and any associated addenda and attachments thereof, and 5) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

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

ARTICLE 4. NATURE OF THE AGREEMENT

- a) This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the Parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered, or amended only by a written amendment duly executed by the Parties hereto or their authorized representatives.

- b) The Contractor shall provide the services set forth in the Scope of Services and render full and prompt cooperation with the County in all aspects of the Work performed hereunder.
- c) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described, and delineated.
- d) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work necessary for the completion of this Contract. All Work shall be accomplished at the direction of and to the satisfaction of the Project Manager.
- e) The Contractor acknowledges that the County shall make all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor shall implement all changes in providing services hereunder as a result of a policy change implemented by the County. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date identified on the first page of this Agreement and shall continue through the last day of the 60th month, thereafter. The County may extend this Contract for up to an additional one hundred-eighty (180) calendar days beyond the current Contract period and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners (the "Board").

ARTICLE 6. NOTICE REQUIREMENTS

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

(1) To the County

- a) to the Project Manager:

Miami-Dade County Police Department

Attention: Sonia Fernandez-Quillet
9105 NW 25th Street, Room 3049
Miami, FL 33172
Phone: 305.471.2596
E-mail: sfernandezquill@mdpd.com

Miami-Dade County Fire Rescue Department

Attention: Melissa Endara
9300 NW 41st Street
Doral, FL 33178
Phone: 786.331.4902
E-mail: melissa.endara@miamidade.gov

Miami-Dade County Corrections and Rehabilitation Department

Attention: Alessandra Linares
2525 NW 62nd Street
Miami, FL 33147

Phone: 786.263.5901
E-mail: alessandra.linares@miamidade.gov

and

b) to the Contract Manager:

Miami-Dade County
Strategic Procurement Department
Attention: Chief Procurement Officer
111 NW 1st Street, Suite 1300
Miami, FL 33128-1974
Phone: (305) 375-4900
Email: cpo@miamidade.gov

(2) To the Contractor

Law Enforcement Psychological & Counseling Associates, Inc.
Attention: Brian Mangan
9960 NW 116th Way, Suite 12
Miami, FL 33178
Phone: 305.442.8800
E-mail: bmangan@lepca.com

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

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

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

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

ARTICLE 8. PRICING

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

ARTICLE 9. METHOD AND TIMES OF PAYMENT

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

Enterprise contract set-aside, bid preference or contain a subcontractor goal, shall be promptly reviewed and payment made by the County or Trust on those amounts not under dispute within fourteen (14) calendar days of receipt of such billing by the County or the Trust pursuant to Sections 2-8.1.1.1.1 and 2-8.1.1.1.2 of the Code. All payments due from the County or Trust, and not made within the time specified by this section shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. Further, proceedings to resolve disputes for payment of obligations shall be concluded by final written decision of the County Mayor, or his or her designee(s), not later than sixty (60) days after the date on which the proper invoice was received by the County or Trust.

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

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

- Electronic submission (preferred) to invsubp@miamidade.gov; or
- Hard copy format mailed to:
Miami-Dade County, Finance Shared Services
111 NW 1st Street, 26 Floor
Miami, Florida 33128

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

ARTICLE 10. INDEMNIFICATION AND INSURANCE

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

Upon County's notification, the Contractor shall furnish to the Strategic Procurement Department, certificate(s) of insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

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

4. Professional Liability Insurance in an amount not less than \$1,000,000 per occurrence, \$2,000,000 in the aggregate covering claims arising out of the rendering or failure to render professional services or provision of products.

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

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

OR

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

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

**Miami-Dade County
111 NW 1st Street
Suite 2340
Miami, Florida 33128-1974**

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

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

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

ARTICLE 11. MANNER OF PERFORMANCE

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

at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and/or demotion of such Contractor's personnel.

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

ARTICLE 12. EMPLOYEES OF THE CONTRACTOR

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

ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP

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

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

ARTICLE 14. DISPUTE RESOLUTION PROCEDURE

- a) The Contractor hereby acknowledges that the Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Contractor's Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Contractor shall be bound by all determinations or orders and shall promptly comply with every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a

dispute in accordance with the procedures set forth in this Article. **Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.**

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

ARTICLE 15. MUTUAL OBLIGATIONS

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

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

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

ARTICLE 17. AUDITS

The County, or its duly authorized representatives and governmental agencies, shall until the expiration of three years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its Subcontractors and suppliers which apply to all matters of the County. Such records shall

subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

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

ARTICLE 18. SUBSTITUTION OF PERSONNEL

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

ARTICLE 19. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

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

ARTICLE 20. SUBCONTRACTUAL RELATIONS

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

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

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

ARTICLE 22. SEVERABILITY

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

ARTICLE 23. TERMINATION AND SUSPENSION OF WORK

- a) This Agreement may be terminated for cause by the County for reasons including, but not limited to, (i) the Contractor commits an Event of Default (as defined below in Article 24) and fails to cure said Event of Default (as delineated below in Article 25), or (ii) Contractor attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material misstatement.
- b) This Agreement may also be terminated for convenience by the County. Termination for convenience is effective on the termination date stated in the written notice provided by the County.
- c) If County terminates this Agreement for cause under Article 23(a) above, the County may, in its sole discretion, also terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall pay all direct or indirect costs associated with such termination or cancellation, including attorneys' fees.
- d) The foregoing notwithstanding, if the Contractors attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material misstatement, the Contractor may be debarred from County contracting in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the Code.
- e) In the event that the County exercises its right to terminate this Agreement, the Contractor shall, upon receipt of such notice, unless otherwise directed by the County:
 - i. stop Work on the date specified in the notice (the "Effective Termination Date");
 - ii. take such action as may be necessary for the protection and preservation of the County's materials and property;
 - iii. cancel orders;
 - iv. assign to the County and deliver to any location designated by the County any non-cancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services;
 - v. take no action which will increase the amounts payable by the County under this Agreement; and
 - vi. reimburse the County a proration of the fees paid annually based on the remaining months of the term per the compensation listed in Appendix B.
- f) In the event that the County exercises its right to terminate this Agreement, the Contractor will be compensated as stated in the payment Articles herein for the:

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

ARTICLE 24. EVENT OF DEFAULT

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

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

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

ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, whether or not the County elects to terminate this Agreement as a result thereof, the Contractor shall be liable for all damages resulting from the default, irrespective of whether the County elects to terminate the Agreement, including but not limited to:

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

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

ARTICLE 27. PATENT AND COPYRIGHT INDEMNIFICATION

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

ARTICLE 28. CONFIDENTIALITY

- a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its Subcontractors in the course of the performance of such Services, or the results of such Services, or for which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, Subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information

and County financial information shall be considered Confidential Information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, Subcontractors, or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state, or local law in regard to the privacy of individuals.

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

ARTICLE 29. PROPRIETARY INFORMATION

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

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

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

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

ARTICLE 30. PROPRIETARY RIGHTS

- a) The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, Subcontractors and suppliers may use only in connection with the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, Subcontractors, or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.

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

ARTICLE 31. SUPPLIER/VENDOR REGISTRATION/CONFLICT OF INTEREST

- a) **Supplier/Vendor Registration**
The Contractor shall be a registered vendor with the County – Strategic Procurement Department, for the duration of this Agreement. In becoming a registered vendor with Miami-Dade County, the vendor's Federal Employer Identification Number (FEIN) must be provided, via submission of Form W-9 and 147c Letter, as required by the Internal Revenue Service (IRS). If no FEIN exists, the Social Security Number of the owner must be provided as the legal entity identifier. This number becomes Contractor's "County Vendor Number." To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

- **Identification of individual account records**
- **Payments to individual/Contractor for goods and services provided to Miami-Dade County**
- **Tax reporting purposes**
- **Provision of unique identifier in the vendor database used for searching and sorting departmental records**

The Contractor confirms its commitment to comply with the following:

- | | |
|---|---|
| 1. Miami-Dade County Ownership Disclosure Affidavit
(Section 2-8.1 of the Code of Miami-Dade County) | 6. Miami-Dade County Vendor Obligation to County Affidavit
(Section 2-8.1 of the Code of Miami-Dade County) |
| 2. Miami-Dade County Employment Disclosure Affidavit
(Section 2.8.1(d)(2) of the Code of Miami-Dade County) | 7. Miami-Dade County Code of Business Ethics Affidavit
(Article I, Section 2-8.1(i) of the Code of Miami-Dade County) |
| 3. Miami-Dade County Employment Drug-free Workplace Certification
(Section 2-8.1.2(b) of the Code of Miami-Dade County) | 8. Miami-Dade County Family Leave Affidavit
(Article V of Chapter 11 of the Code of Miami-Dade County) |
| 4. Miami-Dade County Disability and Nondiscrimination Affidavit
(Section 2-8.1.5 of the Code of Miami-Dade County) | 9. Miami-Dade County Living Wage Affidavit
(Section 2-8.9 of the Code of Miami-Dade County) |
| 5. Miami-Dade County Debarment Disclosure Affidavit
(Section 10.38 of the Code of Miami-Dade County) | 10. Miami-Dade County Domestic Leave and Reporting Affidavit (Article VIII, Sections 11A-60 - 11A-67 of the Code of Miami-Dade County) |

Miami-Dade County Verification of Employment Eligibility (E-Verify) Affidavit*(Section 448.095, of the Florida State Statutes)***11. Miami-Dade County Pay Parity Affidavit***(Resolution No. R-1072-17)***12. Miami-Dade County Suspected Workers' Compensation Fraud Affidavit***(Resolution No. R-919-18)***14. Office of the Inspector General***(Section 2-1076 of the Code of Miami-Dade County)***15. Small Business Enterprises***The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.1.1.1, 2-8.1.1.2 and 2-8.2.2 of the Code of Miami-Dade County and Title 49 of the Code of Federal Regulations.***16. Antitrust Laws***By acceptance of any contract, the Contractor agrees to comply with all antitrust laws of the United States and the State of Florida.*

b)

Conflict of Interest and Code of Ethics

Sections 2-11.1 (c) and (d) of the Code require that any County official, agency/board member or employee, or any member of his or her immediate family who, through a firm, corporation, partnership or business entity, has a financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first obtain and submit a written conflict of interest opinion from the County's Ethics Commission prior to the official, agency/board member or employee, or his or her immediate family member entering into any contract or transacting any business with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business transaction entered in violation of these subsections, as amended, shall be rendered voidable. All County officials, autonomous personnel, quasi-judicial personnel, advisory personnel, and employees wishing to do business with the County are hereby advised they must comply with the applicable provisions of Section 2-11.1 of the Conflict of Interest and Code of Ethics Ordinance.

ARTICLE 32. INSPECTOR GENERAL REVIEWS**Independent Private Sector Inspector General Reviews**

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

Miami-Dade County Inspector General Review

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

Exception: The above application of one quarter of one percent (0.25%) fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Board; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Implementing Order No. 3-38; (m) federal, state and local government-funded grants; and (n) interlocal agreements. **Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter of one percent (0.25%) in any exempted contract at the time of award.**

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present, and proposed County and Trust contracts, transactions, accounts, records, and programs. In addition, the

Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications, and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of IPSIGs to audit, investigate, monitor, oversee, inspect, and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

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

ARTICLE 33. FEDERAL, STATE, AND LOCAL COMPLIANCE REQUIREMENTS

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

- a) Equal Employment Opportunity clause provided under 41 C.F.R. Part 60-1.3 in accordance with Executive Order 11246, "Equal Employment Opportunity", as amended by Executive Order 11375, and, implementing regulations at 41 C.F.R. Part 60.
- b) Miami-Dade County Small Business Enterprises Development Participation Provisions.
- c) The Clean Air Act of 1955, as amended, (42 U.S.C. §§ 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387), as amended.
- d) The Davis-Bacon Act, as amended (40 U.S.C. §3141-3144 and 3146-3148) as supplemented by the Department of Labor regulations (29 C.F.R. Part 5).
- e) The Copeland "Anti-Kickback" Act (40 U.S.C. § 3145) as supplemented by the Department of Labor regulations (29 C.F.R. Part 2).
- f) Section 2-11.1 of the Code of Miami-Dade County, "Conflict of Interest and Code of Ethics Ordinance".
- g) Section 10-38 of the Code of Miami-Dade County, "Debarment of Contractors from County Work".
- h) Section 11A-60 - 11A-67 of the Code of Miami-Dade County, "Domestic Leave".
- i) Section 21-255 of the Code of Miami-Dade County, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.
- j) The Equal Pay Act of 1963, as amended (29 U.S.C. § 206(d)).
- k) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07) and regulations issued pursuant thereto (24 C.F.R. Part 146).
- l) Section 448.07 of the Florida Statutes "Wage Rate Discrimination Based on Sex Prohibited".
- m) Chapter 11A of the Code of Miami-Dade County (§ 11A-1 *et seq.*) "Discrimination".

- n) Chapter 22 of the Code of Miami-Dade County (§ 22-1 *et seq.*) "Wage Theft".
- o) Any other laws prohibiting wage rate discrimination based on sex.
- p) Chapter 8A, Article XIX, of the Code of Miami-Dade County (§ 8A-400 *et seq.*) "Business Regulations".
- q) Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).
- r) Executive Order 12549 "Debarment and Suspension", which stipulates that no contract(s) are "to be awarded at any tier or to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs".

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

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

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

ARTICLE 34. NONDISCRIMINATION

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

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

ARTICLE 35. CONFLICT OF INTEREST

The Contractor represents that:

- a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment, or compensation, whether tangible or intangible, in connection with the award of this Agreement.
- b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent, or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:

- i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the Services, Deliverables or Work, to which this Agreement relates or in any portion of the revenues; or
 - ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any Subcontractor or supplier to the Contractor.
- c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.
- d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information and comply with the instructions Contractor receives from the Project Manager regarding remedying the situation.

ARTICLE 36. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

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

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

ARTICLE 37. BANKRUPTCY

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

ARTICLE 38. GOVERNING LAW

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

ARTICLE 39. COUNTY USER ACCESS PROGRAM (UAP)

a) User Access Fee

Pursuant to Section 2-8.10 of the Code, this Contract is subject to a user access fee under the County User Access Program ("UAP") in the amount of two percent (2%). All sales resulting from this Contract, or any contract resulting from the solicitation referenced on the

first page of this Contract, and the utilization of the County Contract price and the terms and conditions identified herein, are subject to the two percent (2%) UAP. This fee applies to all Contract usage whether by County Departments or by any other governmental, quasi-governmental or not-for-profit entity.

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

b) Joint Purchase

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

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

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

c) Contractor Compliance

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

ARTICLE 40. INTEREST OF MEMBERS, OFFICERS OR EMPLOYEES AND FORMER MEMBERS, OFFICERS OR EMPLOYEES

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

ARTICLE 41. LIENS

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

ARTICLE 42. FIRST SOURCE HIRING REFERRAL PROGRAM

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

ARTICLE 43. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY

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

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

ARTICLE 44. INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION and/or PROTECTED HEALTH INFORMATION

Any person or entity that performs or assists Miami-Dade County with a function or activity involving the use or disclosure of "Individually Identifiable Health Information (IIHI) and/or Protected Health Information (PHI)" shall comply with the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the Miami-Dade County Privacy Standards Administrative Order. HIPAA mandates for privacy, security, and electronic transfer standards, include but are not limited to:

1. Use of information only for performing Services required by the Contract or as required by law;
2. Use of appropriate safeguards to prevent non-permitted disclosures;
3. Reporting to Miami-Dade County of any non-permitted use or disclosure;
4. Assurances that any agents and Subcontractors agree to the same restrictions and conditions that apply to the Contractor and reasonable assurances that IIHI/PHI will be held confidential;
5. Making Protected Health Information (PHI) available to the customer;
6. Making PHI available to the customer for review and amendment; and incorporating any amendments requested by the customer;
7. Making PHI available to Miami-Dade County for an accounting of disclosures; and
8. Making internal practices, books and records related to PHI available to Miami-Dade County for compliance audits.

PHI shall maintain its protected status regardless of the form and method of transmission (paper records, and/or electronic transfer of data). The Contractor must give its customers written notice of its privacy information practices including specifically a description of the types of uses and disclosures that would be made with protected health information.

ARTICLE 45. VERIFICATION OF EMPLOYMENT ELIGIBILITY (E-VERIFY)

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

ARTICLE 46. SURVIVAL

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

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date identified on the first page of this Agreement.

Contractor

Miami-Dade County

By: [Signature]
Name: BRIAN MANGAN
Title: PRESIDENT - LEPCA
Date: 5/2/24
Attest: Mayte Aponte
Corporate Secretary/Notary Public

By: _____
for
Name: Daniella Levine Cava
Title: Mayor
Date: _____
Attest: _____
Juan Fernandez-Barquin
Clerk of the Court and Comptroller

Corporate Seal/Notary Seal



Mayte Aponte
Comm.: HH 222381
Expires: Jan. 31, 2026
Notary Public - State of Florida

Approved as to form
and legal sufficiency

sophia guzzo

Assistant County Attorney

APPENDIX A – SCOPE OF SERVICES**2.1 Background**

Miami-Dade County, hereinafter referred to as the County, as represented by the Miami-Dade Police Department (MDPD), the Miami-Dade Department of Corrections and Rehabilitation (MDCR) and the Miami-Dade County Fire Rescue Department (MDFR), solicited proposals to obtain professional services from an experienced and qualified Contractor to conduct valid, reliable, and cross-cultural psychological testing for those applying for County employment in the following positions: police officers, correctional officers, police public service aides, police dispatchers, police complaint officers, firefighters, fire department helicopter pilots, fire department helicopter co-pilots and fire rescue dispatchers. Services are to be provided at the Contractor's facility located in Miami-Dade County. The testing is required by the County as part of a comprehensive background investigation of applicants. The purpose of these services is to evaluate whether said applicants are acceptable candidates for public safety positions. Additionally, psychological testing may include fitness-for-duty evaluations for County personnel on an as needed basis.

The County is a vibrant, multicultural community of more than 2.5 million residents and hosts more than 12 million visitors each year. The County provides law enforcement and public safety services consistent with the needs of the community. Such services are directed toward creating and maintaining an environment that is safe, and as free of crime and disorder as legal, ethical and resource constraints permit. MDPD is charged with the task of promoting a safe, secure, crime free environment along with maintaining order and providing a safe and expeditious flow of traffic. To accomplish this formidable task, MDPD utilizes the services of approximately 2,900 sworn officers and 1,700 support personnel. MDFR is charged with the task of protecting people, property, and the environment by providing responsive and humanitarian fire rescue services essential to public health, safety, and well-being. MDFR is staffed by 2,429 employees; of whom almost 2,000 are uniformed firefighters. MDCR is charged with the task of serving the community by providing a safe, secure, and humane detention of individuals in their custody while simultaneously preparing them for a successful return to the community. MDCR is comprised of three correctional facilities. These facilities hold on average 4,500 inmates, who are awaiting trial or are serving sentences of 364 days or less.

Assessing the psychological suitability of candidates for law enforcement positions is one of the essential functions in the hiring process as these employees must be able to tolerate the stresses of working in a fast-paced environment, follow rules, use resources responsibly, behave in a trustworthy manner, use good judgment, and refrain from off-duty behavior that would reflect poorly on the department. These evaluations provide assurance that candidates are free of job-relevant emotional and mental impairments, possess adequate stress resilience and emotional stability, and can meet the behavioral, social, and cognitive demands of public safety. The Contractor will analyze the data, conduct the clinical interview and present a recommendation to the appropriate hiring body that will identify: 1) positive psychological, characteristics associated with successful job performance, 2) traits that may interfere with effective job performance, 3) emotionally unsuitable candidates, 4) potential for violence, suicide, aggression and substance abuse, 5) personality problems and emotional disorders, and 6) stress management characteristics, etc. This analysis will assist in the determination of whether a candidate is mentally and emotionally capable as well as mature enough to work in the law enforcement/public safety field. The table below provides the estimated number of candidates for evaluation based on applicant position. The estimated numbers are based on the prior year's history and anticipated future needs and are provided for informational purposes only.

Estimated # of candidates to be evaluated.

POLICE DEPARTMENT

Position Title (Phase 1 & 2)	Estimated No. of Candidates Per Year
Police Officer	550
Police Dispatcher Police Public Service Aide	50
Police Complaint Officer	75
Other Civilian Classifications – Fingerprint Analysts, Criminalists, etc.	50

FIRE RESCUE

Position Title (Phase 1 & 2)	Estimated No. of Candidates Per Year
Firefighter	500
Fire Dept. Helicopter Pilot	15

Fire Dept. Helicopter Co-Pilot	15
Fire Rescue Dispatcher	50

CORRECTIONS

Position Title (Phase 1&2)	Estimated No. of Candidates Per Year
Correctional Officer (Phase 1)	1000
Correctional Officer (Phase 2)	400

FITNESS FOR DUTY EVALUATION

Position Title (Phase 1 & 2)	Estimated No. of Candidates Per Year
Police Officer, Correctional Officer, Police Public Services Aides, Police Dispatcher, and Police Compliant Officer, Firefighter, Fire Dept. Helicopter Chief Pilot, Fire Dept. Helicopter Pilot, Fire Dept. Helicopter Co-Pilot, Fire Rescue Dispatcher, or any civilian employee of Miami-Dade County	20

2.2 Testing and Evaluation

The Contractor shall conduct County requested pre-employment psychological evaluations or fitness-for- duty evaluation that include a series of standardized tests as outlined below. Such evaluations shall be followed by a **minimum** 30-minute comprehensive clinical interview with the applicant after each Phase, to confirm or rule out the psychological characteristics identified during testing. **Evaluations may be conducted in-person at the Contractor's Office, or remotely utilizing a virtual internet platform, such as Zoom, GoToMeeting, Microsoft Teams, etc. to be determined prior to scheduling the evaluation.**

The pre-employment psychological evaluation test is comprised of two phases. Phase 1 is the personality suitability evaluation, and Phase 2 is the emotional stability evaluation. For MDCR, MDPD, and MDFR, Phase 1 and Phase 2 will be conducted as a pre-employment evaluation.

Any testing administered must be objective, job related, non-discriminatory, and validated for use with public safety candidates.

- A. Pre-Employment Testing for Police Officer, Correctional Officer, Firefighter, Fire Department Helicopter Pilot, Fire Department Helicopter Co-Pilot, and Fire Rescue Dispatchers.
 1. Phase 1: Administration and interpretation of one or more tests which identify and assess personality suitability characteristics to include but not limited to maturity, responsibility, socialization adequacy, flexibility, general academic potential, interpersonal conflict measures (assertiveness, moodiness, social alienation, family discord), social ability, initiative/goal orientation, strong racial or ethnic prejudice, job performance predictions of absence, lateness, and disciplinary actions.
 2. Phase 2: Administration and interpretation of one or more tests which identify and assess emotional suitability characteristics to include but not limited to: psychosis, character disorders (especially anti-social personality disorders), significant neurotic symptomatology (phobic personality, undue suspiciousness), mood disorders (anxiety, depression), poor impulse control (anger/hostility patterns), need for high levels of excitement, tendency to be very passive or aggressive in the face of conflict, strong racial or ethnic prejudice, poor self-concept, job performance predictions of absence, lateness, and disciplinary, substance abuse tendencies.
- B. Pre-Employment Testing for Public Service Aides
 1. Phase 1: Administration and interpretation of one or more tests which identify and assess the following personality suitability characteristics to include but not limited to: academic potential, positive adjustment, maturity, responsibility, socialization adequacy, flexibility, compliance to rules and regulations, interpersonal conflict measures (assertiveness, moodiness, social alienation, family discord), social ability, initiative/goal orientation.
 2. Phase 2: Administration and interpretation of one or more tests which identify and assess emotional suitability characteristics to include but not limited to: psychosis, character disorders (especially anti-social personality disorders), significant neurotic symptomatology (phobic personality, undue suspiciousness), mood disorders

(anxiety, depression), poor impulse control (anger/hostility patterns), , need for high levels of excitement, tendency to be very passive or aggressive in the face of conflict, strong racial or ethnic prejudice, poor self-concept.

C. **Fitness for Duty Evaluation for All Positions**

The Contractor shall provide fitness for duty evaluations at the request of the County. The Contractor shall be responsible for applying the evaluation tools necessary to administer and interpret additional psychological testing to access the fitness of the employees to return to work for Sworn Police Officers, Correctional Officers, Firefighters, Fire Department Helicopter Chief Pilot, Fire Department Helicopter Pilot, and Fire Department Co-Pilot, Police Public Service Aides, Police Dispatchers, Fire Rescue Dispatchers and Police Complaint Officers that have been mandated for a Fitness-For-Duty evaluation or any civilian County employee to include but not limited to MDPD, MDFR and MDCR. The Contractor shall make appropriate referrals to both the Candidate and the authorized County staff for medical, psychiatric evaluation when medical, psychiatric or medication concerns may impact fitness for duty.

2.3 **Services to be Provided**

The Contractor shall:

- A. Follow all guidelines and comply with any current International Association of Chiefs of Police (IACP) standards for both the written test and the interview (reference Attachment B - Pre-Employment Psychological Evaluation Guidelines).
- B. Conduct the pre-employment psychological evaluation service and fitness-for-duty evaluations and ensure provisions are established for the security and confidentiality of all testing materials, psychological results reports, statistical and any other raw data in accordance with the Americans with Disabilities Act (ADA), the Health Portability and Accountability Act (HIPPA) and any federal or state laws applicable in the Contractor's jurisdiction.

Evaluations shall be administered by a clinical psychologist licensed with the Florida Board of Psychology that preferably holds a master's or doctorate degree in psychology, or similar credentials.

- C. Use written tests that are appropriate evaluations on the occupational exposure of the job classification for public safety.
- D. Only test those applicants who are referred to them exclusively by authorized County staff.
- E. Provide the County with a complete glossary of all scales and terms relevant to the screening process and evaluation report.
- F. Provide documentation that outlines the results of research and investigation to assure that all tests and procedures used in the screening processes are valid, reliable, cross cultural, and relevant to future job performance for the job classifications for which applicants are evaluated.
- G. Provide evaluations, test booklets, answer sheets, examiner instructions, taped and written instructions, case notes and other materials at the request of authorized County Staff.
- H. Re-test and re-evaluate applicants as requested by the County.
- I. Appear and testify in a court of law and at administrative hearings regarding work performed herein. This requirement shall survive the termination or expiration of any resultant Contract.
- J. At the request of the County, have the evaluation staff a) be available for telephone consultations and occasional meetings to discuss and clarify evaluation results, and b) participate in quarterly meetings (or as required) with the County to review specific test results or developments and milestone events in the psychological testing services program.
- K. Have access to sufficient computers and ancillary equipment necessary, to score test results, develop performance profiles, prepare various statistical and summary reports and store all test and evaluation data.
- L. Conduct a feedback session with applicants to discuss the results of the evaluation, at the request of the County.

2.4 Reporting

The Contractor shall submit all reports as specified below, or to be specified in writing by the County's staff assigned to this project at a later date. These reports will include, but are not limited to the following:

A. Test Results and Clinical Interview Result

The Contractor shall:

1. Provide the County with an electronic written evaluation report to be delivered within 48 hours after Phase 1 and Phase 2 via electronic mail from the date of testing. The report shall include (1) a standardized rating scale indicating a specific rating regarding the applicant / employee based on the essential functions for the sworn or non-sworn position, (2) an evaluation of the employees' suitability for the position upon analysis of all psychological materials to include test data and interview results, (3) a recommendation based on the analysis, along with a justification and any reservations that the psychologist might have regarding the validity or reliability of the results.
2. Maintain all psychological test files electronically in a secure manner in accordance with the Americans with Disabilities Act (ADA), the Health Portability and Accountability Act (HIPPA) and any federal or state laws applicable in the Contractor's jurisdiction for the life of the resultant Contract at no additional cost to the County. Upon termination or expiration of the resultant Contract, the Contractor will forward all psychological evaluation test files electronically to the County at no additional charge of the County.
3. Deliver expedited tests and clinical interview results via electronic mail or by courier service if unable to do so electronically as requested by the County, but in no case shall they be delivered later than 10.00 a.m. on the first business day following the day on which the expedited request was made.
4. Not bill the County for courier services if the Contractor experiences computer failure and is unable to electronically submit reports, provide courier services, during normal working hours, for delivery of reports to the offices of MDPD, MDCR, MDFR, and any other County Office as specified at the time.

Note: The Contractor shall comply with the Americans with Disabilities Act (ADA), the Health Portability and Accountability Act (HIPPA) and any federal or state laws applicable in the Contractor's jurisdiction when providing reports.

B. Statistical Reports

The Contractor shall provide semi-annual and annual statistical reports electronically at the request of the County. Reports shall be in the format, and shall contain the data fields, requested by the County. Reports shall include but not be limited to a) the number of applicants tested; b) the number of applicants tested by race, ethnicity, and gender; c) the number of applicants in each rating category, by race, ethnicity, and gender; d) the number of applicants in each rating category, by race, ethnicity, and gender, for a specific timeframe, etc.

2.5 Location, Hours of Service, and Availability

A. Location

The Contractor shall have an office, or a facility located in Miami-Dade County for applicant testing and evaluation. The office or facility must be of sufficient size and accommodation to process approximately 30 to 50 applicants per week; however, the number of applicants may fluctuate, depending on the County's need. If a high volume of applicants is being simultaneously processed for pre-employment by MDPD, MDCR, MDFR, and any other County department to meet academy deadlines or hiring mandates, the Contractor shall have the ability to accommodate the request to test additional applicants with a minimum of 72 hours' notice.

B. Hours of Service and Availability

The Contractor shall perform testing and evaluation services between the hours of 8AM and 5PM, Monday through Friday. Depending on the volume of the applicants that the County needs to have processed, the Contractor shall have the ability to perform testing on Saturdays and County Observed Holidays ([Miami-Dade County Observed Holidays](#)). The Contractor shall also be available for telephone consultations to address administrative issues as requested by the County.

C. Applicant Referrals

Applicants or employees must be referred for Phase 1 and Phase 2 evaluations and any follow up appointments by authorized County staff. The Contractor will work with the County on an as needed basis to schedule applicants or employees for psychological testing.

D. Scheduling Applicants

The Contractor shall have the ability to schedule applicants or employees for pre-employment testing or fitness-for-duty utilizing an electronic online scheduler that is accessible 24 hours per day, 7 days per week. The Contractor may issue specific username and passwords to all authorized users. In the event the online scheduler is temporarily inoperable, the County shall provide the names of the applicants via electronic mail, telephone, or facsimile.

APPENDIX B – PRICE SCHEDULE

POLICE DEPARTMENT

	(Regular Business Hours 8AM-5PM)		(After Hours, Saturday's and Holidays)	
Position Title	Pre-Employment Rate for Phase 1 (per applicant)	Pre-Employment Rate for Phase 2 (per applicant)	Pre-Employment Rate for Phase 1 (per applicant)	Pre-Employment Rate for Phase 2 (per applicant)
Police Officer	\$285.00	\$60.00	\$285.00	\$60.00
Police Public Service Aide	\$210.00	\$50.00	\$210.00	\$50.00
Police Dispatcher	\$210.00	\$50.00	\$210.00	\$50.00
Police Complaint Officer	\$210.00	\$50.00	\$210.00	\$50.00
Other Civilian Classifications – Fingerprint Analysts, Criminalists, etc.	\$210.00	\$50.00	\$210.00	\$50.00

FIRE RESCUE

	(Regular Business Hours 8AM-5PM)		(After Hours, Saturday's and Holidays)	
Position Title	Pre-Employment Rate for Phase 1 (per applicant)	Pre-Employment Rate for Phase 2 (per applicant)	Pre-Employment Rate for Phase 1 (per applicant)	Pre-Employment Rate for Phase 2 (per applicant)
Firefighter	\$285.00	\$60.00	\$285.00	\$60.00
Fire Dept. Helicopter Pilot	\$285.00	\$60.00	\$285.00	\$60.00
Fire Dept. Helicopter Co-Pilot	\$285.00	\$60.00	\$285.00	\$60.00
Fire Rescue Dispatcher	\$210.00	\$50.00	\$210.00	\$50.00

CORRECTIONS

	(Regular Business Hours 8AM-5PM)		(After Hours, Saturday's and Holidays)	
Position Title	Pre-Employment Rate for Phase 1 (per applicant)	Pre-Employment Rate for Phase 2 (per applicant)	Pre-Employment Rate for Phase 1 (per applicant)	Pre-Employment Rate for Phase 2 (per applicant)
Correctional Officer	\$285.00	\$60.00	\$285.00	\$60.00

FITNESS FOR DUTY EVALUATION

	(Regular Business Hours 8AM-5PM)	(After Hours, Saturday's and Holidays)
Position Title	Rate (per evaluation)	Rate (per evaluation)
Police Officer, Correctional Officer, Police Public Services Aides, Police Dispatcher, and Police Compliant Officer, Firefighter, Fire Dept. Helicopter Chief Pilot, Fire Dept. Helicopter Pilot, Fire Dept. Helicopter Co-Pilot, Fire Rescue Dispatcher, or any civilian employee of Miami-Dade County	\$780.00	\$780.00

Notes:

1. All out-of-pocket expenses, including materials, employee travel, per diem, and miscellaneous costs and fees, is included in the Contractor's price, as they shall not be reimbursed separately by the County.
2. The rates shall remain firm and fixed for the term of the contract.

Attachment A

HIPAA BUSINESS ASSOCIATE ADDENDUM

This HIPAA Business Associate Addendum ("Addendum") supplements and is made a part of the Agreement by and between the Miami-Dade County, Florida ("County"), and Law Enforcement Psychological & Counseling Associates, Inc, Business Associate ("Associate").

RECITALS

- A. As part of the Agreement, it is necessary for the County to disclose certain information ("Information") to Associate pursuant to the terms of the Agreement, some of which may constitute Protected Health Information ("PHI").
- B. County and Associate intend to protect the privacy and provide for the security of PHI, including but not limited to, PHI, disclosed to Associate pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.
- C. The purpose of this Addendum is to satisfy certain standards and requirements of HIPAA and the HIPAA Regulations, including, but not limited to, Title 45, Sections 164.308(b), 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations ("CFR"), as the same may be amended from time to time.

In consideration of the mutual promises below and the exchange of information pursuant to the Agreement, the parties agree as follows:

1. **Definitions.** Terms used, but not otherwise defined, shall have the same meaning as those terms in 45 CFR Sections 160.103, 164.304 and 164.501.
 - a. "Business Associate" shall have the meaning given to such term under the HIPAA Regulations, including, but not limited to, 45 CFR Section 160.103.
 - b. "Covered Entity" shall have the meaning given to such term under HIPAA and the HIPAA Regulations, including, but not limited to, 45 CFR Section 160.103.
 - c. "Protected Health Information" or "PHI" means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under HIPAA and the HIPAA Regulations, including, but not limited to 45 CFR Section 1103. [45 CFR Parts 160, 162 and 164]
 - d. "Electronic Protected Health Information" or "ePHI" means any information that is transmitted or maintained in electronic media: (i) that relates to the past, present or future physical or mental condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual. and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual and shall have the meaning given to such term under HIPAA and the HIPAA Regulations, including, but not limited to 45 CFR Section 160.103. [45 CFR Parts 160, 162 and 164]
 - e. "Electronic Media" shall have the meaning given to such term under HIPAA and the HIPAA Regulations, including but not limited to, 45 CFR Section 160.103.
 - f. "Security incident" shall have the meaning given to such term under HIPAA and the HIPAA Regulations, including but not limited to, 45 CFR Section 164.304.

2. Obligations of Associate.

- a. Permitted Uses and Disclosures. Associate may use and/or disclose PHI received by Associate pursuant to the Agreement ("County's PHI") solely in accordance with the specifications set forth in the Scope of Services, Appendix A. In the event of any conflict between this Addendum and Appendix A, this Addendum shall control. [45 CFR § 164.504(e)(2)(i)]
- b. Nondisclosure. Associate shall not use or further disclose County's PHI other than as permitted or required by law. [45 CFR § 164.504(e)(2)(ii)(A)]
- c. Safeguards. Associate shall use appropriate safeguards to prevent use or disclosure of County's PHI in a manner other than as provided in this Addendum. [45 CFR § 164.504(e)(2)(ii)(B)] Associate shall maintain a comprehensive written information security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Associate's operations and the nature and scope of its activities. Appropriate safeguards used by Associate shall protect the confidentiality, integrity, and availability of the PHI and ePHI that is created, received, maintained, or transmitted on behalf of the County. [45 CFR § 164.314(a)(2)(i)(A)] County has at its sole discretion, the option to audit and inspect, the Associate's safeguards at any time during the life of the Agreement, upon reasonable notice being given to Associate for production of documents and coordination of inspection(s).
- d. Reporting of Disclosures. Associate shall report to the County's Project Manager, any use or disclosure of the County's PHI in a manner other than as provided in this Addendum. [45 CFR § 164.504(e)(2)(ii)(c)] Associate shall report to the County through the County's Project Manager, any security incident of which it becomes aware within forty-eight (48) hours of discovery of the incident. [45 CFR § 164.314(a)(2)(i)(C)]
- e. Associate's Agents. Associate agrees and shall ensure that any agents, including subcontractors, to whom it provides PHI received from (or created or received by Associate on behalf of) the County, agrees in writing to the same restrictions and conditions that apply to Associate with respect to such PHI and that such agents conduct their operations within the United States. Associate agrees and shall ensure that any agents, including subcontractors, to whom it provides ePHI received, created, maintained, or transmitted on behalf of the County, agrees in writing to implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of that ePHI. [45 CFR § 164.314(a)(2)(i)(B)] In no case may Associate's Agents reside and operate outside of the United States.
- f. Documentation of Disclosures. Associate agrees to document disclosures of the County's PHI and information related to such disclosures as would be required for the County to respond to a request by an individual for an accounting of disclosures of PHI. Associate agrees to provide the County or an individual, in a time and manner designated by the County, information collected in accordance with the Agreement, to permit the County to respond to such a request for an accounting. [45 CFR § 164.528]
- g. Availability of Information to County. Associate shall make available to the County such information as the County may require to fulfill the County's obligations to provide access to, provide a copy of, and account for, disclosures of PHI pursuant to HIPAA and the HIPAA Regulations, including, but not limited to, 45 CFR Sections 164.524 and 164.528. [45 CFR § 164.504(e)(2)(ii)(E) and (G)]
- h. Amendment of PHI. Associate shall make the County's PHI available to the County as may be required to fulfill the County's obligations to amend PHI pursuant to HIPAA and the HIPAA Regulations, including, but not limited to, 45 CFR Section 164.526 and Associate shall, as directed by the County, incorporate any amendments to the County's PHI into copies of such PHI maintained by Associate, and in the time and manner designated by the County. [45 CFR § 164.504(e)(2)(ii)(F)]
- i. Internal Practices. Associate shall make its internal practices, books and records relating to the use and disclosure of the County's PHI (or PHI created or received by Associate on behalf of the County) available to the County and to the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by the County or the Secretary for purposes of determining Associate's compliance with HIPAA and the HIPAA Regulations. [45 CFR § 164.504(e)(2)(ii)(H) and 45 CFR Part 64, Subpart C.]

- j. Mitigation. Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Associate of a use or disclosure of the County's PHI by Associate in violation of the requirements of this Addendum.
- k. Associate's Insurance. Associate agrees to maintain the insurance coverage provided in the Agreement.
- l. Notification of Breach. Associate shall notify the County within twenty-four (24) hours, and shall provide written notice no later than forty-eight (48) hours of any suspected or actual breach of security, intrusion or unauthorized disclosure of PHI and/or any actual or suspected disclosure of data in violation of any applicable federal or state laws or regulations. Associate shall take (i) prompt corrective action to cure any such deficiencies, and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.
- m. Expenses. Any and all expenses incurred by Associate in compliance with the terms of this Addendum or in compliance with the HIPAA Regulations shall be borne by Associate.
- n. No Third Party Beneficiary. The provisions and covenants set forth in this Agreement are expressly entered into only by and between Associate and the County and are intended only for their benefit. Neither Associate nor the County intends to create or establish any third party beneficiary status or right (or the equivalent thereof) in any other third party nor shall any other third party have any right to enforce or enjoy any benefit created or established by the provisions and covenants in this Agreement.

3. **Audits, Inspection and Enforcement.** From time to time, after reasonable notice, upon any breach of this Addendum by Associate, the County may inspect the facilities, systems, books and records of Associate to monitor compliance with this Addendum. Associate shall promptly remedy any violation of this Addendum and shall certify the same to the County in writing. The fact that the County inspects, or fails to utilize its right to inspect, Associate's facilities, systems, books, records, and procedures does not relieve Associate of its responsibility to comply with this Addendum, nor does the County's (i) failure to detect or (ii) detection, but failure to notify Associate or require Associate to remedy such breach, constitute acceptance of such practice or a waiver of the County's enforcement rights under this Addendum.

4. **Termination.**

- a. Material Breach. A breach by Associate of any provision of this Addendum, shall constitute a material breach of the Agreement and shall provide grounds for immediate termination of the Agreement by the County. [45 CFR § 164.504(e)(3) and 45 CFR § 164.314(a)(2)(i)(D)]
- b. Termination for Cause - Reasonable Steps to Cure Breach. If the County recognizes a pattern of activity or practice of Associate that constitutes a material breach or violation of the Associate's obligations under the provisions of this Addendum and does not terminate the Agreement pursuant to Section 4a, above, the County may provide an opportunity for Associate to end the violation or cure the breach within five (5) days, or other cure period as may be specified in the Agreement. If Associate does not cure the breach or end the violation within the time period provided, the County may immediately terminate the Agreement.
- c. Judicial or Administrative Proceedings. The County may terminate the Agreement, effective immediately, if (i) Associate is named as a defendant in a criminal or administrative proceeding for a violation of HIPAA, or (ii) a finding or stipulation that Associate has violated any standard or requirement of the HIPAA Regulations (or other security or privacy law) is made in any administrative or civil proceeding.
- d. Effect of Termination. Upon termination of the Agreement for any reason, Associate shall return or destroy as directed by the County all PHI, including but not limited to ePHI, received from the County (or created or received by Associate on behalf of the County) that Associate still maintains in any form. This provision shall also apply to County PHI that is in the possession of subcontractors or agents of Associate. Associate shall retain no copies of such PHI or, if return or destruction is not feasible, Associate shall provide to the County notification of the conditions that make return or destruction infeasible and shall continue to extend the protections of this Addendum to such information, and limit further use or disclosure of such PHI to those purposes that make the return or destruction of such PHI infeasible. [45 CFR § 164.504(e)(2)(ii)(I)]

5. **Indemnification.** Associate shall indemnify and hold harmless the County and its officers, employees, trustees, agents, and instrumentalities (the indemnified parties) from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, trustees, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of this Addendum by Associate or its employees, agents, servants, partners, principals, or subcontractors. Associate shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of any of the indemnified parties, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Associate expressly understands and agrees that any insurance protection required by this Addendum, or otherwise provided by Associate, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the indemnified parties as herein provided. This paragraph shall survive the termination of the Agreement.
6. **Limitation of Liability.** Nothing in this Addendum shall be construed to affect or limit the County's sovereign immunity as set forth in Florida Statutes, Section 768.28.
7. **Amendment.**
- a. **Amendment to Comply with Law.** The parties acknowledge that state and federal laws relating to the security and privacy of PHI, including electronic data, are rapidly evolving and that amendment of this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HIPAA Regulations and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that the County must receive satisfactory written assurance from Associate that Associate will adequately safeguard all PHI that it receives or creates pursuant to this Agreement. Upon the County's request, Associate agrees to promptly enter into an amendment to the Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA Regulations or other applicable laws. The County, in addition to any other remedies including specific performance, may terminate the Agreement upon five [5] days' written notice in the event Associate does not enter into said amendment to the Agreement providing assurances regarding the safeguarding of PHI that the County, in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and the HIPAA Regulations. Notwithstanding Associate's failure to enter into an amendment, Associate shall comply with all provisions of the HIPAA laws.
- b. **Amendment of Appendix C.** In addition to amendments described in 7a above, Appendix C may otherwise be modified or amended by written mutual agreement of the parties without amendment of the remainder of this Agreement."
8. **Assistance in Litigation or Administrative Proceedings.** Associate shall make itself, and any subcontractors, employees or agents assisting Associate in the performance of its obligations under this Agreement, available to the County at the County's convenience upon reasonable notice, at no cost to the County, to testify as witnesses, for document production, or otherwise, in the event of litigation or administrative proceedings being commenced against the County, its trustees, officers, agents or employees based upon claimed violation of HIPAA, the HIPAA Regulations or other laws relating to security and privacy, except where Associate or its subcontractor, employee or agent is a named adverse party.
9. **Effect on Agreement.** Except as specifically required to implement the purposes of this Addendum, or to the extent inconsistent with this Addendum, all other terms of the Agreement shall remain in force and effect. In the event of any conflict between this Addendum and Agreement, this Addendum shall control.
10. **Interpretation.** This Addendum and the Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA Regulations and applicable Florida laws. The parties agree that any ambiguity in this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the HIPAA Regulations.
11. **Jurisdiction.** Any litigation between the parties regarding the terms of this Addendum shall take place in Miami-Dade County, Florida.

Attachment B – Pre-employment Psychological Evaluation Guidelines

Attachment C - Federal Bureau of Investigation Criminal Justice Information Services Security Addendum

Attachment D - Federal Bureau of Investigation Criminal Justice Information Services Security Addendum Certification