

MEMORANDUM

Agenda Item No. 8(J)(1)

TO: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

DATE: June 26, 2025

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving the award of an Interim Agreement for the North Bulkhead Berths 1-6 Realignment Program (Contract No.: 2020-007; SPD Project No.: DB21-SEA-01) between the County and OHLA USA, Inc. (Interim Firm) in the amount of \$29,998,110.00, inclusive of a contingency allowance of \$2,654,700.00 and a dedicated allowance for permit fees of \$796,410.00; authorizing the County Mayor to execute the Interim Agreement with the Interim Firm and exercise all rights contained therein; authorizing the County Mayor to negotiate and enter into a standby agreement with Dragados USA, Inc. (Standby Firm) provided that such standby agreement shall have no adverse fiscal impact on the County, upon termination of the Interim Agreement with the Interim Firm, authorizing the County Mayor to negotiate and enter into a successor Interim Agreement with the standby firm, provided that such successor Interim Agreement shall not require an expenditure of funds in an amount greater than those remaining in the Interim Agreement without separate Board approval; waiving the requirements of Resolution No. R-130-06 in connection with the negotiation and entry into the standby agreement and successor Interim Agreement; authorizing the County Mayor to exercise all rights contained in the standby agreement and successor Interim Agreement; and adding the North Bulkhead Berths 1-6 Realignment Program to the list of Capital Improvement Projects under the Miami-Dade Seaport Department Capital Improvement Programs Expedite and Acceleration Ordinance

Resolution No. R-577-25

The accompanying resolution was prepared by the Port of Miami and placed on the agenda at the request of Prime Sponsor Commissioner Raquel A. Regalado.



Geri Bonzon-Keenan
County Attorney

GBK/uw

Date: June 26, 2025

To: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

From: Daniella Levine Cava *Daniella Levine Cava*
Mayor

Subject: Contract Award Recommendation for Approval to Award an Interim Agreement to
Provide Services for the Realignment of North Bulkhead Cruise Berths 1-6 Contract
No.: 2020-007; SPD Project No.: DB21-SEA-01

SUMMARY

This item recommends that the Board of County Commissioners (Board) approve the County's entry into an Interim Agreement (Interim Agreement) to provide services for the realignment of North Bulkhead Cruise Berths 1-6 (Project) with OHLA USA, Inc. (formerly known as OHL USA, INC.) (Interim Firm). The Interim Agreement will provide services for the Project that are essential to the County. This item also authorizes the County Mayor or County Mayor's designee to enter into a standby interim agreement (Standby Agreement) with Dragados USA, Inc. (Standby Firm), at no cost to the County, allowing the County to negotiate an interim agreement with the Standby Firm if negotiations conducted with the Interim Firm under the Interim Agreement are unsuccessful. Finally, this item approves the addition of the Project to the list of projects eligible for the Miami-Dade Seaport Department Capital Improvement Programs Expedite and Acceleration Ordinance, set forth in section 2-8.2.15 of the Code of Miami-Dade County (Seaport Expedite Ordinance).

This is a two-phased contract method for the Realignment of the North Bulkhead project. While the item presented to the Board today recommends the approval of an Interim Agreement and a Standby Firm, the final objective is to recommend a comprehensive Project Agreement to the Board, inclusive of the project's guaranteed maximum price, once its negotiation is finalized.

This memorandum summarizes the evolution of this procurement through the current recommendation to enter into an Interim Agreement with the Interim Firm. Throughout this procurement, staff from the Office of the Inspector General (OIG) have been actively providing contract oversight through attendance and monitoring of the Competitive Selection Committee (CSC) meetings, negotiation meetings, and internal strategy discussions. OIG staff have provided their independent observations and comments on contractual language throughout the development of the Interim Agreement. Their ongoing presence and input reflect a shared commitment to transparency, compliance, risk mitigation, and the integrity of large-scale capital procurements.

RECOMMENDATION

It is recommended that the Board approve a competitive award of an Interim Agreement to the Interim Firm under Contract No. 2020-007; SPD Project No.: DB21-SEA-01 for the Seaport Department (PortMiami) in the combined amount not to exceed \$29,998,110.00, inclusive of a contingency allowance amount of \$2,654,700.00 and a dedicated allowance for permit fees in the amount of \$796,410.00. It is further recommended that the Board waive the requirements of Resolution No. R-130-06 and authorize the County Mayor or County Mayor's designee to enter into a Standby Agreement with the Standby Firm, at no cost to the County, allowing the County

to negotiate an interim agreement with the Standby Firm if negotiations conducted with the Interim Firm under the Interim Agreement are unsuccessful. To the extent the County must enter into an interim agreement with the Standby Firm based on the failure of negotiations with the Interim Firm, the County may enter into a successor interim agreement with the Standby Firm without further approval of the Board if the amount of the successor interim agreement does not require the expenditure of funds exceeding the balance of contract funds remaining in the Interim Agreement with the Interim Firm. Finally, it is recommended that the Board add the Project as a Capital Improvement Project eligible for the use of the Seaport Expedite Ordinance.

DELEGATED AUTHORITY

The authority of the County Mayor or County Mayor's designee to execute and implement the Interim Agreement is consistent with those authorities granted under the Code of Miami-Dade County. Such delegation of authorities are to: (1) exercise the provisions in the Interim Agreement, including rights of extension and termination; (2) implement the dispute resolution procedures set forth in § 6.2 of the Interim Agreement, providing that all disputes shall be decided by the Director of PortMiami and subject to appeal to an appropriate court of competent jurisdiction in Miami-Dade County; (3) authorize the County Mayor or County Mayor's designee to negotiate and enter into a Standby Agreement with the Standby Firm, as long as such Standby Agreement is at no cost to the County (otherwise, Board approval of the Standby Agreement shall be required); (4) to the extent a Standby Agreement is entered in accordance with the preceding delegation of authority, to exercise all rights contained in the Standby Agreement, including negotiation of a successor interim agreement (as long as the amount of the successor interim agreement does not require the expenditure of funds exceeding the balance of contract funds remaining in the Interim Agreement with the Interim Firm) and comprehensive agreement with the Standby Firm; and (5) to exercise all powers granted under the Seaport Expedite Ordinance.

SCOPE

PortMiami is located within District 5, represented by Commissioner Eileen Higgins. The impact of this item is countywide as PortMiami is a regional asset and generates employment for residents throughout Miami-Dade County.

BACKGROUND

PortMiami is reconstructing and realigning 7,168 linear feet of the North Bulkhead (corresponding to existing Cruise Berths 1-6, which encompass existing Cruise Terminal G (west end) through Cruise Terminal B (east end) due to the deterioration of the existing steel sheet pile structure. Numerous holes and gaps have developed over time in the existing 50+-year-old bulkhead, resulting in the loss of backfill material, scouring at the bulkhead toe, and the formation of voids in the apron area, creating potential hazards to operations and other unsafe conditions. The design and construction services rendered by the Design-Builder are intended to result in a complete, functional, and fully operable bulkhead to accommodate the cruise ships within six berths along the entire 7,168-foot length.

All work will be conducted within an operationally active and secured port. During construction, a berth will be taken out of service annually during each cruising off-season (from May 15 through October 15) and then returned to service for cruise operations in accordance with established berth

closure periods until all 6 berths are reconstructed. The anticipated Project duration is approximately 6.5 years.

A. Design-Build-Finance Procurement Process

PortMiami initially advertised a Request for Design-Build-Finance Services (RDBS) under full and open competition under the Strategic Procurement Department's (SPD) Project Number DB21-SEA-01 on October 22, 2021. Five proposals were received by the December 17, 2021 submittal deadline. All proposals were submitted to SBD for review on December 23, 2021, and were deemed in compliance with the technical certification requirements and Small Business Enterprise – Architecture and Engineering goals established for this solicitation (Refer to Attachment 1 – SBD Compliance Review).

The RDBS called for the County to enter into a Design-Build-Finance agreement. However, in accordance with Addendum No. 1, issued on November 23, 2021, the County advised proposers that it “may choose to eliminate the requirement for financing at any time during this procurement.”

The RDBS solicitation process involved a two-step selection process: Step 1 – Evaluation of Qualifications and Step 2 – Evaluation of Technical and Price Proposals. Step 1 evaluates the design-build team's current statements of experience, qualifications, and performance data. Step 2 evaluates competitive technical and price proposals and oral presentations for shortlisted firms in Step 1.

On July 8, 2022, the Mayor waived the standard Step 2 evaluation criteria, consistent with Implementing Order 3-39, to accommodate emphasis on key characteristics required for the Project's success (Refer to Attachment 2 – Request for Waiver for additional information).

On March 9, 2022, the Competitive Selection Committee (CSC) evaluated the experience and qualifications and scored and ranked the proposals from the five (5) responsive proposers. In accordance with the Step 1 evaluation criteria outlined in the solicitation document, the CSC voted to invite all five (5) proposers to submit technical and price proposals for the Step 2 evaluation process.

The Step 1 meeting was reconvened on October 26, 2022. Due to County Resolution No. R-62-22, which amended Implementing Order 3-34 and became effective on July 11, 2022, the Competitive Selection Committee was provided with all reports and findings of the OIG and the COE produced on August 15, 2022, and August 24, 2022, respectively regarding any proposer and their proposed subcontractor(s) for consideration while scoring in accordance with the applicable criteria identified in the Competitive Selection Committee Report solicitation. The CSC validated their Step 1 score made during their previous meeting on March 9, 2022, with no changes.

Five rounds of individual negotiation meetings were held between May 3, 2022, and May 9, 2024. Individual Negotiation Meeting No. 1 was held on May 3, 2022 (4 firms participated), and Individual Negotiation Meeting No. 2 was held on June 9, 2022 (4 firms participated). The

Alternate Technical Concepts presented/discussed during said meetings were reviewed by the County's technical subject matter experts.

During the Step 2 phase, the draft design-build-finance agreement was issued. Proposers submitted several requests for information requesting the County meet with them to discuss the proposed terms. Accordingly, the County invited all firms to meet individually to discuss the contract terms. Individual Negotiation Meeting No. 3 was held on March 9, 2023 (3 firms participated). Individual Negotiation Meeting No. 4 was held on November 2, 2023 (3 firms participated). Individual Negotiation Meeting No. 5 was held on May 9, 2024 (2 firms participated).

The feedback that the County obtained during the individual negotiation meetings made clear that a different contracting approach was necessary. For instance, the RDBS issued on October 22, 2021, included an engineers' estimate for the entire project of \$300 million. Another significant element of the RDBS was the selected design-builders' adherence to a 5-month berth closure window, which was to take place during the cruising off season and was designed to minimize any disruption to scheduled cruise calls.

However, in the individual negotiation sessions held in late-2023 and early-2024, it became clear the estimated project cost would well exceed \$300 million (indeed, if financing were pursued, the costs of financing alone were estimated at \$300 million). Further, at those negotiation meetings, the prospective design-builders indicated that it would be challenging to meet the 5-month berth closure windows.

There were other indications of waning interest in the project. On April 26, 2022, Sacyr Construction USA LLC withdrew based on an unfavorable internal analysis of the "commercial and legal risks" associated with the Project. On March 9, 2023, Acciona-Condotta JV, a non-local joint venture, indicated that it would withdraw because of the disadvantage that it would suffer relative to other proposers from the application of the County's local business preference rules. On April 9, 2024, OHLA notified the County that it was withdrawing from the procurement, largely based on concerns associated with the financing component, the lack of a stipend, and the requirement of high closing security relative to typical market requirements. Another proposer voiced reservations about continued participation in the negotiation process.

Having lost interest from 3 of the 5 proposers (and at risk of losing a fourth), SPD consulted with PortMiami and the County Attorney's Office to determine the best course of action to maximize interest from the proposers and perform the work most cost-effectively.

B. Interim Agreement Procurement Process

On August 2, 2024, the County issued Addendum No. 30 informing proposers of the County's consideration of an alternative procurement approach whereby the County would issue an Interim Agreement (also referenced as a "Pre-Development Agreement" in the addendum). The County invited all five proposers to individual negotiation meetings to be held on August 20, 2024. The meetings were held and were well received by all participating proposers, including some proposers that had previously indicated a lack of interest in the project; 4 out of the 5 initial

proposers participated in the individual negotiation meetings, expressing an interest in the revamped contracting approach.

Given the proposers' interest, on September 20, 2024, the County issued Addendum No. 33 establishing that the County would use a two-phased approach to procuring the services required for the Project. The Clerk of the Board received two (2) proposals by the submittal deadline of November 6, 2024.

On December 10, 2024, the CSC evaluated the two (2) proposals received from OHLA USA, Inc. and Dragados USA, Inc., based upon the established Step 2 evaluation criteria. After the CSC scored the technical proposals, the price proposals and bid bond envelopes were opened, and the bid prices were read into the record. The order of highest total qualitative scores determined the final ranking. The qualitative scores, bid prices, and final rankings are noted below:

Design-Builder	Interim Agreement Price	Percent Markup	Total Qualitative Score	Final Ranking
OHLA USA Inc.	\$26,547,000.00	15%	4607	1
Dragados USA Inc.	\$44,000,000.00	14%	4371	2

After the Step 2 (oral presentations), the CSC recommended the Interim Firm—OHLA USA Inc.—for negotiations. The County Mayor's designee, the Director of the Strategic Procurement Department, concurred with the CSC (Refer to Attachment 3 – Report of Competitive Selection Committee).

Under the two-phased contracting method established in Addendum No. 33, the County and the Interim Firm (or the Standby Firm, if necessary) will enter into the below-described agreements. Each agreement (Interim Agreement and Project Agreement) will require the separate approval of the Board. This item seeks approval of the first agreement—the Interim Agreement—and a separate item will be brought to approve the second agreement—the comprehensive Project Agreement—once its negotiation is finalized.

- Phase 1 (Interim Agreement): Over an initial period of 12 months (subject to extension as provided in the last paragraph of this Section B), the County and the Interim Firm (or the Standby Firm, if necessary) will negotiate the comprehensive Project Agreement, while the Interim Firm develops design deliverables that advance the progress of the Project and are usable by any other firm (including, the Standby Firm) should the County and Interim Firm's efforts to negotiate a comprehensive Project Agreement prove unsuccessful. During the Interim Agreement phase, the Interim Firm will perform field investigations, including topographic and marine surveys; undertake a ground improvement pilot program; provide a coral survey and relocation plan; identify existing utilities above and below ground; develop preliminary design drawings, specifications, and design support documents, including basis of design to a level of 60%; develop a project aesthetics approach for the proposed concourse extensions; submit schedule

updates for the period of the Interim Agreement and the subsequent comprehensive Project Agreement; and submit the Project's construction approach and cost estimates for final design and construction based on open-book pricing to arrive at the Guaranteed Maximum Price (GMP) for the comprehensive Project Agreement. The Interim Agreement preserves the optionality of financing that existed through Addendum No. 1 of the RDBS. Specifically, the Interim Agreement requires the County to notify the Interim Firm whether it will pursue financing after the 6th monthly pricing update. To the extent the County intends to pursue financing, the County will be required to issue a change order to cover the cost of the additional services that the Interim Firm will need to secure to pursue such financing. The anticipated cost of such change order is \$1.2 million, which is within the contingency amount established for the Interim Agreement.

- Phase 2 (Project Agreement): If the County and Interim Firm successfully negotiate a GMP and other contractual terms and conditions, the County and Interim Firm will enter into the comprehensive Project Agreement under which the design will be completed and the construction of the Project will be undertaken. The full scope includes all services necessary to support port operations by providing a stable and safe bulkhead for Berths 1-6, recognizing the present and future needs of the industry, including coral survey and relocation; excavation of channel bottom; preparation of bedding layer; disposal of sediments; bulkhead berthing structure; surface drainage and outfalls; scour protection; mooring and fendering components; ground improvement under the existing apron; expansion and reconstruction of the existing apron; new concourse(s) extensions; passenger boarding bridge (PBB) runways; PBB temporary relocation, reinstallation, and commissioning; PBB dismantling and disposal; coordination for delivery, installation, and commissioning of new PBBs; maintenance of traffic during construction; new utilities including water, electrical and information technology routing; relocation of shore power systems; apron demolition and reconstruction; construction staging; wayfinding; and all related infrastructure and structure work ancillary to the essential work scope.

If the Interim Firm and the County cannot agree to the final design-build scope and GMP, this item allows the County to revert to the second-ranked team (Dragados). In that case, the County will enter into an interim agreement with Dragados, either to complete any remaining pre-development work needed to negotiate a GMP for the comprehensive Project Agreement or to proceed immediately into the negotiation of the comprehensive Project Agreement.

The term of the Interim Agreement commences on the date the County issues a notice to proceed with the interim work after approval of this Interim Agreement by the Board. The Interim Agreement expires upon the achievement of "Commercial Close" (defined as achieved when the Board approves the comprehensive Project Agreement), which shall occur not later than 12 months from the notice to proceed, unless otherwise extended by the County for a single period not to exceed 3 months. The Interim Agreement provides for an additional automatic 120-day extension once the Interim Firm provides a signed counterpart (signature page) of the comprehensive Project Agreement; this period is intended to allot sufficient time for the County to obtain the Board's approval of the comprehensive Project Agreement.

C. Standby Agreement

This item allows for the County and the Standby Firm to enter into a Standby Agreement with the County, provided that such Standby Agreement is at no cost to the County. In Addenda Nos. 30 and 33, the County advised proposers that it reserved the right to enter into a Standby Agreement with the second-ranked firm.

The purpose of the Standby Agreement is to provide a vehicle for the County to negotiate a successor interim agreement (and, ultimately, a comprehensive Project Agreement) with the Standby Firm, should negotiations with the Interim Firm result in an impasse or should the Interim Agreement be terminated for another reason (including, as provided in the Interim Agreement, for convenience, by the County, upon 30 days' written notice or for default, by either party, also upon 30 days' written notice and an opportunity to cure the default). This process will allow the County to utilize the procurement process completed thus far, avoiding the risk of having to restart the procurement process or of having to pursue non-competitive avenues for award.

In this case, the Standby Agreement (which has not been negotiated, necessitating a waiver of Resolution No. R-130-06), would be entered into at no cost to the County, but would provide that, upon receipt of notice from the County, the Standby Firm agrees to negotiate a successor interim agreement with the County.

The Interim Agreement has been negotiated so as to allow the County to avail itself of the work product and investigations conducted by the Interim Firm, just in case the County has to proceed with another firm, either for the completion of the scope of work under the interim agreement or for the scope of the comprehensive agreement.

This item allows the County to negotiate and enter into the successor interim agreement using any unexpended contract funds remaining in the Interim Agreement. To the extent additional funds are necessary, the County will seek separate approval from the Board for the expenditure of those additional funds.

FISCAL IMPACT/FUNDING SOURCE

This Interim Agreement is valued at \$29,998,110.00. The County anticipates completing negotiations on the Project Agreement on or before July 1, 2026, with the achievement of Commercial Close (defined as the approval of the Project Agreement by the Board) on or before October 1, 2026. See the table below for a breakdown and further details.

Base Interim Agreement Amount	Contingency Amount	Dedicated Allowance Amount	Permit Fees Amount	Art in Public Places Amount
\$26,547,000.00	\$2,654,700.00	N/A	\$796,410.00	N/A

The Project is the Adopted Budget and Multi-Year Capital Plan. See the table below for further details.

Revenue Name	Program No. & Description	Project No.	Fund Code	Funding Amount
Future Financing	644300 – Infrastructure Improvements – North Bulkhead Rehabilitation and Replacement Book Page: 252 Adopted Budget and Multi-Year Capital Plan FY 2024-25	76574	C9999	\$29,998,110.00

See the table below for specific funding types and whether they apply to this item.

Funding Type	Applicable (Yes or No)
People’s Transportation Plan (PTP)	No
General Obligation Bond (GOB)	No
American Recovery and Reinvestment Act (ARRA-Economic Stimulus)	No

TRACK RECORD/MONITOR

Andrew Hecker, Seaport Deputy Director, and Helga Sommer, Acting Assistant Director of Capital Development for the Seaport Department, are responsible for tracking and monitoring the Interim Agreement.

VENDOR RECOMMENDED FOR AWARD

The table below depicts a summary of the recommended design-builder.

Vendor Name	Principal Address	Local Address	Number of Employee Residents*	Principal
			1. Miami-Dade County 2. Percentage (%)	
OHLA-USA, Inc.	9675 NW 117 th Avenue, Suite 108, Miami, FL 33178	9675 NW 117 th Avenue, Suite 108, Miami, FL 33178	151	Donald Hickey, Executive Vice President
			36%	

*Pursuant to R-1011-15, the percentage of employee residents is the percentage of the vendor’s employees who reside in Miami-Dade County as compared to the vendor’s total workforce

A review of the County's Capital Improvements Information System showed that OHLA-USA, Inc. (formerly known as OHL USA, INC.) has a total of 1 evaluation with an average for all evaluations of 3.0 out of a possible maximum score of 4.

According to the Firm History Report, as provided by the Small Business Development Division of the Internal Services Department, within the last years, three and five years, OHLA-USA, Inc. has received 3 contracts with a total value of \$428,816,803.00.

The sub-consultants/subcontractors for this Project are as follows:

- WSP USA INC.
- Cummins Cederberg Inc.
- GCES Engineering Services LLC
- Hadonne Corp.
- Manuel G. Vera and Associates Inc.
- Professional Service Industry Inc. (PSI)
- Gurri Matute PA
- HBC Engineering Company
- EV Services Inc.
- Clary Consulting, LLC (Clary Consulting Company)
- Keybank Capital Markets Inc.
- Nicholson Construction Company
- USW-Menard Inc.
- Cashman Dredging and Marine Contracting co LLC
- Ebsary Foundation Company

DUE DILIGENCE

Pursuant to R-187-12, the Strategic Procurement Department (SPD) conducted due diligence in accordance with SPD's Procurement Guidelines to determine vendor responsibility, including verifying corporate status and that no performance or compliance issues exist. The lists referenced included the Capital Improvements Information System, Office of Small Business Development database, Sunbiz, Tax Collector's Office, convicted vendors, debarred vendors, delinquent contractors, suspended vendors, and federal excluded parties list. Also examined as part of this due diligence: Florida Division of Business and Professional Regulation and the Office of Safety and Health Safety Administration in accordance with Resolution R-1181-18. There were no adverse findings relating to Firm responsibility.

APPLICABILITY OF ORDINANCES AND MEASURES

The table below depicts various legislative policies and whether they are applicable.

Title	Legislation	Applicable (Yes or No)	Notations
In-house Capabilities	Resolution R-1204-05	No	

Title	Legislation	Applicable (Yes or No)	Notations
Consultants' Competitive Negotiation Act	Florida Statute 287.055	Yes	
Local Preference	Code Section 2-8.5	Yes	
Local Certified Veteran Business Enterprise Preference	Code Section 2-8.5.1	Yes	
Small Business Enterprise - Architecture and Engineering	Code Section 2-10.4.01 and Implementing Order 3-32	Yes	18% (Refer to Attachment 4)
Small Business Enterprise - Construction	Code Section 10-33.02 and Implementing Order 3-22	No	Will be enforced upon the receipt of a Guaranteed Maximum Price for final design and construction 5.23
Small Business Enterprise - Services	Code Section 2-8.1.1.1.1 and Implementing Order 3-41	No	Will be enforced upon the receipt of a Guaranteed Maximum Price for final design and construction
Small Business Enterprise - Goods	Code Section 2-8.1.1.1.2 and Implementing Order 3-41	No	Will be enforced upon the receipt of a Guaranteed Maximum Price for final design and construction 2%
Responsible Wages and Benefits	Code Section 2-11.16 and Implementing Order 3-24	No	Deleted via Addendum No. 37
Living Wage	Code Section 2-8.9 and Administrative Order 3-30	No	
Sea Level Rise	Ordinance 14-79	Yes	The impact of sea level rise will be considered as part of the design.
Sustainable Buildings Program	Implementing Order 8-8	No	Heavy Marine Bulkhead Work
Buy American Iron & Steel Procurement Program	Code Section 2-8.2.6.1	No	Will be enforced upon the receipt of a Guaranteed Maximum Price for final design and construction
Community Workforce	Resolution R-1145-99,	No	Deleted via Addendum No. 37

Title	Legislation	Applicable (Yes or No)	Notations
Program (Clearing House)	Code Section 2-1701 and Implementing Order 3-37		
Residents First Training and Employment	Code Section 2-11.17 and Implementing Order 3-61	No	Deleted via Addendum No. 37
First Source Hiring Referral Program	Section 2-2113 of the County Code	No	
Employ Miami-Dade Program	Administrative Order 3-63	No	Deleted via Addendum No. 37
Art in Public Places	Code Section 2-11.15	No	
Office of Inspector General Fee	Code Section 2-1076	Yes	

**BUDGET APPROVAL
FUNDS AVAILABLE:**

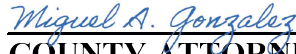


OMB DIRECTOR

05/12/2025

DATE

**APPROVED AS TO
LEGAL SUFFICIENCY:**



COUNTY ATTORNEY

5/12/2025

DATE



**COUNTY MAYOR
DESIGNEE**

05/13/25

DATE

CLERK DATE:

DATE



MEMORANDUM (Revised)

TO: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

DATE: June 26, 2025

FROM: 
Glen Bonzon-Keenan
County Attorney

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

Please note any items checked.

- _____ **"3-Day Rule" for committees applicable if raised**
- _____ **6 weeks required between first reading and public hearing**
- _____ **4 weeks notification to municipal officials required prior to public hearing**
- _____ **Decreases revenues or increases expenditures without balancing budget**
- _____ **Budget required**
- _____ **Statement of fiscal impact required**
- _____ **Statement of social equity required**
- _____ **Ordinance creating a new board requires detailed County Mayor's report for public hearing**
- _____ **No committee review**
- _____ **Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, majority plus one ____, 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) ____, 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 *Daniella Lane Carr* Mayor
Veto _____
Override _____

Agenda Item No. 8(J)(1)
6-26-25

RESOLUTION NO. R-577-25

RESOLUTION APPROVING THE AWARD OF AN INTERIM AGREEMENT FOR THE NORTH BULKHEAD BERTHS 1-6 REALIGNMENT PROGRAM (CONTRACT NO.: 2020-007; SPD PROJECT NO.: DB21-SEA-01) BETWEEN THE COUNTY AND OHLA USA, INC. (INTERIM FIRM) IN THE AMOUNT OF \$29,998,110.00, INCLUSIVE OF A CONTINGENCY ALLOWANCE OF \$2,654,700.00 AND A DEDICATED ALLOWANCE FOR PERMIT FEES OF \$796,410.00; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE INTERIM AGREEMENT WITH THE INTERIM FIRM AND EXERCISE ALL RIGHTS CONTAINED THEREIN; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO NEGOTIATE AND ENTER INTO A STANDBY AGREEMENT WITH DRAGADOS USA, INC. (STANDBY FIRM) PROVIDED THAT SUCH STANDBY AGREEMENT SHALL HAVE NO ADVERSE FISCAL IMPACT ON THE COUNTY, UPON TERMINATION OF THE INTERIM AGREEMENT WITH THE INTERIM FIRM, AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO NEGOTIATE AND ENTER INTO A SUCCESSOR INTERIM AGREEMENT WITH THE STANDBY FIRM, PROVIDED THAT SUCH SUCCESSOR INTERIM AGREEMENT SHALL NOT REQUIRE AN EXPENDITURE OF FUNDS IN AN AMOUNT GREATER THAN THOSE REMAINING IN THE INTERIM AGREEMENT WITHOUT SEPARATE BOARD APPROVAL; WAIVING THE REQUIREMENTS OF RESOLUTION NO. R-130-06 IN CONNECTION WITH THE NEGOTIATION AND ENTRY INTO THE STANDBY AGREEMENT AND SUCCESSOR INTERIM AGREEMENT; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ALL RIGHTS CONTAINED IN THE STANDBY AGREEMENT AND SUCCESSOR INTERIM AGREEMENT; AND ADDING THE NORTH BULKHEAD BERTHS 1-6 REALIGNMENT PROGRAM TO THE LIST OF CAPITAL IMPROVEMENT PROJECTS UNDER THE MIAMI-DADE SEAPORT DEPARTMENT CAPITAL IMPROVEMENT PROGRAMS EXPEDITE AND ACCELERATION ORDINANCE

WHEREAS, the Board desires to accomplish the objectives set forth in the accompany 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 this Board:

Section 1. Adopts and incorporates herein the foregoing recitals.

Section 2. Approves the award of an Interim Agreement for the North Bulkhead Berths 1-6 Realignment Program (Contract No.: 2020-007; SPD Project No.: DB21-SEA-01), in substantially the form attached hereto, between the County and OHLA USA, Inc. (the “Interim Firm”) in the amount of \$29,998,110.00, inclusive of a contingency allowance of \$2,654,700.00 and a dedicated allowance for permit fees of \$796,410.00. Authorizes the County Mayor or County Mayor’s designee to execute the Interim Agreement and to exercise all rights contained therein, including rights of extension and termination.

Section 3. Authorizes the County Mayor or County Mayor’s designee to negotiate and enter into a Standby Agreement with Dragados USA, Inc. (the “Standby Firm”), provided that such Standby Agreement shall have no adverse fiscal impact on the County.

Section 4. In the event of the termination of the Interim Agreement between the County and the Interim Firm, authorizes the County Mayor or County Mayor’s designee to negotiate and enter into a successor interim agreement with the Standby Firm. Such successor interim agreement shall not require an expenditure of funds in an amount greater than those remaining in the Interim Agreement with the Interim Firm without a separate approval from this Board.

Section 5. Waives the requirements of Resolution No. R-130-06 in connection with the entry of the agreements described in sections 3 and 4 of this resolution.

Section 6. Authorizes the County Mayor or County Mayor’s designee to exercise all rights contained in the agreements described in sections 3 and 4 of this resolution, including rights of extension and termination.

Section 7. Adds the North Bulkhead Berths 1-6 Realignment Program to the list of Capital Improvement Projects eligible for use of the Miami-Dade Seaport Department Capital Improvement Programs Expedite and Acceleration Ordinance set forth in section 2-8.2.15 of the Code of Miami-Dade County.

The foregoing resolution was offered by Commissioner **Kionne L. McGhee** , who moved its adoption. The motion was seconded by Commissioner **Marleine Bastien** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared this resolution duly passed and adopted this 26th day of June, 2025. 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.

MAG

Miguel A. Gonzalez

INTERIM AGREEMENT

This Interim Agreement (the “Agreement”) is made and entered this ____ day of ____, 2025, by and between Miami-Dade County, a political subdivision of the State of Florida (the “County”) and OHLA-USA, Inc. (the “Interim Firm”) (together, the “Parties” and each a “Party”).

RECITALS

WHEREAS, the County owns certain lands located in Miami-Dade County, Florida, on which the Dante B. Fascell Port of Miami-Dade (“PortMiami” or the “Port”) is located; and

WHEREAS, the County operates PortMiami through the Miami-Dade County Seaport Department; and

WHEREAS, on October 22, 2021, the County published a Request for Design-Build-Finance Services (“RDBS”) for Project No. DB21-SEA-01 (the “North Bulkhead Realignment Project”), seeking design-builders to offer design-build-finance services to support port operations by providing a stable and safe bulkhead for Cruise Terminal Berths 1-6; and

WHEREAS, when issued, the RDBS contemplated that the design-builder would be solely responsible for providing and structuring all the necessary financing for the contemplated scope of work, whether through debt or alternative financing methods; and

WHEREAS, on November 23, 2021, the County issued Addendum No. 1 to the RDBS in which it reserved to itself the discretion of whether to pursue the financing contemplated in the scope of work; and

WHEREAS, because of the possibility that the work would be financed and the attendant requirements of prospective lenders to have an agreement that was largely finalized, the Parties (and other involved prospective design-builders) exchanged mark-ups of a design-build-finance agreement; and

WHEREAS, it became apparent that negotiating a design-build-finance agreement to the degree required by financial institutions, incorporating the variety of changes requested by multiple proposals, was not practicable; and

WHEREAS, during those exchanges, in late-2023, it also became evident that the North Bulkhead Realignment Project contemplated in the RDBS could not be accomplished within the required timeframes and within the County’s budgetary expectations; and

WHEREAS, the North Bulkhead Realignment Project is a “qualifying project” under Florida’s public-private partnership statute (the “P3 Statute”), Fla. Stat. § 255.065, insofar as the project is for a seaport facility; and

WHEREAS, the P3 statute authorizes the County to enter into an interim agreement

with the proposer of a qualifying project, which interim agreement does not obligate the responsible public entity to enter into a comprehensive agreement, and which interim agreement allows for the commencement of various project-related activities, including design and project planning and development, during the negotiation of a comprehensive agreement—the Project Agreement; and

WHEREAS, Section 2-8.2.6 of the Code of Miami-Dade County, Florida, contains analogous provisions to those in the P3 Statute, incorporating the statutory definition of “qualifying project,” and authorizing the County to enter into an interim agreement “[b]efore or in connection with the negotiation of a comprehensive agreement . . . all in accordance with the provisions of [the P3 Statute]”; and

WHEREAS, the Parties anticipate that the use of an interim agreement in connection with the North Bulkhead Realignment Project will afford the parties an opportunity to identify risks and, therefore, confirm the likely costs, to the contracting parties, thereby establishing a more accurate and vetted price for the North Bulkhead Realignment Project; and

WHEREAS, consequently, on August 2, 2024, the County issued Addendum No. 30, seeking to enter into an interim agreement with the top-ranked firm, during which the selected firm, in this instance, the Interim Firm, would provide services, including design services, while exclusively negotiating the Project Agreement; and

WHEREAS, Addendum No. 30 also contemplated that the County would enter into one or more agreements with other firms qualified during the Step 1 Phase of the RDBS to serve as “Standby Interim Firms,” ready to negotiate with the County if negotiations with the Interim Firm are terminated or otherwise unsuccessful; and

WHEREAS, a design-builder has not yet been selected for the North Bulkhead Realignment Project; and

WHEREAS, the Interim Firm was the highest-ranked responsive and responsible Proposer selected under the RDBS; and

WHEREAS, the Parties have successfully negotiated and desire to enter into this Agreement to establish the framework under which the Parties expect to: (a) develop the details of the Project; (b) establish a productive and interactive working relationship between the Parties and other stakeholders; and (c) establish the parameters for the negotiation and Board of County Commissioners (the “Board”) review and approval of the Project Agreement; and

WHEREAS, the Interim Firm is qualified and ready, willing, and able to perform the services set forth in this Agreement, including good-faith negotiation of a Project Agreement;

NOW, THEREFORE, for and in consideration of the promises set forth below and other good and valuable consideration, the Parties agree as follows:

TERMS AND CONDITIONS

ARTICLE I

GENERAL

1.1 Incorporation of Recitals. The foregoing recitals are accepted as true and correct and incorporated as if set forth fully herein.

1.2 Agreement. This Agreement establishes the terms and conditions for the development and negotiation of the Project Agreement to accomplish the Project as contemplated in the RDBS as such concepts may be revised and refined during the development and negotiation of the Project Agreement. Notwithstanding the foregoing, the Parties' entry into this Agreement does not guarantee that the Parties will enter into the Project Agreement. The County also engages the Interim Firm to perform the Pre-Development Work for the Project as set forth in this Agreement, and the Interim Firm hereby accepts such engagement subject to the terms and conditions of this Agreement. The Agreement incorporates this document and the following appendices by reference: **Exhibit A**, Definitions; **Exhibit B**, Scope of Work for Interim Agreement (the "Pre-Development Work"); **Exhibit C**, Mandatory Submittals and Submittal Schedule and County Acceptance Form; **Exhibit D**, Preliminary Project Schedule; **Exhibit E**, Key Personnel; **Exhibit F**, Requirements for Project Agreement; **Exhibit G**, Insurance Requirements for Pre-Development Work.

1.3 Definitions. Capitalized terms shall have the meanings set forth in Exhibit A. Other definitions appear throughout the Agreement.

1.4 Term. The term of this Agreement shall commence on the date of a notice to proceed with the Pre-Development Work to be issued by the County to the Interim Firm following approval of this Agreement by the Board (the "Effective Date") and shall expire upon the achievement of Commercial Close, which shall occur not later than twelve (12) months from the notice to proceed (the "Initial Term"), unless otherwise extended by the County for a single period not to exceed three (3) months (as may be extended, the "Term"); provided, however, that if the Interim Firm executes a counterpart of the Project Agreement during the Initial Term, then the Term shall be automatically extended for a further period not to exceed one hundred and twenty (120) calendar days to obtain approval of the Project Agreement by the Board. The Interim Firm agrees that the pricing set forth in the executed counterpart of the Project Agreement will be held for a period of six (6) months from the date of submittal of the final guaranteed maximum price. In addition to the foregoing, the Term shall expire upon the termination of this Agreement in accordance with Section 5.1.

ARTICLE II

SCOPE OF WORK

2.1 Pre-Development Work. The Interim Firm is the Party contracting with the County. The Interim Firm shall be primarily responsible to the County for the performance of all responsibilities in connection with the Pre-Development Work under this Agreement and assumes all responsibility for the Pre-Development Work under this Agreement, notwithstanding the Interim Firm's representation of the existence of other team participants

and related entities. The Interim Firm shall be required to perform all work identified on Exhibit B, regardless of whether such work is separately identified on Exhibit C and vice versa for the amounts identified on Exhibit C, which collectively shall not exceed the Interim Amount (except as set forth herein); provided, however, that the County reserves the right, without compensation to the Interim Firm (except as elsewhere provided in the event of termination) to reduce the Interim Firm's scope of work or to shift portions of the scope of work to the Project Agreement, and, provided further, that any such reduction or shifting shall not exceed ten percent (10%) of the Pre-Development Work except by mutual agreement between the County and the Interim Firm.

2.1.1 Performance. In furtherance of the Project, the Interim Firm shall, during the Pre-Development Phase undertake, and proceed diligently to completion, the tasks identified as Pre-Development Work as set forth in Exhibit B. The Interim Firm shall be solely responsible for the procurement, purchase, or contracting necessary for the delivery and the County's acceptance of the Pre-Development Work. The Pre-Development Work shall be performed and completed in accordance with the Submittal Schedule set forth as Exhibit C (subject to adjustments thereto). The County's acceptance of the Pre-Development Work shall be in writing and in the form or substantially similar to the form set forth in Exhibit C. The Interim Firm shall assume any and all costs of the Pre-Development Work, subject only to the reimbursement obligations of the County in the manner set forth in this Agreement.

2.1.2 Submittal Schedule. The Interim Firm shall perform the Pre-Development Work in accordance with the Submittal Schedule set forth as Exhibit C. The County may, in its reasonable discretion, grant extensions of time for the Interim Firm to provide the Submittals identified in Exhibit C for events outside the control of the Interim Firm, but there shall be no monetary compensation associated with any extension of time granted by the County, regardless of the cause of the delay occasioning the granting of the extension, and the Payment Milestone under Section 3.1.2 shall be adjusted in accordance with the County's extension. This provision notwithstanding, all Submittals will be provided within the Initial Term of the Agreement. Works not completed as a result of delays shall, upon negotiation and consent of the Parties, be incorporated into the Project Agreement.

2.1.3 Performance Standard. All of the services performed by the Interim Firm under this Agreement shall be performed in accordance with Good Industry Practice and in accordance with Applicable Law and industry standards. The reports, studies, drawings and specifications, electronic models, and other products and Submittals prepared by the Interim Firm under this Agreement shall be in accordance with Good Industry Practice. No Submittal shall be deemed completed until approved by the County. The Interim Firm shall perform all work required under this Agreement in a manner that would not interfere with or disrupt operations at PortMiami, including by restoring work areas scheduled or necessary for use in connection with PortMiami's operations (including, but not limited to, cruise operations). The obligation to ensure continuous and uninterrupted operations at PortMiami is of paramount importance, and all of the Interim Firm's obligations under this Agreement shall be performed in a manner that is consistent with that objective.

2.1.4 Access. To exercise its rights and in conjunction with performing its

obligations under this Agreement, the Interim Firm shall have the right to enter onto and engage in the activities contemplated under this Agreement on those portions of the Project site that are under the ownership or control of the Parties. The Interim Firm shall be responsible for obtaining access to portions of the Project site that may not be under such ownership or control as necessary to perform its work under this Agreement. Such access may require security clearances, and it shall be the Interim Firm's responsibility to apply for, obtain, and pay for any such required security clearances. The County will cooperate with the Interim Firm in obtaining such third-party approvals, including security clearances.

2.1.5 Additional Work. The County may add to or change the Pre-Development Work with the consent of the Interim Firm if memorialized in a change order. The County shall notify the Interim Firm in writing of its intention to add to or change the Pre-Development Work and the Interim Firm will notify the County in writing of the impact to the Interim Amount set forth in Section 3.1 and/or the Submittal Schedule. The Parties shall memorialize any change to the Pre-Development Work in a signed change order, reflecting the agreed upon adjustments to the Interim Amount set forth in Section 3.1 and/or the Submittal Schedule. To the extent Additional Work impacts the Preliminary Project Schedule, an amendment to the Preliminary Project Schedule shall be submitted and approved with the aforementioned change order. If the Interim Firm believes any direction or instruction from the County amounts to a change to the Pre-Development Work, the Interim Firm will notify the County in writing and the Interim Amount set forth in Section 3.1 and the Submittal Schedule shall be equitably adjusted upon consensus of both Parties.

2.1.5.1 Change Orders. Changes in the Pre-Development Work may be initiated by the issuance of a Change Notice by the County. The Interim Firm shall submit a proposal to the County for its review within a reasonable time after receipt of a Change Notice. The Interim Firm shall maintain this proposal, for acceptance by the County, for a minimum of thirty (30) calendar days after submittal. The Interim Firm shall not be compensated for effort expended in preparing and submitting price quotes. Any claim for payment of additional work that is not covered by a change order will be rejected by the County.

(a) Markups; Self-Performed Additional Work. For additional work performed by the Interim Firm's own forces, the Interim Firm agrees that its proposed cost to perform said additional work will in no event include a combined overhead and profit rate in excess of fifteen percent (15%).

(b) Markups; Additional Work Performed by Subcontractors. For additional work performed by a subcontractor's own forces or any sub-tier subcontractor, the Interim Firm agrees that the combined proposed cost to perform said additional work will in no event include a combined overhead and profit rate in excess of fifteen percent (15%). Note that only one (1) 15% mark-up is allowed for all subcontractors of all tiers and, to further clarify, a 15% mark-up is not allowed for each subcontractor in each tier. The Interim Firm may then add five percent (5%) times the subcontractor's or sub-tier subcontractor's actual direct cost as direct compensation for the Interim Firm's overhead, profit, and all other costs associated with the subcontractors work at all tiers.

(c) Insurance. Actual insurance costs may be added to establish the total amount of the change order, upon satisfactory evidence that the extra costs for insurance were incurred (and not avoidable) and that the increased insurance coverages were in fact obtained by the Interim Firm for the County's benefit.

2.1.6 Financing Decision for the Project Agreement. Upon receipt of its sixth (6) monthly price update, the County shall provide the Interim Firm with a written determination as to whether the County will seek financing of the scope of work to be performed under the Project Agreement. The failure to provide a written determination within the foregoing period shall be deemed a decision not to pursue said financing. If the County notifies the Interim Firm that it desires the Interim Firm to pursue financing, the Interim Firm will investigate whether it is feasible to finance the scope of work to be performed under the Project Agreement. The Interim Firm and the County shall meet to discuss financing options and ensure that any financing will meet best value standards. If the County and the Interim Firm agree that the Interim Firm will proceed with financing the scope of work to be performed under the Project Agreement, the Interim Firm shall be required to notify the County of the identity of the intended financing institution, include such institution in subsequent negotiations of the Project Agreement, and incorporate the financing costs into any cost estimates provided to the County under this Agreement thereafter. For the avoidance of doubt, the Interim Amount includes only those costs of advisory services required to assist the County and the Interim Firm in reaching agreement upon whether the Interim Firm will proceed with obtaining the financing and not any costs related to the actual financing of the Project. If the County notifies the Interim Firm pursuant to this Section 2.1.6 that the County will seek financing of the scope of work to be performed under the Project Agreement, the County shall issue a Change Order pursuant to this Agreement to cover the certain costs of obtaining financing excluding financial closing cost (currently estimated at \$1,200,000), including, the costs of legal financial counsel, lender's and Interim Firm's legal counsel, lender's technical advisor, lender's insurance advisor, the financial advisory team, the financial model auditor and any miscellaneous financing costs, but excluding the financial advisory services, which the Interim Firm is providing under this Interim Agreement. The open book cost of the foregoing additional services shall be charged to the County on a pass-through basis without any additional markup applicable to Change Orders under this Interim Agreement. A credit rating shall be provided by the County. The County will provide the Interim Firm with all documentation requested by the financing institution. If the Interim Firm engages a financing institution to provide funding for the scope of work to be performed under the Project Agreement and the financing cannot move forward due to concerns or resources on behalf of the County, the County will reimburse the Interim Firm for all expenses incurred in engaging in the pursuit of financing.

2.2 Design Work. The Interim Firm agrees and acknowledges that any design work performed during the Agreement shall, to the extent it is not "Background Information," upon payment of all undisputed amounts owed to the Interim Firm and subject to the terms of this Agreement, become the property of the County, inclusive of all rights to reproduce, modify, disseminate, or assert any type of right consistent with the full and unencumbered ownership of such design work, as if such work had been performed by the County itself. Such rights are solely for the purpose of completing the Project and shall survive the termination of this Agreement. Without limiting the Interim Firm's obligations pursuant to Good Industry Practice, any use or

modifications made to design work or other deliverables by the County, or anyone working for the County, without the written permission of the Interim Firm shall be at the County's sole risk. Without limiting the Interim Firm's obligations pursuant to Good Industry Practice, to the extent any design work or deliverables provided by or on behalf of the Interim Firm to the County pursuant to this Agreement are utilized or modified by an entity other than the Interim Firm or its other team participants, the County (subject to the monetary limitations contained in Fla. Stat. § 768.28) shall indemnify, defend, and hold harmless the Interim Firm and the other team participants or related entities from any claims, demands, judgments, fees (including reasonable attorneys' fees), penalties, liabilities, losses or costs arising out of the use or modification of such design work or deliverables by the County or any firm(s) contracting with the County to perform work in connection with the North Bulkhead Rehabilitation Project, without the involvement of the Interim Firm and its other team participants. The Interim Firm shall attempt to perform any design work in a manner that would not require the use of Background Information or, if Background Information is utilized, the Interim Firm agrees to grant, without charge, all such rights and licenses that it has to use or modify said Background Information to the County (who may sublicense to its other designers and contractors, as necessary) to perform any work in connection with the North Bulkhead Realignment Project.

2.2.1 Assignment of Design Contracts. The Interim Firm shall include in all third-party contracts with architects and engineers a collateral assignment in favor of the County which allows the County, upon notice to the contracting party, to step into the shoes of the Interim Firm in the event of the termination of this Agreement pursuant to Section 5.1(c). The collateral assignment shall not be contingent upon the County's payment to the third-party contractor for any services delivered under the direction of the Interim Firm. The Interim Firm will remain liable to the contracting party for any claims that arose prior to the date of the collateral assignment.

2.3 Negotiation of Project Agreement. The Parties shall negotiate in good faith with the objective of achieving Commercial Close within the timeframe provided in this Agreement. To the extent the Parties reach an agreement resulting in a Project Agreement, this Agreement shall be superseded and replaced by the Project Agreement once the Project Agreement is executed. The Parties' obligation to negotiate shall entail a good faith effort to reach an agreement, at a minimum, on the terms generally described in Exhibit F to this Agreement. The Interim Firm shall not be entitled to compensation in connection with the negotiation of the Project Agreement, it being understood by the Parties that the Interim Firm shall only be entitled to compensation, in the Interim Amount, for the performance of the Pre-Development Work.

2.3.1 Exclusive Negotiations. So long as this Agreement is in effect, the Interim Firm shall have the exclusive right to negotiate the Project Agreement with the County.

2.3.2 [reserved]

2.3.3 No Right to Project Agreement. The Interim Firm acknowledges and agrees that neither this Agreement nor the approval of any Pre-Development Work by the County, nor any performance of such work nor expenditure on any monies thereon shall grant or shall be deemed to have granted any rights in the Interim Firm to enter into the Project

Agreement, and the County's approval of the Project Agreement rests in the sole legislative discretion of the Board.

2.4 Duty to Cooperate. The Parties agree to cooperate with each other, and to exercise reasonable efforts to cause their respective contractors to cooperate with each other fairly, reasonably, and in good faith in all respects and to identify and coordinate their efforts and to interfere as little as possible with each other's activities being undertaken with respect to this Agreement. The foregoing obligation to cooperate shall not require the County to expend funds, other than as expressly provided in this Agreement or, to accommodate the activities of the Interim Firm under this Agreement, to relocate vessels and modify berthing schedules; provided, however that the County shall provide the Interim Firm with berthing schedules and any other information in its possession in order to facilitate such cooperation.

2.5 Employment of Personnel. The Interim Firm shall retain, employ, and utilize the individuals listed as Key Personnel in Exhibit E until such time as all relevant activities have been completed. The Interim Firm shall not substitute any such individuals, except due to retirement, death, disability, incapacity, or (voluntary or involuntary) termination of employment with the prior consent of the County. The County will not unreasonably withhold, delay, or condition such substitution if the proposed substitute possesses equal or greater experience, skill, knowledge, and professional expertise in the relevant field.

2.5.1 Replacement of Key Personnel. The Interim Firm shall notify the County in writing of any proposed replacement for any Key Personnel Position. The County shall have the right to review the qualifications and character of any proposed replacement and to approve or disapprove the same prior to the commencement of any of the work by such replacement individual.

2.5.2 Licensure of Key Personnel. The Interim Firm shall cause each individual filling a Key Personnel position to maintain active all required licenses and continuing education requirements and to dedicate the full amount of time necessary for the proper prosecution of the work under this Agreement.

2.5.3 Contact Information. The Interim Firm shall provide the County with office telephone and cell phone numbers and email addresses for all Key Personnel. The Interim Firm shall provide to the County two (2) Key Personnel who the County can contact twenty-four (24) hours per day, seven (7) days per week as required, and who will have access to contact other Key Personnel as necessary.

2.6 Nature of Relationship to County. The Interim Firm is an independent contractor retained by the County to perform the Pre-Development Work or remain on standby for same. The Interim Firm is not authorized to act as an agent for or to undertake, direct, or modify any contracts on behalf of the County. The Interim Firm does not have any authority to bind the County to any contract with third parties.

2.7 Regulatory Compliance. The Interim Firm 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 Pre-Development

Work required herein. Damages, penalties, and/or fines imposed on the County or the Interim Firm for failure to obtain and maintain required licenses, certifications, permits, and/or inspections shall be borne by the Interim Firm. The Project Manager shall verify the certification(s), license(s), permit(s), etc. for the Interim Firm prior to authorizing work and as needed.

ARTICLE III

COMPENSATION AND INSURANCE REQUIREMENTS

3.1 Amount. The Interim Firm agrees to perform the Pre-Development Work for no compensation other than the not-to-exceed amount of \$26,547,000.00 (the "Interim Amount"), together with payment for any additional work approved in writing in a signed change order; provided, however, that in the case of additional work, the Interim Firm shall not be entitled to payment for work exceeding the Interim Amount (plus available contingency/allowance account funds) unless such expense is approved in advance by the Board acting in its full legislative discretion. Except as provided in Section 5.3, the Interim Firm shall not be entitled to any compensation for any portion or sub-portion of the Pre-Development Work that is not performed and accepted by the County, even if the Parties enter into a Project Agreement. Further, the Interim Firm shall not be entitled to any payment for lobbying or legal services or any other category of expense that is not directly and immediately necessary for the performance of the Pre-Development Work.

3.1.2 Payment Milestones. The Interim Firm shall submit invoices for compensation on a monthly basis based on a percentage completion of each of the deliverables required under Exhibit C, and the County shall be required to pay the Interim Firm to the extent it agrees (in its reasonable discretion) that the percentage completion of each of the deliverables required under Exhibit C has been achieved, within thirty (30) calendar days of receipt of each invoice. The Interim Firm shall not be entitled to compensation for any work performed or time expended in connection with the negotiation of the Project Agreement, it being understood that the only compensation payable to the Interim Firm shall be for the completion of the submittals identified in Exhibit C, unless a Change Order is executed, subject to the maximum deliverable cost identified in Exhibit C. The County may request such documentation as is reasonably necessary, solely to justify the percentage completion of each of the deliverables required under Exhibit C.

3.1.3 Contingency/Allowance Accounts. The County shall establish a contingency/allowance account in the amount of ten percent (10%) of the Interim Amount, which shall be used to fund the cost of additional work, change orders, or permit fees. The unexpended amounts in the contingency/allowance accounts shall remain with the County and the Interim Firm shall have no claim to the same.

3.2 No Additional Compensation. Except as specifically provided in this Agreement, each Party shall be responsible for and bear its own costs and expenses incurred during and as a result of performing its activities, obligations, and negotiations pursuant to this Agreement.

3.3 Insurance and Indemnification.

3.3.1 Indemnification. The Interim Firm shall defend (except as to professional liability claims), indemnify, and hold harmless the County and its officers, employees, and agents from any and all liability, losses, or damages, including reasonable attorneys' fees and costs of defense, which the County or its officers, employees, and agents may incur as a result of third party claims, demands, suits, causes of actions or proceedings of any kind or nature to the extent arising out of, or resulting from the negligent performance of this Agreement by the Interim Firm or its employees, agents, servants, partners, principals, or subcontractors. The Interim Firm expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Interim Firm shall in no way limit the responsibility to defend (except as to professional liability claims), indemnify, and hold harmless the County or its officers, employees, and agents as herein provided.

3.3.2 Insurance Requirements. The Interim Firm shall comply with the requirements of Exhibit G with respect to insurance during the Term of this Agreement.

3.3.3 Certificates of Insurance. Upon County's notification, the Interim Firm shall furnish to the Strategic Procurement Department, Certificates of Insurance that indicate that insurance coverage has been obtained.

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

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

3.3.4 Continuing Obligation. The Interim Firm shall ensure that the Certificates of Insurance required in conjunction with this Section remain in full force for the term of the Agreement, including any renewal or extension periods that may be exercised by the County. If the Certificate(s) of Insurance is scheduled to expire during the term of the Agreement, the Interim Firm shall submit new or renewed Certificate(s) of Insurance to the County a minimum of ten (10) calendar days before such expiration. If expired Certificates of Insurance are not replaced or renewed to cover the Agreement period, the County may suspend the Agreement until the new or renewed certificates are received by the County in the manner prescribed herein. If such suspension exceeds thirty (30) calendar days, the County may, at its sole discretion, terminate the Contract for cause in accordance with Section 5.1(c).

ARTICLE IV
REPRESENTATIONS AND WARRANTIES

4.1 Interim Firm's Representations and Warranties. The Interim Firm hereby represents and warrants to the County that:

(a) It is a legal entity organized and existing under the laws of the State of Florida and has the requisite power and all required licenses to carry on its present and proposed activities, and has full power, right, and authority to execute and deliver this Agreement, and to perform each and all of the obligations provided for herein. The Interim Firm is duly qualified to do business, and is in good standing, in the State of Florida.

(b) The execution, delivery, and performance of this Agreement has been duly authorized by all necessary actions of the Interim Firm; each person executing this Agreement on the Interim Firm's behalf has been duly authorized to execute and deliver each such document on its behalf; and this Agreement has been duly executed and delivered by the Interim Firm.

(c) Neither the execution and delivery by the Interim Firm of this Agreement nor the consummation of the transactions contemplated hereby, is in conflict with or has resulted or will result in a default under or a violation of the organizational documents of the Interim Firm or any other material agreements or instruments to which it is a party or which are binding on the Interim Firm or any of their property or assets or in a material default or violation of any Applicable Law.

(d) This Agreement constitutes the legal, valid, and binding obligation of the Interim Firm, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, and similar laws affecting the enforceability of the rights of creditors generally and the general principles of equity.

(e) There is no action, suit, proceeding, investigation, or litigation pending or served on the Interim Firm or, to its knowledge, threatened that (i) would reasonably be expected to have a material adverse effect on the ability of the Interim Firm to perform its obligations under this Agreement or (ii) challenges the Interim Firm's authority to execute, deliver or perform, or the validity or enforceability of, this Agreement, or which challenges the authority of the Interim Firm's representative executing this Agreement.

4.2 County Representations and Warranties. The County hereby represents and warrants:

(a) The County is a political subdivision of the State of Florida and has the right and authority to execute, deliver, and perform each and all of the obligations of the County set forth in this Agreement.

(b) The execution, delivery, and performance of this Agreement have been duly authorized by all necessary actions of the County; each person executing this Agreement on the County's behalf has been duly authorized to execute and deliver each such document on

the County's behalf; and this Agreement has been duly executed and delivered by the County.

(c) Neither the execution and delivery by the County of this Agreement nor the consummation of the transactions contemplated hereby, is in conflict with or has resulted or will result in a default under or a violation of the County Code or any other material agreements or instruments to which it is a party or which are binding on the County or any of its property or assets or in a material default or violation of any Applicable Law.

(d) This Agreement constitutes the legal, valid, and binding obligation of the County, enforceable against the County in accordance with its terms, subject to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and the general principles of equity including, without limitation, the doctrine of sovereign immunity.

(e) There is no action, suit, proceeding, investigation, or litigation pending or served on the County or, to the County's knowledge, threatened which (i) would reasonably be expected to have a material adverse effect on the ability of the County to perform its obligations under this Agreement or (ii) challenges the County's authority to execute, deliver or perform, or the validity or enforceability of, this Agreement, or which challenges the authority of the County's representative executing this Agreement.

ARTICLE V

TERMINATION

5.1 Term and Termination. This Agreement shall terminate upon the date of the first occurrence of the events described below (the "Termination Date"):

- (a) Commercial Close of the Project Agreement;
- (b) For convenience, by the County, upon thirty (30) business days' written notice;
- (c) Interim Firm's failure to perform any of its material obligations hereunder and such failure continues for thirty (30) business days after written notice from the County has been received, and if such failure is not capable of being cured within such thirty (30) business day period or other longer time period as determined in the sole, but reasonable, discretion of the County, if the Interim Firm has not commenced to cure within such period and thereafter diligently pursued the same and the cure is not effected as promptly as possible and County has given written notice of termination for such failure;
- (d) Either Party's thirty (30) business days' written notice to the other if the Parties reach an impasse pertaining to the obligations or performance pursuant to this Agreement, reach an impasse in their negotiation of the Project Agreement, or either the Interim Firm or the County determines, in its sole discretion, that the Project is not feasible. Provided, however, that the Interim Firm shall not be permitted to exercise this termination right until it has completed, and the County has accepted, all work to be performed in connection with ongoing work during the completion of a milestone established in Exhibit C;

(e) The County's failure to make payment of undisputed invoices in accordance with Section 3.1.2 and such failure continues for thirty (30) business days after written notice from the Interim Firm or any other failure by the County to perform any of its material obligations hereunder and such failure continues for thirty (30) business days after written notice from Interim Firm has been received, and if such failure is not capable of being cured within such 30 business day period or other longer time period as determined in the sole, but reasonable, discretion of Interim Firm, if the County has not commenced to cure within such period and thereafter diligently pursued the same and the cure is not effected as promptly as possible and Interim Firm has given written notice of termination for such failure.

5.2 Interim Firm's Duty Upon Termination. In the event of any termination of this Agreement, the Interim Firm shall comply with its obligations under this Agreement. Any documentation required to complete a Submittal package for which the Interim Firm has been compensated shall be provided to the County within thirty (30) calendar days and the Interim Firm shall grant to the County all such rights and licenses that it has to use or modify such Pre-Development Work in accordance with Section 2.2.

5.3 County's Obligations Upon Termination. Without limiting the Interim Firm's obligations regarding cooperation contained in Section 5.2, in the event of termination of this Agreement by the County pursuant to Sections 5.1 (b), (d) (where the election to terminate is the County's and not the Interim Firm's) or (e), the County shall pay to the Interim Firm, within thirty (30) business days of such termination, for all Pre-Development Work performed up to the date of termination, including for work product produced, together with Breakage Costs not to exceed ten percent (10%) of the Interim Amount. In the event of any termination pursuant to Section 5.1(a), the Interim Firm shall be paid any outstanding costs for the Pre-Development Work upon Commercial Close, unless the Parties otherwise reach an agreement in connection with their entry into the Project Agreement. Notwithstanding the County's basis for terminating this Agreement, the County reserves the right to proceed with the design and construction of the Project using any design and construction contracting method available to it.

5.4 Limitation on Interim Firm's Relief. With respect to any breach of this Agreement by the County, the Interim Firm agrees that it shall not be entitled to any form of equitable or injunctive relief that would preclude the County from contracting with another firm for any scope covered by either this Agreement or to be covered by any Project Agreement; provided, however that the foregoing does not limit or prejudice the Interim Firm's ability to recover damages or any other appropriate remedy under this Agreement or at law, other than for lost profits or as otherwise waived under this Section 5.4 and Section 5.4.1. The Interim Firm further agrees that the right to monetary recovery shall be limited to Breakage Costs, any amounts unpaid as at the date of termination, plus any markup, that the Interim Firm would have earned in the thirty (30) calendar days following the termination of the Agreement.

5.4.1 Waiver of Consequential Damages. Both Parties expressly waive claims against each other for indirect, incidental or consequential damages, loss of use, income, financing, business or reputation.

5.4.2 Limitation of Interim Firm's Liability. The Interim Firm's aggregate liability arising out of or under this Agreement, including for performance or non-performance

of the Pre-Development Work, whether under this Agreement, pursuant to statute, in tort (including negligence) or by law, shall be limited to the greater of (i) fifty percent (50%) of the Interim Amount (as adjusted) and (ii) the amount of payments issued by the County to the Interim Firm.

ARTICLE VI
MISCELLANEOUS

6.1 Notices. All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered personally or via e-mail and followed with delivery of hard copy; and in any case addressed as follows:

(a) **To the County**

Helga Sommer, P.E.
PortMiami, Capital Development
Phone: (305) 347-3229
Email: hsommer@miamidade.gov

(b) **To Interim Firm**

Attention: Don Hickey, P.E., Executive Vice President
Phone: (786) 418 3607
E-mail: don.hickey@ohla-usa.com

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

6.2 Dispute Resolution.

6.2.1 The Seaport Department (the "Seaport Director") shall initially decide all questions, difficulties, and disputes of whatever nature which may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder, and the character, quality, amount and value thereof. In the event the Interim Firm and County are unable to resolve their differences concerning any determination made by staff or any dispute or claim arising under or relating to this Agreement, either the Interim Firm or the County may initiate a dispute in accordance with the procedure set forth in this Section. Nothing contained herein shall authorize the commencement of dispute resolution proceedings based on the failure to reach an agreement as to the Project Agreement.

6.2.2 The Parties hereby authorize the Seaport Director or Seaport Director's designee to decide all questions, disputes, or claims of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement. The Seaport Director or designee shall be fair, reasonable, and objective in his or her review of the evidence and show no partiality to either the County or the Interim Firm. The Seaport Director or Seaport Director's designee shall issue a reasoned, written decision showing the logic, analysis, and legal basis behind their decision. This decision shall be conclusive, final, and binding on the Parties, subject only to the right of appeal specified below. The Parties hereto

further agree that, upon timely request under this Section, both the Interim Firm and the County are entitled to a hearing before the Seaport Director or Seaport Director's designee at which both the Interim Firm and the County may present evidence and live testimony. The proceedings shall be recorded or transcribed, at the expense of the initiating Party, and shall be conducted on an informal basis.

6.2.3 If either Party wishes to protest the determination of the Seaport Director or Seaport Director's designee, such Party may commence proceedings in accordance with this subsection.

6.2.3.1 Appeals. The Parties may appeal the decision of the Seaport Director or the Seaport Director's designee to an appropriate court of competent jurisdiction located in Miami-Dade County. An appeal must be filed within ninety (90) calendar days of the decision of the Seaport Director or designee.

6.2.3.2 Negotiation. Nothing herein prevents the Parties from attempting to resolve any dispute or disagreement between members of the project teams of each Party, in addition to senior executive of the Parties, prior to issuing a dispute or disagreement to the Seaport Director or its designee.

6.2.4 Pendency of Dispute. Pending final decision of a dispute hereunder, both Parties shall proceed diligently with the performance of the Agreement and in accordance with the Seaport Director or Seaport Director's designee interpretation. Any claim by the Interim Firm shall be certified in accordance with the County's False Claims Ordinance.

6.3 Vendor Registration and Conflict of Interest and Code of Ethics. The Interim Firm shall be a registered vendor with the County Strategic Procurement Department, for the duration of this Agreement.

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

6.3.2 The Interim Firm 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 Interim Firm in this Agreement. This Agreement is entered into by the Interim Firm 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 Interim Firm directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies 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 Interim Firm, or to the best of the Interim Firm's knowledge any subcontractor or supplier to the Interim Firm's knowledge.

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

6.4 Private Sector Inspector General. Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector

Inspector General (hereinafter "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Interim Firm 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 Interim Firm'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 Interim Firm and 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 Interim Firm in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Interim Firm or any third party.

6.5 Inspector General. According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General 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 Agreement shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the Interim Amount. The audit cost will be deducted by the County from progress payments to the Interim Firm. The audit cost shall also be included in all change orders and all contract renewals and extensions.

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue- generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Implementing Order 3- 38; (m) federal, state and local government-funded grants; and (n) interlocal agreements. *Notwithstanding the foregoing, the Board may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award.*

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present, and proposed County and Public Health Trust contracts, transactions, accounts, records, and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Agreement. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review operations, activities, performance, and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Interim Firm as well as 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 Interim Firm from the Inspector General or IPSIG retained by the Inspector General, the Interim Firm 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 Interim Firm'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.

6.6 Compliance with Laws. The Interim Firm agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State and the County orders, statutes, ordinances, rules, and regulations which may pertain to the services required under this Agreement. The obligation to comply with all applicable laws shall apply whether the applicable law was enacted in the exercise of either regulatory or proprietary authority. Notwithstanding any other provision of this Agreement, the Interim Firm 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 Interim Firm, constitute a violation of any law or regulation to which the Interim Firm is subject, including but not limited to laws and regulations requiring that the Interim Firm conduct its operations in a safe and sound manner.

6.7 Non-Discrimination.

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

6.7.2 Existing Violations. By entering into this Agreement, the Interim Firm attests that they are 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 Interim Firm or any owner, subsidiary or other firm affiliated with or related to the Interim Firm 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 Agreement void. This Agreement shall be void as between the

County and the relevant Party if the Interim Firm submits a false affidavit pursuant to this Resolution or the Interim Firm violates the Act or the Resolution during the term of this Agreement, even if the Interim Firm was not in violation at the time it submitted its affidavit.

6.8 Public Communications. Under no circumstances shall the Interim Firm 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 Interim Firm first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and

(b) Communicate in any way with any contractor, department, board, agency, commission or other organization, or any person whether governmental or private in connection with the services to be performed hereunder except upon prior written approval and instruction of the County; and

(c) Except as may be required by law, the Interim Firm and its employees, agents, subcontractors, and suppliers will not represent, directly or indirectly, that any product or service provided by the Interim Firm or such parties has been approved or endorsed by the County.

6.9 Bankruptcy. The County reserves the right to terminate this Agreement, if, during the term of this Agreement, the Interim Firm 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 Interim Firm under federal bankruptcy law or any state insolvency law. Such termination shall be a termination pursuant to Section 5.1(c).

6.10 Governing Law. This Agreement, including appendices, and all matters relating to this Agreement (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, without regard to any conflict-of-laws provisions that would result in the application of the law of another jurisdiction. For any dispute between the Parties arising out of or relating to this Agreement, venue shall be proper only in Miami-Dade County.

6.10.1 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.

6.11 Public Records. The Interim Firm shall comply with the Public Records Laws of the State of Florida, 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, F.S., or as otherwise provided by law; (3) ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meeting all requirements for retaining public records and transferring, at no cost, to the County all public records in possession of the Interim Firm upon termination of this Agreement 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 INTERIM FIRM HAS QUESTIONS REGARDING
THE APPLICATION OF CHAPTER 119, FLORIDA
STATUTES, TO THE INTERIM FIRM'S DUTY TO PROVIDE
PUBLIC RECORDS RELATING TO THIS AGREEMENT,
CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

PortMiami Customer Service Manager
pomservice@miamidade.gov
305.347.4844

6.12 County's Rights as Sovereign.

6.12.1 Notwithstanding and prevailing over any contrary provision in this Agreement, it is expressly understood that the County retains all of its sovereign prerogatives and rights as a county under Florida laws and shall in no way be estopped from withholding or refusing to issue any approvals of applications for building, zoning, planning, or development under present or future laws and regulations of whatever nature. The County shall not by virtue of this Agreement be obligated to grant the Interim Firm any approvals of applications for building, zoning, planning, improving, equipping, or development under present or future laws and ordinances of whatever nature.

6.12.2 Any County covenant or obligation that may be contained in this Agreement shall not bind the Board, any zoning appeals board, the Department of Regulatory and Economic Resources of Miami-Dade County or any other County, local, federal, or state department, authority, committee, or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld, or revoked in the discretion of the applicable County or other applicable governmental entities in the exercise of its police power; and the County shall be released and held harmless by the Interim Firm from any liability, responsibility, claims, consequential or other damages, or losses to the Interim Firm or to any third parties resulting from denial, withholding, or revocation (in whole or in part) of any zoning or other changes, variances, permits, waivers, amendments, or approvals of any kind or nature whatsoever.

6.13 Assignment. The Interim Firm 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.

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

6.15 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 Interim Firm 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.

6.16 E-Verify. By entering into this Agreement, the Interim Firm and its agents and subcontractors are jointly and severally obligated to comply with the provisions of Section 448.095, Florida Statutes, as amended, titled "Employment Eligibility." The Interim Firm affirms that: (a) it has registered and uses the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of all new Interim Firm employees; (b) it has required all subcontractors to this Agreement to register and use the E-Verify system to verify the work authorization status of all new employees of the subcontractor; (c) it has an affidavit from all subcontractors to this Agreement attesting that the subcontractor does not employ, contract with, or subcontract with, unauthorized aliens; and (d) it shall maintain copies of any such affidavits for duration of the Agreement. Registration information is available at: (<http://www.uscis.gov/e-verify>). If County has a good faith belief that the Interim Firm has knowingly violated Section 448.09(1), Florida Statutes, then County shall terminate this Agreement in accordance with Section 448.095(5)(c), Florida Statutes. In the event of such termination the Interim Firm agrees and acknowledges that it may not be awarded a public contract for at least one (1) year from the date of such termination and that the Interim Firm shall be liable for any additional costs incurred by the County because of such termination. In addition, if County has a good faith belief that a subcontractor has knowingly violated any provisions of Sections 448.09(1) or 448.095, Florida Statutes, but the Interim Firm has otherwise complied with its requirements under those statutes, then Contractor agrees that it shall terminate its contract with the subcontractor upon receipt of notice from the County of such violation by subcontractor in accordance with Section 448.095(5)(c), Florida Statutes. Any challenge to termination under this provision must be filed in the Circuit or County Court by the County, the Interim Firm, or subcontractor no later than twenty (20) calendar days after the date of contract termination.

6.17 Human Trafficking. By entering into, amending, or renewing this Agreement, the Interim Firm is obligated to comply with the provisions of Section 787.06, Florida Statutes, "Human Trafficking," as amended, which is incorporated by reference into this Agreement. All definitions and requirements from Section 787.06, F.S., apply to this Agreement. This compliance includes the Interim Firm providing an affidavit that it does not use coercion for labor or services. This attestation shall be in the form attached to this Agreement as the Kidnapping, Custody Offenses, Human Trafficking and Related Offenses Affidavit (the "Affidavit") and must be executed by the Interim Firm and provided to the County when entering, amending, or renewing this Agreement. This Agreement shall be void if the Interim Firm submits a false Affidavit pursuant to this Act or the Interim Firm violates the Act during the term of this Agreement, even if the Interim Firm was not in violation at the time it submitted its Affidavit.

6.18 Foreign Countries of Concern. The Contracting with Entities of Foreign Countries of Concern Prohibited Affidavit Form is required by Section 287.138, F.S., which is deemed as being expressly incorporated into this Agreement. The Affidavit must be completed by a person authorized to make this attestation on behalf of the Interim Firm. The Agreement shall not be valid unless and until this completed and executed Affidavit is submitted to the County.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

OHLA-USA, Inc.

Miami-Dade County

By:

Name:

Donald Hickey

Title:

Executive Vice-President

Date:

3/31/2025

Attest:


Corporate Secretary

By:

Name:

Daniella Levine Cava

Title:

Mayor

Date:

Attest:

Clerk of the Board

Assistant County Attorney
(For Form and Legal Sufficiency)

EXHIBIT A

Definitions

When used in the Agreement, the following terms shall have the meaning set forth below:

“Applicable Law” means any statute, law, code, regulation, ordinance, rule, common law, judgment, judicial or administrative order, decree, directive, or other requirement having the force of law or other governmental restriction or any similar form of decision of or determination by, or any interpretation or administration of any of the foregoing by, any Governmental Entity, which is applicable to the Project, the Pre-Development Work, or any relevant person, whether taking effect before or after the Effective Date.

“Awarded Firm” shall refer to the design-build firm that is awarded the Project Agreement.

“Background Information” means any trademarked or proprietary work produced or methods belonging to the Interim Firm or other team participants or related entities, or any work product, means, or methods that were not specifically created or developed for the purpose of this Agreement.

“Board” shall mean the Miami-Dade County Board of County Commissioners.

“Breakage Costs” shall mean any unavoidable costs reasonably incurred by Interim Firm in the termination of subcontracts, leases, purchase orders and other related contractual agreements, together with reasonable demobilization costs; provided, however, that the Interim Firm shall, in its subcontracts and purchase orders, include termination-for-convenience provisions requiring its subcontractors and suppliers to cancel work or orders of materials immediately upon receipt that the Agreement has been terminated and, if such a provision is not included in subcontract agreements and purchase orders, the Interim Firm shall not be entitled to recover Breakage Costs attributable to such subcontractor or supplier.

“Commercial Close” shall mean the approval by the Board of County Commissioners of Miami-Dade County of the Project Agreement.

“Construction Limits” shall have the meaning set forth in the Design Criteria Document.

“Deliverables” shall mean each of the items identified in Exhibit C.

“Design Criteria Document” or “DCD” shall refer to Volume 2 of the RDBS.

“Effective Date” means the date of a notice to proceed with the Pre-Development Work to be issued by the County to the Interim Firm following approval of this Agreement by the Board.

“Good Industry Practice” means the exercise of the degree of skill, diligence, prudence, and

foresight which would reasonably and ordinarily be expected from time to time from a skilled and experienced design-builder, and any person retained by the design-builder for the performance of the work, using accepted design and construction standards and criteria normally used on similar projects, and engaged in the same type of undertaking in the same jurisdiction.

“Initial Term” shall have the meaning provided in Section 1.4.

“Interim Agreement” means this Agreement.

“Interim Firm” means the primary party contracting with the County. The Interim Firm shall be primarily responsible to the County for the performance of any and all responsibilities to perform Pre-Development Work under this Agreement and assumes any and all liabilities for same under this Agreement, notwithstanding the Interim Firm’s representation of the existence of other team participants and related entities.

“P3 Statute” shall mean Fla. Stat. § 255.065.

“Pre-Development Work” means all the work and services to be provided by the Interim Firm during the term of the Interim Agreement, as described in Exhibit B (as amended pursuant to this Agreement), up to the time of Commercial Close including but not limited to all the Deliverables.

“Preliminary Project Schedule” means the schedule for completion of the work necessary to complete the Project set forth as Exhibit D.

“Project” means and encompasses all tangible and intangible services and work to be provided to the County to design, permit, and finance the Seaport Department’s North Bulkhead Realignment project for berths 1 through 6.

“Project Agreement” means the comprehensive agreement between the County and Awarded Firm to complete the Project.

“Project Manager” means the project manager appointed by the County for the Pre-Development Work.

“Proposal” means the proposal offered by the Interim Firm in response to the RDBS.

“RDBS” shall mean the Request for Design-Build Finance Services issued by the County in connection with Project No. DB21-SEA-01.

“Submittal Schedule” means that schedule of submittals, with reimbursement amounts subject to the terms and conditions of this Agreement, set forth as Exhibit C.

“Term” shall have the meaning provided in Section 1.4.

EXHIBIT B

Scope of Work for Interim Agreement

A. Site Work and Investigations: The Contractor shall perform the following site Work and investigations required for design during the period of the Interim Agreement, including, but not limited to, the following:

1. Geotechnical investigations on the landside and waterside, intended to supplement information previously provided by PortMiami.
2. Utility surveys intended to supplement information provided by PortMiami in the apron area, locating existing utilities and identifying required relocations to avoid potential conflicts with proposed utilities and other project components.
3. As required, bathymetric and side-scan surveys, intended to supplement information previously provided by PortMiami.
4. Topographic surveys of the existing apron, as required to supplement information previously provided by PortMiami.
5. Ground Improvement Pilot program.
6. Existing concourses to which the proposed extensions will be connected.
7. Survey and relocation plan for existing corals.

B. Project design, including Preliminary Plans and Specifications developed to 60%:

The Contractor shall establish their approach to the project design meeting the requirements of the RDBS/DCP, including, but not limited to, the following:

1. A description of the critical features, activities, and sequences of the proposed design concept that provides for substantial completion of each berth to receive cruise vessels in 5 months during the berth closure period, typically from May 15 through October 15 for Berths 2, 3, 4, 5, and 6. Identify the balance of the Work that shall be completed to achieve final completion for the entire berth. Berth 1 may have an extended closure period while Cruise Terminal G is reconstructed. To receive cruise vessels, the components of each berth that must be completed within five months must be identified.
2. Design considerations that provide a durable marine berth structure with mooring bollards, fenders, and other marine hardware.
3. Design considerations are needed to avoid impacting the existing steel sheet pile bulkhead, which is deteriorated.

4. Design considerations for seabed dredging/excavation, bedding layer, and disposal of dredged/excavated marine sediments/materials.
5. Design considerations that provide for the fabrication of the marine berth structure components offsite and delivery to the Port to assure compliance with the construction schedule for each berth.
6. Design considerations for installation of the marine berth structure components.
7. Design considerations for filling the gap between the proposed marine berth structure and existing bulkheads, including addressing and minimizing settlements for the performance of the apron area and associated infrastructure.
8. Demolition of the existing pavements, concrete relieving platforms, PBB runways, and other indicated site infrastructure within the existing apron area.
9. Design considerations for turbidity management to meet permit requirements
10. Design of the ground improvement program in the existing and new apron areas, including overall approach, construction methodology, design criteria, QA/QC testing program, and verification procedures.
11. Design considerations for the concourses and extensions, including connections to existing terminal buildings.
12. Removal, storage reinstallation, and disposal of existing PBBs, depending on the berth under construction
13. Accommodating delivery, commissioning, and testing of new PBBs procured by the County.
14. Design considerations considering the existing PortMiami tunnels.
15. Vibration monitoring program
16. Site/Civil design including, but not limited to:
 - Site grading – Site grading design that addresses topographic site conditions and existing structures to remain.
 - Utility Infrastructure Design—Utility Coordination and design shall minimize the potential for adverse impacts and Project delays due to utility involvement. The design approach should emphasize coordination and a design plan to provide all utility services for the Project. This includes shore

power relocation/extension and maintenance of existing utilities remaining in service during berth construction.

- Pavement design
 - Drainage design
 - Apron and Decorative bulkhead lighting
17. Geotechnical investigations for waterside and landside elements of the Project.
 18. Incorporation of Envision design considerations for maximum credits to achieve the required certification level.

Design Support Documents developed to 60%

The Contractor shall develop and submit the following documents:

19. Technical specifications.
20. Updated Basis of Design per the Contractor's design.

Preliminary Plans developed to 60%.

The Contractor shall develop plans for the Project. Paper size shall be a minimum 11" x 17". The minimum information to be included in the preliminary plans is as follows:

21. General Notes
22. Site Location Plan
23. Existing Conditions Plan
24. Demolition Plan
25. Seabed Dredging/Excavation Plan, Bedding, Preparation, as applicable
26. Marine Structural Plans and Details
27. Typical cross-section(s) of the proposed berth from the face of the existing building to the face of the proposed marine berth structure.
28. Turbidity Management Plan
29. Bollard and Fender layout
30. Ground improvement plan

31. Water Distribution Plan
32. Apron and Bulkhead Decorative Lighting Plan
33. Typical Curb and manatee grate details
34. Paving, Grading, and Drainage Plan
35. Cross-section(s) through berth, including Exfiltration trench, Control structure, and
36. Drainage Well
37. Preliminary design for the conduit, cable, IT routing, and power Infrastructure, including shore power
38. Plumbing, Electrical, Fire Protection, and Data/Communications, and Security
39. Equipment Narratives description of required systems and other relevant features
40. Preliminary plans for concourse extensions

C. Project Aesthetics Approach

Submit a written narrative that describes the aesthetics approach to the design and construction of the concourses and any other architectural elements included within the Project. The narrative shall include an introduction, design intent, renderings, and text to describe the concourse's design fully. Renderings and other graphics or plan details shall demonstrate the various design features of the concourses.

The aesthetics approach should address elements of the design including, but not limited to:

1. Considerations in the geometry,
2. Suitability and consistency of building/structure type,
3. Finishes, shapes, colors, proportions, and form for the concourses and throughout the limits of the Project,
4. Considerations to provide user comfort, including amenities and climate, and
5. Considerations for the aesthetics of the existing concourse and cruise terminal buildings to which the proposed new concourses will connect.

D. Project Schedule

Submit a design-build project schedule in calendar days. The schedule shall include the site

investigations and design activities included in the Agreement and the final design and construction anticipated under the Project Agreement. The schedule shall be based on Substantial Completion of each berth while the berth is closed for five months, typically from May 15 through October 15. At the end of the five-month closure, cruise ships must be able to berth and operate at the berth.

The schedule shall present the proposed balance of the Work to be completed to achieve final completion of each berth.

Berth 1 tentatively will be closed from May 15, 2025, through August 10, 2027, while Cruise Terminal G is reconstructed. The schedule shall include the design and construction of all six berths, each shown separately.

The project schedule approach shall be updated monthly and address the following, at a minimum:

1. Systems that will be used to keep track of the project schedule, cost control, and quality assurance,
2. Process to mitigate and correct cost overruns, project delays, and quality control issues.

The minimum information to be included in the summary schedule of anticipated significant milestones and their associated phasing is as follows:

3. Site Surveys and Investigations (geotechnical, topographic, bathymetric, etc.)
4. Permitting
5. Design Milestones for each berth
6. Proposed marine berth structure fabrication, delivery, and installation milestones for each berth
7. Construction to achieve substantial completion of each berth in the allotted five-month period and balance of Work to achieve final completion
8. Seabed dredging/excavation, bedding, or site preparation, as applicable
9. Ground improvement
10. Utility Relocations, Installations, and Removals
11. Restoration of the existing apron
12. Construction of concourses

13. Delivery of PBBs and PBB tunnel extensions, which shall include thirty (30) calendar days for testing and commissioning
14. Relocation of berth shore power infrastructure at Cruise Terminal CT B (Berth 6) and CT-F (Berth 2)
15. Substantial and Final Completion Dates for each berth
16. Final Completion Date for all Work.

E. Project Construction Approach

The scope shall include a written narrative that describes the overall approach to the construction of the Project that addresses how the project design will be implemented, how each phase will be managed and performed to meet the Project needs, and the general means and methods that will be utilized for successful execution and completion of the Project. The narrative shall address, at a minimum, the following:

1. The appropriate personnel and equipment to efficiently carry out the Work
2. Safety
3. Constructability
4. Construction Sequencing plan that clearly describes all phases of the Project and per berth.
5. Seabed excavation, bedding layer, and material re-use or disposal
6. Turbidity Management Plan for each phase/sequence of construction.
7. Offsite fabrication of proposed marine berth structure components delivery and installation
8. Berth construction
9. Site/Civil/Apron construction
10. Ground improvement program approach, methodologies, performance goals, installation procedures, QA/QC procedures, and measures for handling and disposal of wastes generated during installation.
11. Utility Coordination and Construction that minimizes the potential for adverse impacts and Project delays due to utility involvement.

12. Environmental control methods, including implementation of the Environmental Design Erosion/Sediment Control Plan
13. Permitting Coordination Plan, including demonstrating an understanding and awareness of permitting requirements.
14. Development and deployment of construction techniques that enhance project durability, reduce long-term and routine maintenance, and enhance public and worker safety require consideration.
15. Incorporation of Envision design and construction considerations for maximum credits to achieve the required certification level.

F. Cost Estimating

1. Provide cost estimates, including narratives for the final design and construction during the development of the preliminary design. Update the cost estimates bi-weekly.
2. During the execution of the Agreement, the Contractor shall develop a Guaranteed Maximum Price for final design and construction based on open-book pricing and the percentage markup submitted in the Agreement proposal. This information will be used in the final DB Contract.

EXHIBIT C

Mandatory Submittals and Submittal Schedule

During the Term of this Agreement, the Interim Firm shall provide all Submittals in accordance with the Submittal Schedule below. The list of Submittals is subject to updates and changes during the Interim Agreement pursuant to collaborative work between the Interim Firm and the County. The "Scope Component" column refers to the elements of the scope of work defined in Exhibit B.

<u>Submittal</u>	<u>Scope Component</u>	<u>Description</u>	<u>Milestone Work Product</u>	<u>Deliverable Deadline (From Effective Date of Interim Agreement (End of))</u>	<u>Deliverable Cost (Lump Sum)</u>
Component A: Site Work and Investigations					
Utility Identification	A2	Perform existing utility surveys in the apron area across entire Construction Limits, locating existing utilities and identifying required relocations to avoid potential conflicts with proposed utilities and other project components, to supplement information provided in the DCD.	Utilities Report (supplementing or revising, as necessary, the utilities report provided with the DCD).	Month 4	US\$982,300
Topographic, Bathymetric, and Side-Scan Surveys	A3 A4	Perform topographic, bathymetric, and side-scan surveys to supplement information provided in the DCD.	Independent report and drawings	Month 3	US\$475,000
Geotechnical Investigation	A1	Perform geotechnical investigations both waterside and landside to supplement information provided in the DCD.	Independent report and drawings	Month 4	US\$950,000

<u>Submittal</u>	<u>Scope Component</u>	<u>Description</u>	<u>Milestone Work Product</u>	<u>Deliverable Deadline (From Effective Date of Interim Agreement (End of))</u>	<u>Deliverable Cost (Lump Sum)</u>
Ground Improvement Pilot Program	A5	Perform the Ground Improvement ("GI") Pilot Program in Berth 1 per Sheet S-201 (Reference R-1) of the Schematic Plans. Submit the proposed methodology for approval prior to the pilot program.	Independent report and drawings, including recommendations for the production GI program under the final design-build agreement.	Month 6	US\$1,235,000
Coral Relocation Program	A7	Survey and relocation plan for existing corals within Construction Limits.	Provide coral relocation survey and plan. Identify appropriate coral receiving site from available sites provided by the County. Plans and deliverables must be consistent with the requirements of the Regulatory and Economic Resources Department.	Month 5	US\$1,710,000

<u>Submittal</u>	<u>Scope Component</u>	<u>Description</u>	<u>Milestone Work Product</u>	<u>Deliverable Deadline (From Effective Date of Interim Agreement (End of))</u>	<u>Deliverable Cost (Lump Sum)</u>
Inspection of Existing Concourses at Berths 2, 3, and 4 (CT-F, CT-D, and CT-E)	A6	Field visits and site inspection of existing concourses to which new proposed concourses will connect, accounting for aesthetics and continuity with the existing mechanical and electrical systems.	Independent report and drawings.	Month 5	US\$285,000
<u>Component B: Project Design, Including Preliminary Plans and Specifications Developed to 60%</u>					
Passenger Boarding Bridges ("PBBs")	B12 B13	Plan for the removal, storage, reinstallation, and disposal of existing PBBs, depending on the berth under construction. Plan for accommodating delivery, commissioning, and testing of new PBBs procured by the County.	Report and drawings, including methodology.	Month 6	US\$855,000
Basis of Design ("BOD") Report	B1 B2 B3 B4 B5 B6 B7 B8 B9	Provide an updated version of the BOD for all aspects of the North Bulkhead Project as the preliminary design progresses.	Revised BOD report.	Months 4, 9, 10	Total Cost US\$1,425,000

<u>Submittal</u>	<u>Scope Component</u>	<u>Description</u>	<u>Milestone Work Product</u>	<u>Deliverable Deadline (From Effective Date of Interim Agreement (End of))</u>	<u>Deliverable Cost (Lump Sum)</u>
	B10 B11 B14 B15 B16 B17 B18 B20				
Preliminary Design Drawings to be Prepared Consistent with BOD	B21 B22 B23 B24 B25 B26 B27 B28 B29 B30 B31 B32 B33 B34 B35 B36 B37	• Mooring Plans for Berths 1-6. • Overall and Individual Traffic Control Plans Berths 1-6 • Individual Phasing Plans Berths 1-6 • Soil Boring Plans and Boring Logs • Overall Existing Conditions • Enlarged Existing Conditions for each berth • Overall Dredging Plan • Enlarged Dredging Plan for each berth • Turbidity Management Plan and details • Overall Demolition Plan • Enlarged Demolition Plan for each berth	Drawing submittals progressed to 60% design, including narrative.	Months 4, 9, 10	Total Cost: US\$12,825,000

<u>Submittal</u>	<u>Scope Component</u>	<u>Description</u>	<u>Milestone Work Product</u>	<u>Deliverable Deadline (From Effective Date of Interim Agreement (End of))</u>	<u>Deliverable Cost (Lump Sum)</u>
	B38 B39 B40	• Overall Marine Structural Plan • Enlarged Marine Structural Plan • Enlarged Marine Structural Lower Plan per berth • Enlarged Marine Structural Upper Plan per berth. • Structural framing and details plans • Typical Sections • Ground Improvement Program • Overall Proposed Concourse Plan • Concourse Plans, Sections, and Details for Concourse Extensions for Berth 2, 3, and 4. • Typical Water Station Details • Apron and Decorative Lighting • Typical Fender and Bollard Layout and Details • Typical Curb and Manatee Grate Details • Typical Structural Details • Paving Grading and Drainage Plans for each berth • Overall Water Distribution Plans			

<u>Submittal</u>	<u>Scope Component</u>	<u>Description</u>	<u>Milestone Work Product</u>	<u>Deliverable Deadline (From Effective Date of Interim Agreement (End of))</u>	<u>Deliverable Cost (Lump Sum)</u>
		• Water Distribution Plan for each berth • General Exfiltration Trench Section • Drainage Well/Control Structure Section • Outfall Pipe Section • Watermain Tapping Section • Overall, Shore Power Relocation Plans • Enlarged Shore Power Relocation plans for Berths 2 and 6.			
Preliminary Specifications	B19	General Conditions and Technical Specifications	Specification development submittals progressed to 60% design.	Months 4, 9 and 10	Total Cost US\$1,900,000
<u>Component C: Project Aesthetics Report</u>					
Project Aesthetics	C1 C2 C3 C4 C5	Submit a written narrative that describes the aesthetics approach to the design and construction of the concourses and any other architectural elements included within the Project. The narrative shall include an introduction, design intent,	To be incorporated into deliverables under Component B.	To be incorporated into deliverables under Component B.	No compensation other than as provided for Component B deliverables.

<u>Submittal</u>	<u>Scope Component</u>	<u>Description</u>	<u>Milestone Work Product</u>	<u>Deliverable Deadline (From Effective Date of Interim Agreement (End of))</u>	<u>Deliverable Cost (Lump Sum)</u>
		renderings, and text to describe the concourse's design fully. Renderings and other graphics or plan details shall demonstrate the various design features of the concourses.			
Component D: Project Schedule					
Project Schedule	D1 D2 D3 D4 D5 D6 D7 D8 D9 D10 D11 D12 D13 D14 D15 D16	Provide a design-build project schedule in calendar days, including site investigations and design activities included in the Interim Agreement and the final design and construction anticipated under the Project Agreement. The schedule shall be based on substantial completion of each berth while the berth is closed for 5 months, typically from May 15 through October 15. At the end of the 5-month closure, cruise ships must be able to berth and operate at the berth. The schedule shall present the proposed balance of the work to be completed to achieve final completion of the berth. Berth I tentatively will be closed from May 15, 2025, through August 10, 2027, while Cruise Terminal G is reconstructed. The schedule shall include	Schedule in calendar days with narrative, including design, for both the Interim Agreement and Project Agreement periods. Design and construction milestones for each berth. Identify the work that will be completed at a typical berth within five months to permit a ship to berth and operate.	Monthly	Total Cost US\$1,151,400

<u>Submittal</u>	<u>Scope Component</u>	<u>Description</u>	<u>Milestone Work Product</u>	<u>Deliverable Deadline (From Effective Date of Interim Agreement (End of))</u>	<u>Deliverable Cost (Lump Sum)</u>
		the design and construction of all six berths, each shown separately.	Identify the balance of the work that shall be completed to achieve final completion. Schedule must be provided to the County in native format, prepared in Primavera.		
Component E: Project Construction Approach					
Project Construction Approach	E1 E2 E3 E4 E5 E6 E7 E8 E9 E10 E11 E12	Provide a description to the overall approach to the construction of the Project, addressing how the design will be implemented, how each phase will be managed, and the general means and methods to execute and achieve the proposed design.	Report, including working drawings and sketches.	Months 4, 9 and 10	Total Cost US\$950,000

<u>Submittal</u>	<u>Scope Component</u>	<u>Description</u>	<u>Milestone Work Product</u>	<u>Deliverable Deadline (From Effective Date of Interim Agreement (End of))</u>	<u>Deliverable Cost (Lump Sum)</u>
	E13 E14 E15				
Component F: Cost Estimating					
Cost Estimates	F1 F2	Cost Estimate updates leading to the Project Agreement based on open-book pricing and percentage mark-ups. Financing costs to be provided if the County provides notice that it intends to pursue financing for all or a portion of the Project Agreement.	Cost estimate updates, including a detailed schedule of values, leading to the Guaranteed Maximum Price for the Project Agreement. If the County provides notice under § 2.1.6 that it seeks financing for the Project Agreement, cost estimates shall include financing costs (as detailed in Section 2.1.6) separately from construction costs.	Monthly	Total Cost US\$1,803,300

EXHIBIT D
Preliminary Project Schedule

(Document to Follow)

EXHIBIT E

Key Personnel

Company	Name	Position	Email Address	Cell Phone	Office Phone	Can Contact 24/7
OHLA USA	Don Hickey	Executive Vice President	don.hickey@ohla-usa.com	646-772-7505	786-418-3607	Yes
OHLA USA	Anais Villalobos-S	Sr Project Controls Manager	anais.villalobos@ohla-usa.com	305-505-3499	786-418-3507	Yes
OHLA USA	Tina Pereira	Design Build Coordinator/Estimator	tina.pereira@ohla-usa.com	305-796-9735	786-418-3493	Yes
Ebsary	Matthew Shiring	Construction Manager - Marine & Ground Improvements	Matt@ebsaryfoundationco.com	786-788-6557	786-788-6557	
WSP	Robert Clifford	Principal-in-Charge (Design)	bob.clifford@wsp.com	813-951-8220	813-520-4451	
WSP	Jyotirmoy Sicar	Desing Manager	iyotirmoy.sicar@wsp.com	412-427-3080	281-994-6626	
WSP	Melynn Chiariello	Cruise Market Leader	melynn.chiariello@WSP.com	561-891-1389	407-587-7854	
WSP	Viswanath Kumar	Technical Advisor	vk.kumar@wsp.com	206-227-4586	206-431-2335	
WSP	Mark Valenti	Constructability Reviewer	mark.valenti@wsp.com	813-644-1697	813-644-1697	

EXHIBIT F

Requirements for Project Agreement

1.	Scope	Awarded Firm to design, permit, construct/build, and finance the realignment of a stable and safe bulkhead for cruise terminal berths 1-6 recognizing the present and future needs of the industry.
2.	Financing	If the County notifies the Interim Firm that it will pursue financing for the scope of work to be provided under the Project Agreement, the Interim Firm will investigate whether it is feasible to finance the scope of work to be provided under the Project Agreement. The Interim Firm and the County shall meet to discuss financing options and ensure that any financing will meet best value standards.
3.	Project Agreement Term	Subject to the County's termination rights should the Awarded Firm fail to achieve Substantial Completion on the date agreed to by the Parties, the Project Agreement Term shall expire after the County's final payment is made following Substantial Completion. Substantial Completion definition must be based upon "safe berthing of a ship"
4.	Design	The County will have design approval rights at various design completion stages to be specified in the Project Agreement.
5.	Permitting	Awarded Firm will be responsible for obtaining all governmental land use, zoning, building, and other permits required for the Project.
6.	Construction	Construction shall be accomplished in accordance with all applicable State and County requirements for construction.
7.	Payment and Performance Bond	Awarded Firm shall bond in accordance with the requirements of Section 255.05 of the Florida Statutes and may use alternative forms of security or any other bonding mechanism allowed by that statute.

8.	Social and Economic Programs	Unless prohibited by the funding source or federal or Florida law, Awarded Firm shall comply with all County requirements for construction, as applicable, including: Art in Public Places Program (Section 2-11.15 of the County Code)
9.	Step-in Rights	The County will have temporary and permanent step-in rights in the event of default. Awarded Firm's agreements shall provide for assignment to the County as necessary to implement the County's step-in rights.
10.	Indemnification	The Project Agreement will provide for comprehensive indemnification of the County from Awarded Firm protecting the County from any act relating to or resulting from the performance of the Project Agreement by the Awarded Firm or its Team Members, employees, agents, servants, partners, principals, or subcontractors. This indemnification shall be in addition to any other insurance or other protection required by the Project Agreement.
11.	Insurance	Awarded Firm shall provide to the County Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements of the Project Agreement.
12.	Inspector General Reviews	According to Section 2-1076 of the County Code, the Office of the Inspector General may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. The cost of the audit shall be one quarter of one percent of the total contract amount and the cost shall be included in any proposed price. The audit cost will be deducted by the County from payments to the Awarded Firm, as applicable.
13.	Ownership / Change in Control	Section 2-8.1 of the County Code requires disclosure of the full legal name and business address of all individuals having any interest (legal, equitable, beneficial or otherwise) in the Project Agreement, subject to the provisions and limitations therein. The Project Agreement will set forth limitations to, and the process for, transfer in interest or change of ownership.
14.	Owner Initiated Changes	The Project Agreement will set forth the process for owner-initiated changes.

15.	Project Agreement Assignment	Awarded Firm shall not assign, transfer, convey or otherwise dispose of the Project Agreement, including its rights, title or interest in or to the same or any part thereof without the prior written consent of the County.
16.	Termination for Cause	The County may cancel or terminate the Project Agreement due to default by Awarded Firm, after reasonable periods to cure.
17.	Termination for Convenience	The County may cancel or terminate the Project Agreement at any time, in its sole discretion, without cause, by written notice to Awarded Firm. Consequences for termination for convenience, including County obligations to reimburse Awarded Firm in the event of such termination, to be set forth in Project Agreement and agreed upon by the Parties.
18.	Relief Events	Project Agreement will set forth certain events, including force majeure, which extend periods for compliance by Awarded Firm of certain obligations under Project Agreement.
19	Compensation Events	Project Agreement will set forth certain events which compensate the Awarded Firm for extended periods for compliance by Awarded Firm of certain obligations under the Project Agreement.
20	Waiver of Consequential Damages	Both Parties shall waive consequential, indirect, and incidental damages against each other.
21	Limitation on Liability	The Awarded Firm's aggregate liability shall be subject to an overall cap.

EXHIBIT G

Insurance Requirements for Pre-Development Work

The Interim Firm shall obtain and keep in force, or cause to be obtained and kept in force, the following policies of insurance as required for the Pre-Development Period, in accordance with the terms of this agreement.

In accordance with the terms of this agreement the Interim Firm shall furnish to **Miami-Dade Seaport Department (1015 N. America Way, Miami, Florida 33132)**, Certificate(s) of Insurance evidencing insurance coverage that meets the requirements outlined below:

- A. Automobile Liability Insurance covering all owned, non-owned and hired vehicles, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
- B. Commercial General Liability Insurance in an amount not less than \$5,000,000 per occurrence and aggregate, not to exclude Products & Completed Operations. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**

NOTE: If additional services which would require the use of Drivers are required the Interim Firm shall furnish to **Miami-Dade Seaport Department (1015 N. America Way, Miami, Florida 33132)**, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the below requirement:

- A. Commercial General Liability/ Marine Liability Insurance in an amount not less than \$5,000,000 per occurrence and aggregate, not to exclude Products & Completed Operations and Diving Services coverage. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- B. Worker's Compensation Insurance for all employees of the Interim Firm as required by Florida Statute 440 and Employers Liability Insurance for all employees of the Interim Firm having coverage limits of limits of \$1,000,000 for each accident, \$1,000,000 for disease (each employee), and \$1,000,000 for disease (policy limit).
 - a. Should include coverage required under the U.S. Longshoremen and Harbor Workers' Act (USL&H) and/or Jones Act for any activities on or about navigable water and covering any masters or members of crew.
- C. Protection & Indemnity insurance for any vessels used in connection with the work, in the name of the owner of such vessel(s) in an amount not less than \$1,000,000 per occurrence. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- D. Professional Liability or Errors & Omissions insurance (but not on a project specific basis) in the name of the licensed professional Interim Firm and/or lead Design Firm providing architectural and/or engineering, project design, construction supervision, administration, surveying, testing, engineering and any other related professional

qualifications or functions required by the project in an amount not less than \$10,000,000 per claim. For licensed professionals subcontracted by the Interim Firm and/or lead Design Firm providing architectural and/or engineering, project design, construction supervision, administration, surveying, testing, engineering and any other related professional qualifications or functions required by the project, coverage shall not be less than \$1,000,000 per claim, and \$2,000,000 in the aggregate.

- a. If any required insurance purchased by the Interim Firm and/or lead Design Firm is issued on a 'claims made' basis, the claims made coverage must have an extended reporting or discovery "tail" period of not less than seven years after the project completion date and shall have a retroactive date to the date of first design.
- E. Pollution Liability Insurance in an amount not less than \$1,000,000 per occurrence covering third party claims, remediation expenses, and legal defense expenses arising from on-site and off-site loss, or expense or claim related to the release or threatened release of Hazardous Materials that result in contamination or degradation of the environment and surrounding ecosystems, and/or cause injury to humans and their economic interest.

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

NOTE: The Risk Management Division of Miami-Dade County Internal Services Department reserves the right, upon reasonable notice, to examine or request the policies of insurance (including but not limited to policies, binders, amendments, exclusions or riders, etc.). Miami-Dade County reserves the right to reasonably amend insurance requirements throughout the duration of this Agreement based upon revisions to the work to be performed pursuant to this Agreement.

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.

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