

DEPARTMENTAL INPUT
CONTRACT/PROJECT MEASURE ANALYSIS AND RECOMMENDATION

☐ New ☐ OTR ☐ Sole Source ☒ Bid Waiver ☐ Emergency

Previous Contract/Project No.

Contract

BW

☐ Re-Bid

☐ Other

LIVING WAGE APPLIES: ☐ YES ☒ NO

(LEGACY)

Requisition No./Project No.:

RQAV1900043

TERM OF
CONTRACT

5 YEARS

Requisition /Project Title:

Lost and Found Services

Description:

Items left at MIA's common use areas by customers are turned over to the MDAD Lost & Found facility. The items are inventoried, tagged and stored, for release to the identified owner, for thirty days (30), as per State of Florida Statute 705.182. MDAD shall examine every Lost and Found item to try to ascertain the ownership of same; for example, luggage is examined for wallets/purses or other owner identifying information within each piece. Every reasonable effort will be made by the Department to contact all identified owners. The unclaimed items that have met the established timeframes will then be examined and organized by MDAD into one (1) Lost and Found lot to be sold to the Contractor "as is" on a monthly basis, with the following exclusions...

The collection of Lost and Found Items from MIA, processing, and use of the monetary proceeds resulting from the sale of such goods must be conducted by the Contractor and not by a licensee, subconsultant, subcontractor or agent of the Contractor. (Article - Scope of Services)

Issuing Department:

AV

Contact
Person:

Sylvia Novela

Phone:

305-375-3027

Estimate Cost: \$840,000

GENERAL FEDERAL

OTHER

Operating

Funding Source:

Budget

ANALYSIS

Commodity Codes:

Contract/Project History of previous purchases three (3) years

Check here ☒ if this is a new contract/purchase with no previous history.

EXISTING

2ND YEAR

3RD YEAR

Contractor:

Acquisition of Lost & Found

Small Business Enterprise:

Goodwill Industries of South

Contract Value:

Comments: RFP-MDAD-06-12

Continued on another page (s): ☐ Yes ☒ No

RECOMMENDATIONS

Set-aside

Sub-contractor goal

Bid preference

Selection factor

SBE

Basis of
recommendation:

Signed: Phillip A. Rincon

Date sent to SBD:

01/31/2020

Date returned to DPM:

Revised April 2005

Acquisition of Lost and Found Items at Miami International Airport

Contract No. BW-_____

THIS AGREEMENT made and entered into as of this _____ day of _____ ("Effective Date"), by and between Goodwill Industries of South Florida, Inc., a 501(c)(3) not-for-profit corporation authorized to do business in the State of Florida, having its principal office at 2121 NW 21st Street, Miami, FL 33142 (hereinafter referred to as the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 N.W. 1st Street, Miami, Florida 33128 (hereinafter referred to as the "County"),

RECITALS:

WHEREAS, the County is the owner of and operates Miami International Airport through the County's Miami-Dade Aviation Department; and,

WHEREAS, the Department desires to engage a Contractor to acquire unclaimed Lost and Found Items at Miami International Airport; and,

WHEREAS, the Contractor has offered to purchase unclaimed Lost and Found Items, and shall conform to the Scope of Services (Article 8) and the requirements of this Agreement.

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

ARTICLE 1. DEFINITIONS

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

- a) The words "**Agreement**" or "**Contract**" to mean collectively these terms and conditions, the Scope of Services (Article 8), all other appendices and attachments hereto, and all amendments issued thereto.
- b) The word "**Airport**" or acronym "**MIA**" to mean Miami International Airport.
- c) The word "**Amendment**" to mean a written modification to this Agreement executed by Contractor and the County covering changes, additions, or reductions in the terms and conditions of this Agreement.
- d) The term "**Board**" shall mean the Board of County Commissioners of Miami-Dade County.
- e) The word "**Code**" shall mean the Code of Miami-Dade County, Florida.

- f) The words "**Effective Date**" to mean the date shown on the recitals page of this Agreement.
- g) The words "**Contract Manager**" to mean Miami-Dade County's Director, Internal Services Department, or the duly authorized representative designated to manage the Contract.
- h) The word "**Contractor**" to mean Goodwill Industries of South Florida, Inc. and its permitted successors.
- i) The word "**County**" shall mean Miami-Dade County, a political subdivision of the State of Florida.
- j) The word "**Days**" to mean calendar days, unless specifically stated otherwise.
- k) The words "**Department**" or "**MDAD**" shall mean the Miami-Dade Aviation Department. Wherein in this Agreement, rights are reserved to the County, MDAD may exercise such rights.
- l) The words "**directed**", "**required**", "**permitted**", "**ordered**", "**designated**", "**selected**", "**prescribed**" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the County's Project Manager; and similarly the words "**approved**", "**acceptable**", "**satisfactory**", "**equal**", "**necessary**", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the County's Project Manager.
- m) The word "**Director**" to mean the Director of the Miami-Dade Aviation Department or authorized representative(s) designated in writing with respect to a specific matter(s) concerning the Services as defined in this Agreement.
- n) The words "**Monthly Transaction Fee**" or "**MTF**" shall mean as described in Article 9.
- o) The word "**Owner**" to mean Miami-Dade Aviation Department, unless specifically stated otherwise.
- p) The words "**Project Manager**" to mean the County Mayor or the duly authorized representative designated to manage the Project.
- q) The words "**Scope of Services**" to mean Article 8, which details the work to be performed by the Contractor.
- r) The word "**Subcontractor**" or "**Subconsultant**" to mean any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.
- s) The term "**TSA**" shall mean the United States Transportation Security Administration, and any successor agency, office or department thereto.
- t) The words "**Work**", "**Services**", "**Program**", or "**Project**" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) these terms and conditions and any supplemental agreements, 2) the Scope of Services (Article 8), and 3) the Payment to the County (Article 9), and 4) any associated addenda and Attachments thereof.

ARTICLE 3. RULES OF INTERPRETATION

- A. References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.
- B. Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.
- C. The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.
- D. The titles, headings, captions and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify or modify the terms of this Contract, nor affect the meaning thereof.

ARTICLE 4. NATURE OF THE AGREEMENT

- A. This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives.
- B. The Contractor shall provide the Services set forth in the Scope of Services (Article 8), and render full and prompt cooperation with the County in all aspects of the Services performed hereunder.
- C. The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Services under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described and delineated.
- D. The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Services that are necessary for the completion of this Contract. All Services shall be accomplished at the direction of and to the satisfaction of the County's Project Manager.
- E. The Contractor acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Services (Article 8). The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor agrees to implement any and all changes in providing Services hereunder as a result of a policy change implemented

by the County. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

ARTICLE 5. TERM AND EXTENSION

- A. This non-exclusive Agreement shall become effective on the Effective Date shown in the recitals page of this Agreement and shall continue through the last day of the fifth (5th) year.
- B. The County reserves the right to exercise its option to extend this Agreement for up to one hundred-eighty (180) calendar days beyond the current Contract period at the County's sole discretion, and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners.

ARTICLE 6. NOTICE REQUIREMENTS

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

(1) to the County

- a) to the Project Manager:

Miami-Dade County
Attention:
Phone:
E-mail:

and,

- b) to the Contract Manager:

Miami-Dade County
Internal Services Department, Strategic Procurement Division
111 N.W. 1st Street, Suite 1375
Miami, Florida 33128-1974
Attention: Chief Procurement Officer
Phone: (305) 375-4900
E-mail: Namita.Uppal@miamidade.gov

(2) To the Contractor

Goodwill Industries of South Florida, Inc.
2121 NW 21st Street
Miami, Florida 33142
Attention:
Phone:
E-mail:

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

addressee.

ARTICLE 7. MUTUAL OBLIGATIONS

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

ARTICLE 8. SCOPE OF SERVICES

A. The Contractor must maintain the following minimum qualification requirements throughout the term of the Agreement:

- 501(c)(3) charitable status with United States Department of Treasury, Internal Revenue Service.
- Florida Not for profit Corporation status

Background

~~Items left at MIA's common use areas by customers are turned over to the MDAD Lost & Found facility. The items are inventoried, tagged and stored, for release to the identified owner, for thirty days (30), as per State of Florida Statute 705.182. MDAD shall examine every Lost and Found item to try to ascertain the ownership of same; for example, luggage is examined for wallets/purses or other owner identifying information within each piece. Every reasonable effort will be made by the Department to contact all identified owners. The unclaimed items that have met the established timeframes will then be examined and organized by MDAD into one (1) Lost and Found lot to be sold to the Contractor "as is" on a monthly basis, with the following exclusions:~~

A.B. On a monthly basis, the Contractor will pick up, and transport qualifying unclaimed ~~Lost and Found~~ items from MIA's Lost & Found facility, which have met the established timeframes, and examined and organized by MDAD into one (1) Lost and Found lot. The ~~items lot~~ shall be purchased by the Contractor in ~~their its~~ totality and "as is" condition, at the agreed upon flat rate as defined in Article 9, with the following exclusion:

1. Cash, securities, and other monetary instruments
2. Firearms, explosives, and other dangerous substances
3. Illegal and prescription drugs
4. Contraband (e.g. goods that evade duty or are prohibited by law from being taken into or out of a country)
5. All jewelry items will be retained for an additional 30 days (for a total of 60 days), and if not claimed by its owner will be provided to the Contractor.

6. From time to time, a small number of empty luggage bags will be provided to law enforcement agencies for testing and training purposes.

B-C. In addition, the Contractor shall comply with the following:

- 1) EQUIPMENT - Contractor shall possess and maintain reliable, safe equipment to transport Lost & Found Items from Airport property, throughout the term of the Agreement.
- 2) LOGISTICS - Contractor shall coordinate and schedule the pickup/collection of Lost & Found Items through Department staff.

C-D. B. OPERATIONAL REQUIREMENTS: Contractor acknowledges that the operational requirements of the Airport as an airport facility, including without limitation, security requirements, are of paramount importance. Contractor acknowledges and agrees that it must conduct its business in a manner that does not conflict with the operational requirements of the Airport as an airport facility and that fully accommodates those requirements. Contractor must:

- 1) Comply with all Airport rules and regulations; and
- 2) Cause all ~~deliveries~~ pick-ups and dispatches of merchandise, supplies, fixtures, equipment and furniture to be made and conveyed to or from the Airport by means and during hours established at the Department's sole discretion.
- 3) Contractor may not at any time park its carts or other delivery vehicles in common areas; and
- 4) Not park within the parking areas of the Airport except in those areas, if any, designated by the Department pursuant to permits obtained from the Airport's Airside or Landside Division(s). Nothing herein shall imply that Contractor shall be able to secure any on-Airport parking privileges.

D-E. C. The collection of Lost and Found Items from MIA, processing, and use of the monetary proceeds resulting from the sale of such goods must be conducted by the Contractor and not by a licensee, subconsultant, subcontractor or agent of the Contractor.

E-F. MANAGEMENT/PERSONNEL: Contractor shall at all times retain at least one qualified representative authorized to represent and act on its behalf on matters pertaining to its operation, and shall keep the Department informed in writing of the identity of each such person.

Name:	
Title:	
Office Phone No.:	
Cellphone No.:	
Email:	

E. The collection of L&F salvaged items from MIA, processing, and use of the monetary proceeds resulting from the sale of such goods must be conducted by said Selected Proposer and not by a licensee, subconsultant, subcontractor or agent of the Selected Proposer.

F. PROHIBITED ACTIVITIES: Without limiting any other provision herein, Contractor shall not, without the prior written consent of the Department which may be withheld in its sole and

Commented [RP(1)]: Has MDAD determined if the permits need to be purchased or if they will be provided at no cost to the Contractor, as per your comment in the June 7 Scope?

Commented [PB(2)]: List the representative as part of this agreement.

Commented [MP(3R2)]: To be provided by Goodwill.

absolute discretion: (a) cause or permit anything to be done, or bring or keep anything which might (i) increase in any way the rate of fire insurance on the MIA Terminal Building or any of its contents, (ii) create a nuisance or annoyance or safety hazard, or (iii) obstruct or interfere with the rights of others in the MIA Terminal Building; (b) commit or suffer to be committed any waste upon the Airport; (c) use, or allow the Airport to be used, for any improper or unlawful purpose; or (d) do or permit to be done anything in any way tending to injure the reputation of the Department, the County, the Board of County Commissioners, or the appearance of the Airport

Article ###: INTENT OF PROCEEDS AFFIDAVIT

The Contractor shall execute an Intent of Proceeds Affidavit (Exhibit 1), acknowledging that the Contractor agrees that all monetary proceeds resulting from the sale of L&F salvaged items will be used in accordance with the Contractor's 501(c)(3) charitable purposes to benefit persons within the boundaries of Miami-Dade County.

~~As a condition of award, the Selected Proposer will also be required to execute an "Intent of Proceeds Affidavit" (Exhibit 1), which will require the Selected Proposer to agree that all monetary proceeds resulting from the sale of L&F salvaged items must be used in accordance with the Selected Proposer's charitable purposes to benefit persons within the boundaries of Miami-Dade County.~~

ARTICLE 9. PAYMENT TO THE COUNTY

- A. MONTHLY TRANSACTION FEE: As consideration for the privileges granted the Contractor herein to engage in business at MIA, the Contractor shall pay to the County in U.S. funds a Monthly Transaction Fee ("MTF") of _____ Dollars (\$_____.00). MTF payments will be submitted by the Contractor on the fifteenth (15th) day of the month, and shall be applied to the transaction following such MTF payment. All MTF payments shall be made in accordance with Sub-article 9-D, of this Agreement.
- B. NO NEGOTIATIONS: The Contractor understands and agrees that the terms and conditions of Sub-article 9-A "Monthly Transaction Fee", are not subject to negotiation or adjustment for any reason. The only exceptions are events of force majeure as defined in Article 46 "Force Majeure". Nor shall the County be liable for any disruptions or delays during the Term and any Extension of this Agreement. The Department will notify Contractor in the event that a Transaction will be delayed or disrupted. The Transaction impacted by such interruption(s) will be re-scheduled and the Department will notify the Contractor when the respective Lot of items will be available.
- C. DISHONORED CHECK OR DRAFT: In the event the Contractor delivers a dishonored check or draft to the Department in payment of any obligation arising under this Agreement, the Contractor shall incur and pay a service fee of TWENTY-FIVE DOLLARS (\$25.00), if the face value of the dishonored check or draft is fifty dollars (\$50.00) or less, THIRTY DOLLARS (\$30.00) if the face value of the dishonored check or draft is more than fifty dollars (\$50.00) and less than three hundred dollars (\$300.00), or FORTY DOLLARS (\$40.00), if the face value of the dishonored check is three hundred dollars (\$300.00) or more, or five percent (5%) of the face value of such dishonored check or draft, whichever is greater, plus damages imposed by law. Further, in such event, the Department may require that future payments required pursuant to this Agreement be made by cashier's checks or other means acceptable to the Department.
- D. ADDRESS FOR PAYMENTS: The Contractor shall pay all monies payable and identify the Lot, Transaction and the Agreement, for which payment is made, as required by this

Commented [RP(4)]: What is to occur if the Contractor's charitable purpose changes?

Example language: The Contractor shall notify the County of any changes to the Contractor's 501(c)(3) charitable purposes in accordance to the executed Intent of Proceeds Affidavit, and pause all sale of acquisitioned lost and found items. The County will evaluate any changes in accordance with this Agreement...

Commented [RP(5)]: In your June 7, 2019 Scope, you stated the following:
"Director's office had comments regarding restructuring the current MTF to better compensate MDAD for valuables (laptops/phones/electronics, jewelry)..... we are researching on how to address this concern. "

Has you determined what structure you would like to use?

Commented [MP(6)]: Working to negotiate the amount with vendor.

Agreement, to the following:

- 1) In Person: Miami-Dade Aviation Department,
Finance Division
4200 N.W. 36th Street
Building 5A, Suite 300
Miami, Florida 33122

During normal business hours, 8:30 AM to 5:00 PM, Monday through Friday.

- 2) By Mail: Miami-Dade Aviation Department
Finance Division
P.O. Box 526624
Miami, Florida 33152-6624
- 3) By Express Mail: Miami-Dade Aviation Department
Finance Division
4200 N.W. 36th Street
Building 5A, Suite 300
Miami, Florida 33122
- 4) By Wire Transfer: In accordance with Wire Transfer instructions provided by MDAD's Finance Division, 305-876-7711.
- 5) By Credit Card: Miami-Dade Aviation Department, Finance Division - Cashier's Office at 305-876-0652.

E. LATE PAYMENT: In the event the Contractor fails to make any payments as required to be paid under the provisions of this Agreement within ten (10) business days of the due date, delinquency charges established by the Board will be imposed. Such rate is currently 1½% delinquency charge per month.

ARTICLE 10. STANDARDS OF OPERATION

The Department shall have the right to adopt and enforce reasonable and non-discriminatory rules and regulations, which the Contractor agrees to observe and obey. The Department may amend such rules or regulations and operating performance standards from time to time and shall provide copies thereof to the Contractor. The Department shall provide the Contractor with reasonable prior written notice, not less than thirty (30) Days, prior to the implementation of any such amendment to the rules or regulations and operating performance standards. Those rules include, but are not limited to, any rules and regulations imposed upon the Department by any governmental agency.

The Contractor shall implement and comply with all amended requirements, and shall immediately implement and comply with any rules and regulations promulgated for safety or security reasons.

ARTICLE 11. INDEMNIFICATION

The Contractor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Contractor or its employees, agents, servants, partners principals or subcontractors. The Contractor shall

Commented [MP(7)]: Is this still an option, for the vendor to pay the MTF with a credit card?

Commented [NS(8R7)]: Yes.

The Contractor shall pay all monies payable and identify the Agreement for which payment is made, as required by this Agreement, to the following:

In Person: Miami-Dade Aviation Department
Finance Division
4200 N.W. 36th Street
Building 5A, Suite 300
Miami, Florida 33122

During normal business hours, 8:30 A.M. to 5:00 P.M., Monday through Friday:

By Mail: Miami-Dade Aviation Department
Finance Division
P.O. Box 526624
Miami, Florida 33152-6624

By Express Mail: Miami-Dade Aviation Department
Finance Division
4200 N.W. 36th Street
Building 5A, Suite 300
Miami, Florida 33122

By Wire Transfer: In accordance with Wire Transfer instructions provided by MDAD's Finance Division, 305-876-7383.

Change phone number to

305-876-7711

By Credit Card: Miami-Dade Aviation
Department
Finance Division- Cashier's Office

pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

ARTICLE 12. INSURANCE

Upon County's notification, the Contractor shall furnish to the Internal Services Department, Strategic Procurement Division, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

1. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.
2. Commercial General Liability in an amount not less than \$1,000,000 per occurrence, and \$2,000,000 in the aggregate. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
3. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Services, in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.

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

OR

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

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

**Miami-Dade County
111 N.W. 1st Street
Suite 1300
Miami, Florida 33128-1974**

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

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

The Contractor shall assure that the Certificates of Insurance required in conjunction with this

Commented [MP(9)]: Please send me insurance recommendation from MDAD Risk.

Commented [NS(10R9)]: From: Cockfield, Milford (Aviation) <mcockfield@miami-airport.com>
Sent: Thursday, January 30, 2020 9:57 AM
To: Novela, Sylvia (Aviation) <SNovela@miami-airport.com>
Subject: RE: Insurance Requirements Request - Lost and Found Services

Good morning Sylvia, the insurance requirements for this type of operation would be as follows:

- Workers Compensation (Statutory)
- Automobile Liability \$300k
- General Liability \$1 million

Im attaching the email to my response with ISD Risk copied. SN

Commented [RP(11)]: Please confirm the value in the aggregate

Commented [RP(12)]: Will this also apply to Air-side?

Section remain in full force for the term of the Contract, including any renewal or extension periods that may be exercised by the County. If the Certificate(s) of Insurance is scheduled to expire during the term of the Contract, the Contractor shall submit new or renewed Certificate(s) of Insurance to the County a minimum of ten (10) calendar days before such expiration. In the event that expired Certificates of Insurance are not replaced or renewed to cover the Contract period, the County may suspend the Contract 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 and the Contractor shall be responsible for all direct and indirect costs associated with such termination.

ARTICLE 13. MANNER OF PERFORMANCE

- A. The Contractor shall provide the Services described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Contractor in all aspects of the Services. At the request of the County, the Contractor shall promptly remove from the Project any Contractor's employee, Subcontractor, or any other person performing Services hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.
- B. The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing Services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and or demotion of such Contractor's personnel.
- C. The Contractor agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any its personnel if so directed upon reasonable request from the County, should the County make a determination, in its sole discretion that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.
- D. The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.
- E. The Contractor shall at all times cooperate with the County and coordinate its respective Work efforts to most effectively and efficiently maintain the progress in performing the Services.
- F. The Contractor shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

ARTICLE 14. EMPLOYEES OF THE CONTRACTOR

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

Each employee shall have and wear proper identification.

- B. Contractor will abide by all Federal, State and local regulations on wages and hours of an employee dealing with the employment relationship between Contractor and its employees, including but not limited to the Florida Human Relations Act, the Federal National Labor Relations Act, the Federal Fair Labor Standards Act, the Federal Civil Rights Act of 1964 as amended, and the Americans with Disabilities Act.
- C. Contractor shall require all prospective employees to show proof of citizenship, or proof from the United States Immigration and Naturalization Service of valid entry permits and/or work permits for legal aliens and proof that such legal aliens are eligible to be employed in the United States.
- D. Contractor shall maintain a drug-free workplace within the meaning of the Florida Drug-free Workplace Act. No employee shall be hired by a Contractor for Work on Owner's premises prior to such employee having been tested negative for drugs. In addition, existing employees of the Contractor must be subject to drug testing by the Contractor upon reasonable suspicion of drug use. Results of all such drug tests are to be retained by the Contractor. Copies shall be provided to the Owner, if requested.
- E. Contractor shall transfer promptly from the airport any employee or employees that the Owner advises are not satisfactory and replace such personnel with employees satisfactory to the Owner; but in no event shall Owner be responsible for monitoring or assessing the suitability of any employee or agent of Contractor.
- F. A valid Florida driver license (Commercial Drive license, if applicable) will be required of all personnel operating motor vehicles or motorized equipment on roadways in or around Miami International Airport. Each of the Contractor's motor vehicles brought onto the Owner's premises shall have the Contractor's business name and/or logo prominently displayed on both front doors of such vehicle.
- G. While working on airport property all Contractors' employees shall wear neat-appearing uniforms with the company name and/or logo and footwear of a style that complies with all legal and safety requirements, including and without limitation, the requirements of OSHA.

ARTICLE 15. INDEPENDENT CONTRACTOR RELATIONSHIP

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

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

ARTICLE 16. AUTHORITY OF THE COUNTY'S PROJECT MANAGER

- A. The Contractor hereby acknowledges that the County's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either

party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation; questions as to the interpretation of the Scope of Services (Article 8); and claims for damages, compensation and losses.

- B. The Contractor shall be bound by all determinations or orders and shall promptly comply with every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- C. The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.
- D. In the event of such dispute, the parties to this Agreement authorize the County Mayor or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Mayor's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the County Mayor within 10 Days of the occurrence, event or act out of which the dispute arises.
- E. The County Mayor may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Mayor participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the County Mayor for a decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. Whenever the County Mayor is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Mayor, as appropriate, shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

ARTICLE 17. ANNUAL IRS FORM 990

Within ninety (90) Days of each anniversary of the Effective Date of this Agreement and within ninety (90) Days following expiration or earlier termination of this Agreement, the Contractor shall, at its sole cost and expense, provide to the Department the most recently filed informational tax return Internal Revenue Service (IRS) Form 990.

ARTICLE 18. OBLIGATIONS OF THE DEPARTMENT

- A. No Other Obligation of Department: The Contractor acknowledges he Department has made no representations or warranties concerning the suitability of the operation or for the Contractor's use or for any other use, and that except as expressly provided in this Agreement.
1. The Contractor hereby confirms that it has made its own investigation of all the costs of doing business under this Agreement, equipment needed to operate, that it has done its own projections of the volume of business expected to be generated, that it is relying on its own business judgment concerning its prospects for providing the services required under this Agreement on a profitable basis, and that the Department has not made any representations or warranties with respect to any such matters.
 2. The Department does not warrant the accuracy of any statistics or projections relating to the Airport and its operations, which have been provided to the Contractor by the Department or anyone on its behalf and the Department shall not be responsible for any inaccuracies in such statistics or their interpretation.
 3. All statements contained in this Agreement or otherwise made by the Department or anyone on its behalf concerning any measurement or value and any inaccuracy in such statements of measurements or values shall not give rise to any claim by the Contractor under or in connection with this Agreement.
 4. The Department shall not be liable to the Contractor for any loss of business or damages sustained by the Contractor as a result of any change in the operation or configuration of, or any change in any procedure governing the use of MIA.

ARTICLE 19. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Contractor shall maintain, and shall require that its subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope of Services (Article 8). The Contractor and its subcontractors and suppliers, shall retain such records, and all other documents relevant to the Services furnished under this Agreement for a period of three (3) years from the expiration date of this Agreement and any extension thereof.

ARTICLE 20. AUDITS

The County, or its duly authorized representatives and governmental agencies, shall until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

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

ARTICLE 21. ASSIGNMENT AND OWNERSHIP

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

- B. Since the ownership, control, and experience of the Contractor were material considerations to the County in this Agreement, the Contractor shall take no actions which shall serve to transfer or, sell majority ownership or control without the prior written consent of the Department.
- C. If Contractor is a corporation, the issuance or sale, transfer or other disposition of a sufficient number of shares of stock (deemed to mean more than fifty percent (50%) of the stock that result in a change of control shall be deemed an assignment of this Agreement for purposes of this **Article 22 "Assignment and Ownership"**. If the Contractor is a partnership, transfer of any interest in the partnership, which results in a change in control, shall be deemed an assignment of this Agreement.

ARTICLE 22. SUBCONTRACTUAL RELATIONS

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

ARTICLE 23. RULES, REGULATIONS, AND PERMITS

A. RULES AND REGULATIONS: The Concessionaire shall comply with the Ordinances of the County including Chapter 25, Code of Miami-Dade County, Florida, as the same may be amended from time to time, Operational Directives (available at <http://www.miami-airport.com/od2.asp>) issued thereunder by the Department, all additional laws, statutes, ordinances, regulations and rules of the Federal, State and County governments, and any and all plans and programs developed in compliance therewith, and any County Administrative Orders, Implementing Orders and resolutions of the Board of County Commissioners which may be applicable to its operations or activities under this Agreement.

B. 15.02 VIOLATIONS OF RULES AND REGULATIONS

The Concessionaire agrees to pay, on behalf of the County, any Damage, assessment or fine issued against the County, or the Department to defend in the name of the County any claim, assessment or civil action, which may be presented or initiated by any agency or officer of the federal, State or County governments based in whole or substantial part upon a claim or allegation that the Concessionaire, its agents, employees, or invitees, have violated any law, ordinance, regulation or rule described in Sub-Article 15.01 "Rules and Regulations" or any plan or program developed in compliance therewith. The Concessionaire further agrees that the substance of Sub-Article 15.02 "Violations of Rules and Regulations" and Sub-Article 15.01 "Rules and Regulations" shall be included in other agreements which the Concessionaire may enter into related to its activities under this Agreement and that any other agreement shall specifically provide that "Miami-Dade County, Florida is a third party beneficiary of this and related provisions." This provision shall not constitute a waiver of any other conditions of this Agreement prohibiting or limiting assignments, subletting or subleasing.

C. 15.03 PERMITS AND LICENSES

D. make available to the Department upon request, all permits and licenses as required for the performance of its services.

E. 15.05 LABOR PEACE REQUIREMENT – RESOLUTION NO. R-148-07

The Concessionaire provided a signed copy of the labor peace agreement for their employees as part of their Proposal to assure that no labor dispute or unrest will disrupt their operations at Miami International Airport (Exhibit M). Furthermore, the County has the right, in the event of a labor disruption, to suspend its obligations under the contract while the labor disruption is ongoing and to use alternative means to provide the service that is affected by the labor disruption. In the event a Concessionaire is unable to reach an agreement with a labor organization regarding the terms of a labor peace agreement, the dispute between the Concessionaire and the labor organization shall be resolved by expedited binding arbitration in which the decision shall be rendered within ten (10) days of the request for arbitration but no later than five (5) days prior to the date the proposal is due. The Concessionaire and the labor organization shall equally share the costs of arbitration.

F. 15.06 LIVING WAGE

The Concessionaire shall comply with Section 2-8.9 of the Code of Miami-Dade County, and Administrative Order No. 3-30, as amended, requiring the payment to covered

employees the applicable hourly living wage rate, with or without health benefits, and that it shall comply with the administrative and records keeping required of the concessionaire set forth in the Administrative Order. The Concessionaire shall also ensure that its subcontractors comply with the order in respect to their employees.

G. 15.07 MIAMI-DADE AVIATION DEPARTMENT OPERATIONAL DIRECTIVE NO. 16-04

H. Pursuant to the Miami-Dade Aviation Department (MDAD) Operational Directive No. 16-04, Concessionaires and its subtenants, certain business partners, and management agreement operators agree not to provide containers (including but not limited to shopping bags, trash bags, take-out bags, clamshells, or other methods of securing foods, beverage, utensils, cups, straws, or plates which are made of Styrofoam or which are made of petroleum based plastic. Please refer to MDAD Operational Directive No. 16.04, available at <http://www.miami-airport.com/od2.asp>.

ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

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

ARTICLE 24. SEVERABILITY

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

ARTICLE 25. TERMINATION AND SUSPENSION OF WORK

- A. The County may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the County through fraud, misrepresentation or material misstatement.
- B. The County may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.
- C. The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the Code of Miami-Dade County.
- D. In addition to cancellation or termination as otherwise provided in this Agreement, the County may at any time, in its sole discretion, with or without cause, terminate this Agreement at any

time for convenience, without cause, when in its sole discretion deems such termination is in the best interest of the Department, upon thirty (30) days written notice to the Contractor. The County shall not be responsible for any other costs or damages, including but not limited to lost profits, loss of opportunity, borrowing costs, carrying costs, damage to reputation, loss of goodwill, or loss of income.

- E. In the event that the County exercises its right to terminate this Agreement, the Contractor shall, upon receipt of such notice, unless otherwise directed by the County:
1. stop Work on the date specified in the notice ("the Effective Termination Date");
 2. take such action as may be necessary for the protection and preservation of the County's materials and property;
 3. cancel orders;
 4. assign to the County and deliver to any location designated by the County any non-cancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services;
 5. take no action which will increase the amounts payable by the County under this Agreement; and
- F. In the event that the County exercises its right to terminate this Agreement, the Contractor will compensate the County based on the Monthly Transaction Fee amount, as stated in the Article 9 herein for the:
1. portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and
 2. non-cancelable Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement, but not incorporated in the Services.
- G. All compensation pursuant to this Article are subject to audit.

ARTICLE 26. EVENT OF DEFAULT

- A. A default shall mean a breach of this Agreement by the Contractor (an "Event of Default"). In addition to those defaults defined in Sub-Article 12.02 "Payment Default", Sub-Article 12.03 "Other Defaults", and Sub-Article 12.04 "Habitual Default", an Event of Default, may also include one (1) or more of the following occurrences:

1. The Contractor has violated the terms and conditions of this Agreement;
2. The Contractor has violated the terms of Exhibit 1 and Exhibit 2
3. The Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law, or the Contractor's affairs have been put in the hands of a receiver;
4. The occurrence of any act, which operates to deprive the County of the rights, power, licenses, permits or authorities necessary for the proper conduct and operation of the activities authorized herein;
5. Abandonment or discontinuance of operations by Contractor of its business by any act(s) of Contractor;

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6. Any persistent violation on the part of Contractor, its agents or employees of the traffic rules and regulations of local, County, State or Airport or disregard of the safety of persons using the Airports, upon failure by Contractor to correct the same;
7. Failure on the part of Contractor to maintain the quality of service required by the terms of this Agreement, including, but not limited to, any cessation or diminution of service by reason of Contractor being unable for any reason to maintain in its employ the personnel necessary to keep its business in operation and available for public use, unless such use is due to strike, lockout, or bona fide labor dispute;
8. Failure by Contractor to maintain its equipment in a manner satisfactory to the Director;
9. The Contractor has failed to obtain the approval of the Department where required by this Agreement;
10. The Contractor has failed to provide adequate assurances as required under **Sub-Article 12.10 "Adequate Assurances"**;
11. The Contractor has failed in a representation or warranty stated herein; or
12. The Contractor has received three (3) notices of default, of any kind, within a twenty-four (24) month period.

B. Payment Default: Failure of the Contractor to make MTF payments required to be paid herein when due and fails to cure the same within five (5) Days after written notice shall constitute a default, and the County may, at its option, terminate this Agreement after five (5) Day notice in writing to the Contractor.

C. Other Defaults: The Department shall have the right, upon thirty (30) Days written notice to the Contractor to terminate this Agreement upon the occurrence of any act of default unless the same shall have been corrected within thirty (30) Days after written notice; provided, however, that the Department may, but is not required to, extend the time for cure as individual circumstances may warrant such extension not be construed as a waiver of any of the Department's rights hereunder. In the event of a specific provision of this Agreement provides for a shorter cure period in the event of a specific default, that shorter provision shall take precedence over this section.

The notice of default shall specify the Termination Date by when Contractor shall discontinue the services.

D. Habitual Default: Notwithstanding the foregoing, in the event that the Contractor has frequently, regularly or repetitively defaulted in the performance of or has breached any of the terms, covenants and conditions required herein, to be kept and performed by the Contractor, regardless of whether the Contractor has cured each individual condition of breach or default as provided for in **Sub-Article 12.02 "Payment Default"** and **Sub-Article 12.03 "Other Defaults"** above, the Contractor may be determined by the Director to be an "habitual violator". At the time that such determination is made, the Director shall issue to the Contractor a written notice, advising of such determination and citing the circumstances thereof. Such notice shall also advise the Contractor that there shall be no further notice or grace periods to correct any subsequent breach(s) or default (s) and that any subsequent breach or default, of whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and collectively shall constitute a condition of non-curable default and grounds for immediate termination of this Agreement. In the event of any such subsequent breach or default, the Department may terminate this Agreement upon the giving of written notice of termination to the Contractor, such termination to be effective upon the seventh (7th) Day following the date of receipt thereof and all payments due hereunder shall be payable to said date, and the Contractor shall have no further rights hereunder. Immediately upon receipt of

said notice of termination, the Contractor shall discontinue its operations at the Airport and proceed to remove all its personal property in accordance with **Sub-Article 12.11 "Actions at Termination"** hereof.

E. Notice of Default and Opportunity to Cure: If an Event of Default occurs, the Department shall notify the Contractor by sending a notice of default, specifying the basis for such Event of Default, and advising the Contractor that such default must be cured immediately or this Agreement with the Department may be terminated. The Contractor can cure and rectify the Event of Default, to the Department's satisfaction, within thirty (30) Days from Contractor's receipt of the Default Notice 9the "Cure Period") or such other timeframe as delineated in the Agreement. The Department may extend the Cure Period and grant an additional period of such duration as the Department shall deem appropriate without waiver of any of the Department's rights hereunder, so long as, the Contractor has commenced curing such default and is effectuating a cure with diligent and continuity during such thirty (30) Day period or any other period which the Department prescribes. The notice of default shall specify the Termination Date by when the Contractor shall discontinue the services.

F. Termination for Abandonment: This Agreement may be terminated by the County upon the voluntary discontinuance of the Contractor's Services at the Airport unless such abandonment or discontinuance has been caused by civil disturbance, governmental order or act of nature that prevents the Contractor from providing Services. Such termination shall constitute an event of default, and the County shall be entitled all remedies for such default provided for in this Agreement.

G. Termination for Cause: The Department may terminate this Agreement, effective immediately if: (i) the Contractor fails to cure an event of default during the cure period; (ii) attempts to meet its contractual obligation(s) with the County through fraud, misrepresentation or material misstatement; or (iii) a principal of the Contractor is convicted of a felony during the Term or any Extensions thereof if applicable, or (iv) if the Contractor is found to have submitted a false certification or to have been, or is subsequently during the term of this Agreement, placed on the Scrutinized Companies for Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

The Department may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or joint venture or other entity has with the County and that such individual, corporation or joint venture or other entity shall be responsible for all direct and indirect costs associated with such termination, including attorney's fees.

The foregoing notwithstanding, any individual, firm, corporation, joint venture, or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be disbarred from County contracting for up to ten (10) years in accordance with the County's debarment procedures. The Contractor may be subject to debarment for failure to perform, and all other reasons set forth in § 10-38 of the Code of Miami-Dade County, Florida (the "Code").

H. Termination for Convenience: The Department, in addition to the rights and options to terminate for cause, or any other provisions set forth in this Agreement, retains the right to terminate this Agreement upon ninety (90) days written notice at its sole option at any time for convenience, without cause, when in its sole discretion it deems such termination is in the best interest of the Department based on the then existing passenger, airline, or community needs or impacts from such existing Concession.

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I. Adequate Assurances: When, in the opinion of the Department, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the work or any portion thereof, the Department may request that the Contractor, within the time frame set forth in the Department's request, provide adequate assurances to the Department, in writing, of the Contractor's ability to perform in accordance with terms of this Agreement. In the event that the Contractor fails to provide to the Department the requested assurances within the prescribed time frame, the Department may:

1. Treat such failure as a repudiation of this Agreement; and
2. Resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the work or any part thereof either by itself or through others.

J. Actions at Termination: The Contractor shall, upon receipt of such notice to terminate, and as directed by the Department:

1. Stop all work as specified in the notice to terminate;
2. Take such action as may be necessary for the protection and preservation of the Location(s) and other Department materials and property;

Article 27: **CLAIMS AND TERMINATION BY CONTRACTOR**

A. Administrative Claim Procedures: If the Contractor has any claim against the County arising under this Agreement, it will be made in writing within thirty (30) Days of the occurrence of the event to the Director. The exact nature of the claim, including sufficient detail to identify the basis for the claim and the amount of the claim shall be clearly stated. The claim will be accompanied by a certification, in the form provided for in the County's False Claims Ordinance. The Contractor shall additionally, at the direction of the Director, provide County staff, Audit and Management Services, and/or the Office of the Inspector General access to documents, records, and/or financial materials as may be necessary to substantiate such claim, without limitation, and within 30 days of the Director's request. Failure to present and process any claim in accordance with this Sub-Article shall be conclusively deemed a waiver, abandonment or relinquishment of any such claim, it being expressly understood and agreed that the timely presentation of claims, in sufficient detail to allow proper investigation and prompt resolution thereof, is essential to the administration of this Contract.

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The dispute will be decided by the Director, who will mail or otherwise furnish a written copy of the decision to the Contractor at the address furnished in Sub-Article 18.09 "Notices". The decision of the Director will be final and conclusive unless, within thirty (30) Days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Department a written appeal addressed to the Mayor. The decision of the Mayor, or his duly authorized representative for the determination of such appeals, will be final and conclusive unless within thirty (30) Days of the Contractor's receipt of such decision, the Contractor files an action in a court of competent jurisdiction. In connection with any appeal proceeding under this provision, the Contractor shall be afforded an opportunity to be heard and to offer other evidence in support of the appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of this Agreement and in accordance with the County's decision. Failure to perform in accordance with the decision of the Director or the Mayor shall be cause for termination of this Agreement in accordance with Sub-Article 12.03

"Other Defaults". The failure of the Contractor to comply with this administrative claim procedure shall be cause for a waiver of claim and an abandonment of any claim arising out of the event.

B. Termination: The Contractor shall have the right, upon thirty (30) Days written notice to the County to terminate this Agreement, without liability to the County, at any time after the occurrence of one or more of the following events:

1. Issuance by any court of competent jurisdiction of any injunction substantially restricting the use of the Airport for airport purposes, and the injunction remaining in force for a period of more than one hundred eighty (180) Days.
2. A breach by the County of any of the material terms, covenants or conditions contained in this Agreement required to be kept by the County and failure of the Department to remedy such breach for a period of one hundred eighty (180) Days after receipt of written notice from the Contractor of the existence of such breach.
3. The assumption by the United States Government or any authorized agency thereof, or any other governmental agency, of the operation, control or use of the airport locations or any substantial part, or parts thereof, in such a manner as substantially to restrict the Contractor's provision of services for a period of one hundred eighty (180) Days.

~~A. An Event of Default shall mean a breach of this Agreement by the Contractor. Without limiting the generality of the foregoing, and in addition to those instances referred to herein as a breach, an Event of Default shall include the following:~~

- ~~i. the Contractor has not delivered Deliverables on a timely basis;~~
- ~~ii. the Contractor has refused or failed to supply enough properly skilled staff personnel;~~
- ~~iii. the Contractor has failed to make prompt payment to Subcontractors or suppliers for any Services;~~
- ~~iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;~~
- ~~v. the Contractor has failed to obtain the approval of the County where required by this Agreement;~~
- ~~vi. the Contractor has failed to provide "adequate assurances" as required under subsection b below;~~
- ~~vii. the Contractor has failed in the representation of any warranties stated herein.~~

~~B. When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the County may request that the Contractor, within the timeframe set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with the terms of this Agreement. Until the County receives such assurances, the County may request an adjustment to the compensation received by the Contractor for portions of the Services which the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances~~

Commented [NS(19)]: Pablo you are missing specific defaults mentioned in the existing agreement....refer to Article 12.01, 12.02,

Commented [RP(20R19)]: Updated in this Article 26.

within the prescribed timeframe, the County may:

- ~~i. treat such failure as a repudiation of this Agreement; and~~
 - ~~ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Services or any part thereof either by itself or through others.~~
- ~~C. In the event the County shall terminate this Agreement for default, the County or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.~~

ARTICLE 27. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

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

ARTICLE 28. REMEDIES IN THE EVENT OF DEFAULT

~~If an Event of Default occurs, the Contractor shall be liable for all damages resulting from the default, including but not limited to:~~

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

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

~~Article 28:~~

ARTICLE 29. CONFIDENTIALITY

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

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

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

ARTICLE 30. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of Florida's Public Records Law.

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

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

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

ARTICLE 31. PROPRIETARY RIGHTS

- A. The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, subcontractors and suppliers may use only in connection with the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.
- B. All rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its subcontractors specifically for the County, hereinafter referred to as "Developed Works" shall become the property of the County.
- C. Accordingly, neither the Contractor nor its employees, agents, subcontractors or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, agent, subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.
- D. Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services (Article 8). Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other Documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 32. VENDOR REGISTRATION/CONFLICT OF INTEREST

a) Vendor Registration

The Contractor shall be a registered vendor with the County – Internal Services Department,

Strategic Procurement Division, for the duration of this Agreement. In becoming a registered vendor with Miami-Dade County, the Contractor confirms its knowledge of and commitment to comply with the following:

1. **Miami-Dade County Ownership Disclosure Affidavit**
(Section 2-8.1 of the Code of Miami-Dade County)
2. **Miami-Dade County Employment Disclosure Affidavit**
(Section 2-8.1(d)(2) of the Code of Miami-Dade County)
3. **Miami-Dade County Employment Drug-free Workplace Certification**
(Section 2-8.1.2(b) of the Code of Miami-Dade County)
4. **Miami-Dade County Disability and Nondiscrimination Affidavit**
(Section 2-8.1.5 of the Code of Miami-Dade County)
5. **Miami-Dade County Debarment Disclosure Affidavit**
(Section 10.38 of the Code of Miami-Dade County)
6. **Miami-Dade County Vendor Obligation to County Affidavit**
(Section 2-8.1 of the Code of Miami-Dade County)
7. **Miami-Dade County Code of Business Ethics Affidavit**
(Sections 2-8.1(i), 2-11.1(b)(1) through (6) and (9), and 2-11.1(c) of the Code of Miami-Dade County)
8. **Miami-Dade County Family Leave Affidavit**
(Article V of Chapter 11 of the Code of Miami-Dade County)
9. **Miami-Dade County Living Wage Affidavit**
(Section 2-8.9 of the Code of Miami-Dade County)
10. **Miami-Dade County Domestic Leave and Reporting Affidavit** (Article VIII, Section 11A-60 - 11A-67 of the Code of Miami-Dade County)
11. **Miami-Dade County E-Verify Affidavit**
(Executive Order 11-116)
12. **Miami-Dade County Pay Parity Affidavit**
(Resolution R-1072-17)
13. **Miami-Dade County Suspected Workers' Compensation Fraud Affidavit**
(Resolution R-919-18)
14. **Subcontracting Practices**
(Section 2-8.8 of the Code of Miami-Dade County)
15. **Subcontractor/Supplier Listing**
(Section 2-8.1 of the Code of Miami-Dade County)
16. **Form W-9 and 147c Letter**
(as required by the Internal Revenue Service)
17. **FEIN Number or Social Security Number**
In order to establish a file, the Contractor's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Contractor's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:
 - Identification of individual account records
 - To make payments to individual/Contractor for goods and services provided to Miami-Dade County
 - Tax reporting purposes
 - To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records
18. **Office of the Inspector General**
(Section 2-1076 of the Code of Miami-Dade County)
19. **Small Business Enterprises**
The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.1.1.1.1, 2-8.1.1.1.2 and 2-8.2.2 of the Code of Miami-Dade County and Title 49 of the Code of Federal Regulations.
20. **Antitrust Laws**
By acceptance of any contract, the Contractor agrees to comply with all antitrust laws of the United States and the State of Florida.

b) Conflict of Interest and Code of Ethics

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.

ARTICLE 33. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

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 Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Contractor's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision apply to the Contractor, its officers, agents, employees, subcontractors and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code 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 Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all contract renewals and extensions.

Exception: The above application of one quarter (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 Miami-Dade County Board of County Commissioners 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 Contract. 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 Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

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

ARTICLE 34. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

Contractor 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, including, but not limited to:

- a) Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.
- b) Miami-Dade County Small Business Enterprises Development Participation Provisions, as applicable to this Contract.
- c) Environmental Protection Agency (EPA), as applicable to this Contract.
- d) Section 2-11.1 of the Code of Miami-Dade County, "Conflict of Interest and Code of Ethics."
- e) Section 10-38 of the Code of Miami-Dade County, "Debarment of Contractors from County Work."
- f) Section 11A-60 - 11A-67 of the Code of Miami-Dade County, "Domestic Leave."
- g) Section 21-255 of the Code of Miami-Dade County, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.
- h) The Equal Pay Act of 1963, as amended (29 U.S.C. 206(d)).
- i) Section 448.07 of the Florida Statutes "Wage Rate Discrimination Based on Sex Prohibited."
- j) Chapter 11A of the Code of Miami-Dade County (§ 11A-1 et seq.) "Discrimination."
- k) Chapter 22 of the Code of Miami-Dade County (§ 22-1 et seq.) "Wage Theft."

- l) Chapter 8A, Article XIX, of the Code of Miami-Dade County (§ 8A-400 et seq.) "Business Regulations."
- m) Any other laws prohibiting wage rate discrimination based on sex.

Pursuant to Resolution R-1072-17, by entering into this Contract, the Contractor is certifying that the Contractor is in compliance with, and will continue to comply with, the provisions of items "h" through "m" above.

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

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

ARTICLE 35. NONDISCRIMINATION

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

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

ARTICLE 36. CONFLICT OF INTEREST

The Contractor represents that:

- a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the award of this Agreement.

- b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:
 - i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the Services, 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 Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.
- c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.
- d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the County's Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Contractor receives from the Project Manager in regard to remedying the situation.

ARTICLE 37. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

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

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

County.

ARTICLE 38. BANKRUPTCY

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

ARTICLE 39. GOVERNING LAW

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

ARTICLE 40. FIRST SOURCE HIRING REFERRAL PROGRAM

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

Field Code Changed

ARTICLE 41. INCORPORATION OF TRUST AGREEMENT BY REFERENCE

Notwithstanding any of the terms, provisions and conditions of this Agreement, it is understood and agreed by the parties hereto that the provisions of the Amended and Restated Trust Agreement, dated as of the 15th day of December, 2002, as amended from time to time, by and between the County and JPMorgan Chase Bank, as Trustee, and Wachovia Bank, National Association, as Co-Trustee (the "Trust Agreement"), which Trust Agreement is incorporated herein by reference, shall prevail and govern in the event of any inconsistency with or ambiguity relating to the terms and conditions of this Agreement, including the rents, fees or charges required herein, and their modification or adjustment. A copy of the Trust Agreement may be examined by the ~~Concessionaire~~ Contractor at the offices of the Department during normal working hours.

ARTICLE 42. FEDERAL AVIATION ADMINISTRATION (FAA) PROVISIONS**A. Compliance with Nondiscrimination Requirements**

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

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

7. During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- ii. 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- iii. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- iv. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- v. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- vi. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- vii. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and Contractors, whether such programs or activities are Federally funded or not);
- viii. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- ix. The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- x. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- xi. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- xii. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

- B. All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The Contractor/Consultant has full responsibility to monitor compliance to the referenced statute or regulation. The Contractor/Consultant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

- C. All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

ARTICLE 43. MIAMI-DADE COUNTY UNITED STATES SOCCER FEDERATION 2026 WORLD CUP

The terms of this agreement are subordinate to the terms of the Airport Agreement submitted by Miami-Dade County to the United States Soccer Federation on February 21, 2018. In carrying out its obligations under this Agreement, the Consultant shall not take or omit any action which is inconsistent with, or in derogation of, the County's obligations under the Airport Agreement. Where the Consultant's rights or obligations under this Agreement are in conflict with the County's obligations under the Airport Agreement, and upon notice by the County to Consultant, the terms of this Agreement shall be deemed conformed to the County's obligations under the Airport Agreement. Where such conformance would cause a material change in this Agreement, Consultant shall have the right, upon written notice to the County within five (5) Days of receipt of notice of such a conflict, to terminate this Agreement for convenience; in such termination, the Consultant shall have no cause of action for money damages of any kind, including but not limited to direct damages, unamortized costs or debt, stored or ordered materials, indirect damages, lost profits, loss of opportunity, loss of goodwill, or otherwise. In the event that the Agreement does not elect to terminate this Agreement within the time specified herein, this Agreement shall be deemed to have been amended via consent of the parties to conform its terms to the requirements of the Airport Agreement, but only to the extent needed to avoid conflict with same.

ARTICLE 44. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY

The Contractor shall comply with the Public Records Laws of the State of Florida, including but not limited to, (1) keeping and maintaining all public records that ordinarily and necessarily would be required by 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 Contractor upon termination of the contract and destroying any

duplicate public records that are exempt or confidential and exempt from public records disclosure requirements upon such transfer. In addition, all records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County. Failure to meet any of these provisions or to comply with Florida's Public Records Laws as applicable shall be a material breach of this Agreement and shall be enforced in accordance with the terms and conditions of the Agreement.

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

ARTICLE 45. SURVIVAL

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

ARTICLE 46. FORCE MAJEURE

Strictly in relation to the obligations of each party to the other under this Agreement, and not for any other purpose or for any benefit of a third party, each party shall be excused from the timely performance of their respective obligations or undertakings provided in this Agreement, if the performance of such obligations or undertakings is prevented or delayed, retarded or hindered by strikes, lockouts, boycotts, actions of labor unions, labor disputes, labor disruptions, work stoppages or slowdowns, unless involving employees of the Contractor, embargoes, general shortages of labor, equipment, materials or supplies in the open market, acts of God, acts of the public enemy, acts of governmental authority, including, without limitation, the FAA, the DOT, the TSA, the EPA, the DOJ, or civil and defense authorities, extreme weather conditions, war (declared or undeclared), invasion, insurrection, terrorism, riots, rebellion or sabotage.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the contract date herein above set forth.

Goodwill Industries of South Florida, Inc.

Miami-Dade County

By: _____
Name: _____
Title: _____
Date: _____
Attest: _____
Corporate Secretary/Notary Public

By: _____
Name: Carlos A. Gimenez
Title: Mayor
Date: _____
Attest: _____
Clerk of the Board

Corporate Seal/Notary Seal

Approved as to form
and legal sufficiency

Assistant County Attorney