

ISSUING DEPARTMENT INPUT DOCUMENT

CONTRACT/PROJECT MEASURE ANALYSIS AND RECOMMENDATION

New
 OTR
 Sole Source
 Bid Waiver
 Emergency
 Previous Contract/Project No. RFP733-3(3)

Re-Bid
 Other – Access of Other Entity Contract
 LIVING WAGE APPLIES: YES NO

Requisition No./Project No.: RQET2000004
 TERM OF CONTRACT 3 YEAR(S) WITH 2 YEAR(S) OTR

Requisition /Project Title: Documentum Software Licenses, Support and Maintenance Services

Description: This contract will be for the purchase of additional licenses, support and maintenance services for the Documentum software. The software is being used to store various documents for the County and process invoices.

Issuing Department: Internal Services
 Contact Person: Brandon Nealey
 Phone: 305-375-4884

Estimate Cost: 3,023,000

Funding Source:
 GENERAL
 FEDERAL
 OTHER X

ANALYSIS

Commodity Codes:	946				
Contract/Project History of previous purchases three (3) years Check here <input type="checkbox"/> if this is a new contract/purchase with no previous history.					
	EXISTING	2ND YEAR	3RD YEAR		
Contractor:	Open Text Inc.				
Small Business Enterprise:					
Contract Value:	6,464,500				
Comments:					

Continued on another page (s): YES NO

RECOMMENDATIONS

	Set-Aside	Subcontractor Goal	Bid Preference	Selection Factor
SBE				

Basis of Recommendation:

Signed: 	Date sent to SBD:
	Date returned to SPD:

Documentum Software Licenses, Support and Maintenance Services
Contract No.

THIS AGREEMENT made and entered into as by and between Open Text, Inc. (OT), a corporation organized and existing under the laws of the State of California, having its principal office at 2950 South Delaware Street, Suite 400, San Mateo, CA 94403 (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"),

WITNESSETH:

WHEREAS, the Contractor has offered to provide Licenses, Professional Services, Training, Maintenance, and Support Services, on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A); and the requirements of this Agreement; and,

WHEREAS, the County desires to procure from the Contractor such Licenses, Professional Services, Training, Maintenance, and Support Services for the County, in accordance with the terms and conditions of this Agreement;

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

ARTICLE 1. DEFINITIONS

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

- 1.1 The words "Additional Program" to mean fee-based enhanced programs.
- 1.2 The words "Additional Software" to mean additional proprietary software beyond the Software licensed by the Contractor, including embedded third party software, if any, and procured by the County pursuant to a mutually agreeable Scope of Services.
- 1.3 The words "Classification" or "Classify" to mean the OT designated priority of the Support Request.
- 1.4 The words "Contract" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), all other appendices and attachments hereto.
- 1.5 The words "Contract Date" to mean the date on which this Agreement is effective.
- 1.6 The words "Contract Manager" to mean Miami-Dade County's Director, Internal Services

- Department, or the duly authorized representative designated to manage the Contract.
- 1.7 The word "Contractor" to mean Open Text Corporation and/or its subsidiaries/affiliates offering the maintenance and support services.
- 1.8 The words "Covered Software" to mean the licensed software for which maintenance services shall be provided, including all documentation provided or made available.
- 1.9 The words "Customer Service Portal" to mean the OT online access point for links to and information regarding OT support, available to OT Protect customers.
- 1.10 The words "Current Maintenance" to mean a defined period of time from the version release date which includes:
- Unlimited number of Support Request submissions
 - Service Packs and/or Product Patches
 - The ability to request enhancements or new features and report Errors
 - Access to the Customer Service Portal (Documentation, technical articles, discussion forums, webinars and events)
 - Requires customer active software maintenance and annual renewal
- 1.11 The word "Days" to mean business days, which are 5 days x 8 hours Monday through Friday, except for regional statutory holidays.
- 1.12 The words "Dedicated Support" to mean remote or onsite assistance from an OT support representative who is assigned to the County for the duration of a maintenance activity or SR to observe, participate in conference calls or web sessions, or provide assistance with maintenance activities.
- 1.13 The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the County's Project Manager for review and approval pursuant to the terms of this Agreement.
- 1.14 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.
- 1.15 The words "Documentation" to mean user guides, operating manuals, and release notes in effect as of the date of delivery of the applicable Standard OT Product, made generally available to OT's end users by OT.
- 1.16 The words "Error" to mean any verifiable and reproducible failure of the Covered Software to substantially conform to the Documentation, as applicable, for such Covered Software.
- 1.17 The words "Error Corrections" to mean actions carried out by correction programs (for example, by an Update, Product Patch, Workaround or bug fix).
- 1.18 The words "Expiration" to mean the ending of a Term whether occurring through termination, failure to renew or otherwise.
- 1.19 The words "Extra Work" or "Additional Work" to mean additions or deletions or

- modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the County.
- 1.20 The words “Initial Term” to mean the twelve months beginning on the Start Date.
 - 1.21 The words “Live Chat” to mean online access to quick guidance from OT support personnel via Customer Service Portal.
 - 1.22 The words “Maintenance and Support Services” to mean the support required for the County to achieve optimal performance of the licensed Software.
 - 1.23 The words “Optional Coverage” to mean any support program or service outside of the scope of the OT Project Software Maintenance Program which the County as subscribed to.
 - 1.24 The words “Product Patch” to mean additional software program to correct an Error of the Covered Software.
 - 1.25 The words “Points of Contact” or “POC” to mean one or more of the County’s designated employees who are authorized to contact the OT support team.
 - 1.26 The words “Production Mode” to mean the use of Covered Software as intended by its accompanying Documentation, by the County’s users as part of business or service operations. Production Mode does not include development, quality assurance, demonstration, testing, staging or training environments.
 - 1.27 The words "Project Manager" to mean the County Mayor or the duly authorized representative designated to manage the Project.
 - 1.28 The words “Release” to mean the finalized and released version of the software.
 - 1.30 The words “Resolution” to mean taking the necessary action such that the Covered Software is operating in accordance with the Documentation. This could include, but not limited to, creating a new or applying an existing Workaround (provided that OT will pursue a permanent fix, if commercially reasonable) or Product Patch.
 - 1.31 The words “Response Time” to mean the amount of time that is measured from the time a Support request is received by OT until the time when a technically qualified member of OT responds for the purpose of commencing the work necessary to achieve Resolution and the Support Request. The response time for an SR is determined by its Classification, the OT support program(s) the County subscribes to, and the time when the SR was submitted to OT during a business day.
 - 1.32 The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.
 - 1.33 The words “Service Pack” to mean a collection of product Patches and/or Updates.
 - 1.34 The words “Software” to mean the computer programs in machine readable object code form listed in Exhibit “A” attached hereto and any subsequent error corrections or updates supplied to the County by the Contractor pursuant to this Agreement. Exhibit “A” may be amended from time to time by the parties in writing.
 - 1.35 The words “Standby Support” to mean an assigned support representative with expertise

in the County's planned maintenance activity that will be on call in the event that assistance is needed.

- 1.36 The words "Start Date" to mean the initial date for the commencement of the County's OT Protect Software Maintenance Program which is on the date the Covered Software is initially shipped or otherwise made available from OT.
- 1.37 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.
- 1.38 The words "Support Request" or "SR" to mean the initiation of a record or "ticket" documenting the details of the request.
- 1.39 The words "Support Services" to mean the following activities: an initiation of a Support Request, OT's response to the Support Request, and a Resolution of the Support Request.
- 1.40 The words "Sustaining Maintenance" to mean the stage of the product lifecycle following the expiration of the Current Maintenance. During this phase of the product support lifecycle, the following Support Services may be available*:
- Unlimited number of Support Request submissions
 - Access to the Customer Service portal (Documentation, technical articles, discussion forums, webinars and events)
- * The terms and length of phases of the Product Support Lifecycle may vary depending on the product and version.
- 1.41 The words "Update" to mean any change, revision or Error Correction of the Covered Software, which will be provided by OT to the County. With each Update, the minor version number will increase (for example, 2.3 to 2.4 or 2.4a to 2.4b).
- 1.42 The words "we" or "our" to mean OT.
- 1.43 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.
- 1.44 The words "Workaround" to mean a manner of addressing a software Error by bypassing the problem in the system (software technical bypass). A workaround is typically a temporary fix and OT may subsequently correct the Error in the Covered Software and/or the programs through a Product Patch or an Update.
- 1.45 The words "you", "your" or "customer" to mean the entity that licensed the Covered Software from OT and is purchasing OT Protect Software Maintenance Program services.

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, 2) the Scope of Services (Appendix A), and 3) the Price and Payment Schedule (Appendix B).

ARTICLE 3. RULES OF INTERPRETATION

- 3.1 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.
- 3.2 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.
- 3.3 The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.
- 3.4 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

- 4.1 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.
- 4.2 The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the County in all aspects of the Services performed hereunder.
- 4.3 The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work and 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.
- 4.4 The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of and to the satisfaction of the County's Project Manager.
- 4.5 The Contractor acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Services. 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. CONTRACT TERM

The Contract shall become effective on upon approval by the County's Board of County Commissioner and shall continue through the last day of the 36 month. The County, at its sole discretion, reserves the right to exercise the option to renew this Contract for a period for two (2) additional years on a year-to-year basis. The County reserves the right to exercise its option to extend this Contract for up to one hundred-eighty (180) calendar days beyond the current Contract period and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners.

ARTICLE 6. GRANT OF RIGHTS

- 6.1 License. The License granted for the Software under this Agreement authorizes the County on a nonexclusive basis to use the Software as outlined in Appendix B.
- 6.2 Additional Licenses. During the term of this agreement, or any extensions thereof, should the County wish to purchase additional licenses from the Contractor, the fees shall be according to Appendix B "Payment Schedule".
- 6.3 License Restrictions. The County may not: (a) transfer or assign the Licensed software to a third party; (b) reverse engineer, decompile, or disassemble the Licensed Software; (c) rent, lease, lend, or provide commercial hosting services with the Licensed Software; or (d) publish or otherwise disclose the Licensed Software or Documentation to third Parties.
- 6.4 The license terms in this Agreement apply to updates and enhancements Contractor may provide to the County or make available under the provisions of the Support and Maintenance Services.

ARTICLE 7. DELIVERY

- 7.1 Software. For any Additional Software products for which the Contractor shall grant a license to the County and which shall be under this Agreement, then the Contractor shall deliver to the County a master copy of the Software licensed in object code form, suitable for reproduction, in electronic files only, upon the payment of the applicable license fees by the County and the receipt of such fees by the Contractor.
- 7.2 Documentation. For any Additional Software products for which a new license is granted, the licensor shall deliver copies of the associated Software Documentation to the Licensee. [Note: Where Documentation can also be delivered electronically, combine 7.1 and 7.2 into one provision].

ARTICLE 8. SUPPORT AND MAINTENANCE SERVICES

Contractor shall provide the County with support and maintenance services for the products licensed by the County as described in Appendix A and for which the County has paid the required fees.

ARTICLE 9. 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: Christopher Crowley
Phone: 305-275-7990
E-mail: chris.crowley@miamidade.gov

and,

b) to the Contract Manager:

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

(2) To the Contractor

Open Text, Inc.
2950 South Delaware Street, Suite 400
San Mateo, CA 94403

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 9. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

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

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

With respect to travel costs and travel-related expenses, the Contractor agrees to adhere to Section 112.061 of the Florida Statutes as they pertain to out-of-pocket expenses, including

employee lodging, transportation, per diem, and all miscellaneous cost and fees. The County shall not be liable for any such expenses that have not been approved in advance, in writing, by the County.

ARTICLE 10. PRICING

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

ARTICLE 11. METHOD AND TIMES OF PAYMENT

The Contractor agrees that under the provisions of this Agreement, as reimbursement for those actual, reasonable and necessary costs incurred by the Contractor, which are directly attributable or properly allocable to the Services, the Contractor may bill the County periodically, but not more than once per month, upon invoices certified by the Contractor pursuant to Appendix B – Price and Payment Schedule. All invoices shall be taken from the books of account kept by the Contractor, shall be supported by copies of payroll distribution, receipt bills or other documents reasonably required by the County, shall show the County's contract number, and shall have a unique invoice number assigned by the Contractor. It is the policy of Miami-Dade County that payment for all purchases by County agencies and the Public Health Trust shall be made in a timely manner and that interest payments be made on late payments. All firms, including Small Business Enterprises, providing goods and services to the County, shall receive payment to maintain sufficient cash flow. In accordance with Section 218.74 of the Florida Statutes, and Section 2-8.1.4 of the Code of Miami-Dade County, the time at which payment shall be due from the County or the Public Health Trust shall be forty-five (45) days from receipt of a proper invoice. Billings from prime Contractors under services and goods contracts with the County or Public Health Trust, that are Small Business Enterprise contract set-aside, bid preference or contain a subcontractor goal, shall be promptly reviewed and payment made by the County or Trust on those amounts not under dispute within fourteen (14) calendar days of receipt of such billing by the County or the Trust pursuant to Sections 2-8.1.1.1.1 and 2-8.1.1.1.2 of the Code of Miami-Dade. All payments due from the County or the Public Health Trust, and not made within the time specified by this section shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. Further, proceedings to resolve disputes for payment of obligations shall be concluded by final written decision of the County Mayor, or his or her designee(s), not later than sixty (60) days after the date on which the proper invoice was received by the County or the Public Health Trust.

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

Invoices and associated back-up documentation shall be submitted in duplicate by the Contractor to the County as follows:

Miami-Dade County
Enterprise Technology Services Department
5680 S.W. 87 Ave
Miami, FL 33173
Attention: Accounts Payable, Business Office

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

ARTICLE 12. SOFTWARE MODIFICATIONS

12.1 Error Corrections and Updates. The Contractor will provide the County with error corrections, bug fixes, patches or other updates to the Software licensed hereunder in object code to the extent available in accordance with the Contractor's release schedule for the term of this Agreement.

12.2 Software Enhancements or Modifications. The County may, from time to time, request that the Contractor incorporate certain features, enhancements or modification into the licensed Software. When requested by the County, the Contractor shall provide the requested system enhancements/modifications including all relevant source code. Upon the County's request for such enhancements/modifications the County shall prepare a Statement of Work ("SOW") for the specific Project that shall define in detail the Services to be performed. The Contractor shall submit a cost proposal including all costs pertaining to furnishing the County with the enhancements/modifications.

- a) After the SOW has been accepted a detailed requirements and detailed design document shall be submitted illustrating the complete financial terms that govern the SOW, proposed Project staffing, anticipated Project schedule, and other information relevant to the project. Each SOW executed hereunder shall automatically incorporate the terms and conditions of this Agreement. Such enhancements or modifications shall become the property of the County. Notwithstanding the foregoing, performance of any such modification shall not compromise the Contractor's warranty obligations.
- b) Following the County's acceptance of all enhancements/modification, the Contractor shall provide the County, if so requested with written confirmation of the date the enhancements/modifications was applied to the Licensed Software and or enhancements/modifications thereto.

12.3 Title to Modification. All such error corrections, bug fixes, patches, updates or new releases shall be the sole property of the Contractor.

ARTICLE 13. INDEMNIFICATION AND INSURANCE

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

Upon County's notification, the Contractor shall furnish to the Internal Services Department,

Strategic Procurement Division, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

- A. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.
- B. Commercial General Liability Insurance, in an amount not less than \$1,000,000 per occurrence \$2,000,000 in the aggregate. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$1,000,000 combined single limit.
- D. Technology Professional Liability in an amount not less than \$2,000,000 per claim
- E. Cyber Liability Insurance to include data breach and third-party liability, in an amount not less than \$5,000,000

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the Contractor.

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

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

or

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

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

**Miami-Dade County
111 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 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 14. MANNER OF PERFORMANCE

- 14.1 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.
- 14.2 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.
- 14.3 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.
- 14.4 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.
- 14.5 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.

- 14.6 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 15. EMPLOYEES OF THE CONTRACTOR

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.

ARTICLE 16. INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all work 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 work or 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 17. AUTHORITY OF THE COUNTY'S PROJECT MANAGER

- 17.1 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; and claims for damages, compensation and losses.
- 17.2 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.
- 17.3 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.
- 17.4 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.

- 17.5 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 18. MUTUAL OBLIGATIONS

- 18.1 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.
- 18.2 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.
- 18.3 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 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. 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. SUBSTITUTION OF PERSONNEL

In the event the Contractor wishes to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution.

ARTICLE 22. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

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

ARTICLE 23. SUBCONTRACTUAL RELATIONS

- 23.1 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.
- 23.2 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.
- 23.3 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.
- 23.4 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.

23.5 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 24. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

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

ARTICLE 25. SEVERABILITY

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

ARTICLE 26. TERMINATION AND SUSPENSION OF WORK

26.1 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.

26.2 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.

26.3 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.

26.4 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 by written notice to the Contractor.

26.5 In the event that the County exercises its right to terminate this Agreement, the Contractor shall, upon receipt of such notice, unless otherwise directed by the County:

- i. stop work on the date specified in the notice ("the Effective Termination Date");
- ii. take such action as may be necessary for the protection and preservation of the County's materials and property;
- iii. cancel orders;
- iv. assign to the County and deliver to any location designated by the County any non-cancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services;
- v. take no action which will increase the amounts payable by the County under this Agreement; and

26.6 In the event that the County exercises its right to terminate this Agreement, the Contractor will be compensated as stated in the payment Articles herein for the:

- i. portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and
- ii. non-cancelable Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement, but not incorporated in the Services.

26.7 All compensation pursuant to this Article are subject to audit.

ARTICLE 27. EVENT OF DEFAULT

27.1 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.

27.2 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 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.

27.3 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 28. 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 29. 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:

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

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's

default. The County may also bring any suit or proceeding for specific performance or for an injunction.

ARTICLE 30. PATENT AND COPYRIGHT INDEMNIFICATION

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

ARTICLE 31. PROTECTION OF SOFTWARE

- 31.1 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.

- 31.2 Proprietary Rights. The Contractor hereby acknowledges and agrees that the County retains, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, subconsultants and suppliers may use only in connection of the performance of Services under this Agreement.
- a) All rights, title and interest in and to certain ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its subconsultants specifically for the County, hereinafter referred to as "Developed Works" shall become the property of the County.
 - b) Accordingly, neither the Contractor nor its employees, agents, subconsultants 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, subconsultants or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.
 - c) Except as otherwise provided in subsections a and b above, or elsewhere herein, the Contractor 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 by the County in a defined SOW.
- 33.3 No Reverse Engineering. The County agrees not modify, reverse engineer, disassemble, or decompile the Software, or any portion thereof.
- 33.4 Ownership. County further acknowledges that all copies of the Software in any form provided by the Contractor are the sole property of the Contractor. The County shall not have any right, title, or interest to any such Software or copies thereof except as provided in this Agreement, and further shall secure and protect all Software and Documentation consist with maintenance of Contractor's proprietary rights therein.

ARTICLE 34. WARRANTIES

- 34.1 Ownership. The Contractor represents that it has the express right to grant the licenses thereunder, and that it has not knowingly granted licenses thereunder to any other entity that would restrict rights granted hereunder except as stated herein.
- 34.2 Limited Warranty. Contractor represents and warrants to the County that the Software, when properly installed by the County and used with the Designated Equipment, will perform substantially as described in Contractor's then current Documentation for such Software for a period of one year from the date of acceptance.
- 34.3 Limitations. Notwithstanding the warranty provision set forth in Section 34.2 above, all Contractor's obligations with respect to such warranties shall be contingent of the County's use the Software in accordance with this Agreement and in accordance with Contractor's instructions as provided to the County in the Documentation, as such instructions may be amended, supplemented, or modified by the Contractor from time to time. The Contractor shall have no warranty obligations with respect to any failures of the Software which are the result of accident, abuse, misapplication, or extreme power surge.

- 34.4 Contractor's Sole Remedy. The Contractor's entire liability and the County's exclusive remedy shall be, at the County's option, either (a) return of the price paid or (b) repair or replacement of the Software; provided the Contractor receives written notice from the County during the warranty period of a breach of warranty. Any replacement Software will be warranted for the remainder of the original warranty period or ninety (90) days, whichever is longer.
- 34.5 Limitation of Liability. COUNTY ACKNOWLEDGES AND AGREES THAT THE CONSIDERTION WHICH THE CONTRACTOR IS CHARGING HEREUNDER DOE NOT INCLUDE ANY CONSIDERATIN FOR ASSUMPTION OF THE RISK OF THE COUNTY'S CONSEQUENTIAL OR INCIDENTAL DAMAGES WHICH MAY ARISE IN CONNECTION WITH COUNTY'S USE OF THE SOFTWARE AND DOCUMENTATION.
- a) Any provision herein to the contrary notwithstanding, the maximum liability of the Contractor to any person, firm or corporation whatsoever arising out of or in the connection with any license, use or other employment of any Software delivered to the County hereunder, whether such liability arises from any claim based on breach or repudiation of Agreement, warranty, tort or otherwise, shall in no case exceed the actual price paid to the Contractor by the County for the Software whose license, use, or other employment gives rises to the liability.

ARTICLE 35. THIRD PARTY WARRANTIES

In addition to the foregoing warranties, the Contractor hereby assigns to the County, and the County shall have the benefit of, any and all subcontractor' and suppliers' warranties and representations with respect to the Licensed Software provided hereunder. In the Contractor's Agreements with the subcontractor and suppliers, the Contractor shall require that such parties (i) consent to the assignment of such warranties and representations the County; (ii) agree that such warranties and representations are enforceable by the County in its own name; and (iii) furnish to the County, the warranties and obligations as set forth in Article 34 "Warranties".

ARTICLE 36. ADDITIONAL LICENSES, SOFTWARE OR SERVICES

During the term of the Contract, the County may purchase additional licenses, software, or services provided they are available. Each order must refer to this Contract and must specify the pricing and delivery terms. Notwithstanding any additional or contrary terms in the order, the applicable provisions of this Contract will govern the purchase and sale of additional licenses, software, or services. Any modification to the Scope of Services of this contract will require mutual written Agreement between the Contractor and the County.

ARTICLE 37. CONFIDENTIALITY

- 37.1 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.

37.2 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.

37.3 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 38. 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 contractors 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 contractors' employees with the approval of the lessor or Contractors 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 39. PROPRIETARY RIGHTS

- 39.1 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.
- 39.2 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.
- 39.3 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.
- 39.4 Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other Documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 40. 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. **Form W-9 and 147c Letter**
(as required by the Internal Revenue Service)
15. **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
16. **Office of the Inspector General**
(Section 2-1076 of the Code of Miami-Dade County)
17. **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.
18. **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 41. 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 42. 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 43. 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 44. 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 45. 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 46. 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 47. 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 48. COUNTY USER ACCESS PROGRAM (UAP)**a) User Access Fee**

Pursuant to Section 2-8.10 of the Code of Miami-Dade County, this Contract is subject to a user access fee under the County User Access Program (UAP) in the amount of two percent (2%). All sales resulting from this Contract, or any contract resulting from the solicitation referenced on the first page of this Contract, and the utilization of the County Contract price and the terms and conditions identified herein, are subject to the two percent (2%) UAP. This fee applies to all Contract usage whether by County Departments or by any other governmental, quasi-governmental or not-for-profit entity.

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

b) Joint Purchase

Only those entities that have been approved by the County for participation in the County's Joint Purchase and Entity Revenue Sharing Agreement are eligible to utilize or receive County Contract pricing and terms and conditions. The County will provide to approved entities a UAP Participant Validation Number. The Contractor must obtain the participation number from the entity prior to filling any order placed pursuant to this Section. Contractor participation in this joint purchase portion of the UAP, however, is voluntary. The Contractor shall notify the ordering entity, in writing, within three (3) business days of receipt of an order, of a decision to decline the order.

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

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

c) Contractor Compliance

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

ARTICLE 49. FIRST SOURCE HIRING REFERRAL PROGRAM

Pursuant to Section 2-2113 of the Code of Miami-Dade County, for all contracts for goods and services, the Contractor, prior to hiring to fill each vacancy arising under a County contract shall (1) first notify 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/>.

ARTICLE 50. 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 by not limited to, (1) keeping and maintaining all public records that ordinarily and necessarily would be required by the County in order to perform the service; (2) providing the public with access to public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law; (3) ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meeting all requirements for retaining public records and transferring, at no cost, to the County all public records in possession of the 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 51. 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 52. INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION and/or PROTECTED HEALTH INFORMATION

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

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

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

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

Contractor

Miami-Dade County

By: _____

By: _____

Name: _____

Name: Carlos A. Gimenez

Title: _____

Title: Mayor

Date: _____

Date: _____

Attest: _____

Attest: _____

Corporate Secretary/Notary Public

Clerk of the Board

Corporate Seal/Notary Seal

Approved as to form
and legal sufficiency

Assistant County Attorney

Appendix A
SCOPE OF SERVICES

APPENDIX A – SCOPE OF SERVICES

Open Text, Inc. herein referred to as the “Contractor” shall provide ongoing Software Maintenance and Support Services for the existing Documentum Software in use by the Information Technology Department (ITD). Contractor is responsible under this Agreement to provide all required Software licenses, maintenance, and support services. In addition, ITD reserves the right to purchase additional licenses, software and professional services as needed throughout the resultant contract term.

Contractor shall maintain the Software listed in Appendix A table in good operating condition in accordance with the following:

1. **SUPPORT AND SOFTWARE MAINTENANCE**

- 1.1 Hours and OT Support Services Location Information. Support Services are available 5 x 8 Monday through Friday, except for regional statutory holidays. Hours, support locations and additional contact information for the OT Protect Software Maintenance Program are available at: <http://www.opentext.com/support/contact/opentext>. Support Services are delivered from a support location in the same region as the Covered Software is installed or from an alternate support location as determined by OT.
- 1.2 Point(s) of Contact. Support Services are provided to your Point of Contact (POC). The POCs must have knowledge of, and the administrator permissions for, the Covered Software sufficient to provide OT Customer Support with the information, and undertake actions, required to achieve a resolution of the SR as described below. POCs are generally the administrators and other members of the technical staff. You may designate up to three POCs. The POCs may only contact OT Customer Support during business hours for one region only, even if the POCs are in multiple geographical regions.
- 1.3 Supported Versions. OT uses industry standard version number protocols to identify the version of the Covered Software. For example, either by combining a major version number, a minor version number, a point version number and a service pack version number (or build number); or by combining a major version number, a minor point version number, a minor alphabetical version number and service pack version number (collectively referred to as the “version”). Service packs are technically equivalent to a new point version except, with a service pack, it is intended that the installation process (if carried out as directed by OT) will retain substantially all of the configuration information from the current point release.

In most instances, OT will support each major/minor version (for example 9.x) of the Covered Software for a period of sixty (60) months after the major/minor version release is generally made available to the County. The terms and length of phases of the Product Support Lifecycle may vary depending on the product and version. Product lifecycle terms will be available via the Customer Service Portal product page. After the expiration of the Current Maintenance term, the Product enters the Sustaining Maintenance phase of the product lifecycle. When a product is considered to be in Sustaining Maintenance, no new Service Packs and Patches are released for general use.

Migration to a Current Maintenance version may be required in order to address an issue. If the County is unable to upgrade to a version under the Current Maintenance, OT may offer extended support options at an additional cost.

- 1.4 SDK Support. OT Protect Software Development Kit (SDK) Support will provide assistance

with SRs relating only to: (a) the installation (b) the configuration of an OT developer application (for example, Integrated Development Environment (“IDE”)) or related software required to establish a suitable development or programming environment that is consistent with those environments or applications which have been supported; and (c) the analysis of the error messages related to the OT developer application. SDK support and debugging code, assistance with writing coding, code reviews, or any general programming assistance is not included as part of the OT Protect Software Maintenance Program, but can be provided through separate agreement at an additional charge.

- 1.5 Language. Communication relating to an SR will be made in English, unless, at OTs discretion, the support center responsible for processing is able to offer communication in another language as a convenience to the County. OT may not be able to provide information in a language other than English in the event as SR is transferred to a different support center.
- 1.6 Initiation of a Support Request. Support Services are provided under the OT Protect Software Maintenance Program to address incidents reported by subscribers associated with performance or usage issues. Performance and usage issues are situations where Covered Software is not performing substantially in accordance with the accompanying user Documentation. Generally speaking, performance and usage issues may be caused by: 1) software Error or defect (related to the design, coding or architecture of the Covered Software), 2) usage or configuration Error (related to usage of the Covered Software or the installation, configuration or setup of the Covered Software), or 3) environmental Error (related to the County’s network, hardware and operating system). SRs for Support Services to address any issues should be initiated by a POC using the Customer Service Portal located at https://knowledge.opentext.com/go/Customer_Care. These customer self-service tools will automatically initiate an SR and send the County the associated tracking number.

The County is encouraged to:

- Provide OT Support with the information it reasonably needs to classify and log the SR (see Section 1.8)
- Wherever possible, use the SR number for each communication with OT Support.

2. OT RESPONSE TO A SUPPORT REQUEST

2.1 Support Request Dispatch. Support Requests will be dispatch as follows:

- a. If the SR involves OT Covered Software, then a product SR will be forwarded to OT Customer Support for Classification and Resolution (described below).
- b. If the SR involves a product that is developed by a third party, the SR may be referred to that third party.
- c. If the source of the SR is unclear, the ticker will be forwarded to OT Customer Support for further investigation and, once the source of the SR is determined, it will be dispatched as described in 2.1 (a) and (b).
- d. If the source of the SR is the County’s hardware, operating system, database, web server, browser software or other non-OT application, OT may, where possible, attempt to provide a Workaround (described below) and/or may, where possible, report the problem to the appropriate vendor for resolution.

2.2 Support Request Classification. Each SR will be classified by OT Customer Support as follows:

- a. Critical – An SR will be classified as critical if the performance issue reported causes the Covered Software to be functionally inoperable and prevents the Covered Software from being used in Production Mode.
- b. Serious – An SR will be classified as serious if the performance issue reported significantly degrades the performance of the Covered Software or materially restricts the use of the Covered Software in a Production Mode. The Serious classification does not include questions on end use and configuration of the Covered Software.
- c. Normal – An SR will be classified as normal if the performance issue reported is a question regarding end use, configuration of the Covered Software or a minor defect in the Covered Software which does not materially restrict the use of the Covered Software in Production Mode. As a rule, an SR for a non-production system is Classified as Normal. Please see Section 4.0 for limitations to the OT Protect Software Maintenance Program. OT will consider, in good faith, a request to re-classify an SR prior to its resolution.

2.3 Response Times. The Response Times are:

- For an SR Classified as critical – 1 hour
- For an SR Classified as serious – 2 hours
- For an SR Classified as normal – 4 hours

Response Times are targets and cannot be guaranteed in all circumstances by OT.

2.4 Management Escalation Process. Unresolved SRs will be escalated to OT management under the following approximate guidelines (as measured from the time of receipt of the SR by OT Customer Support):

1. Unresolved SRs classified as critical or serious will be escalated to OTs Manager, Product Support within four hours; to the Senior Director, Customer Support after one (1) business day; to the Vice President, Customer Support after three (3) business days; to the Corporate VP, within five (5) business days, and, in certain cases and at the request of the County; to the President and CEO after ten (10) business days.
2. Unresolved SRs classified as normal will be escalated to OTs Manager, Product Support within seven (7) business days; to the Senior Director, Customer Support After twenty-one (21) business days; to the Vice-President, Customer Support after thirty (30) business days; to the Corporate VP, within sixty (60) days; and in certain cases and at the County's request, to the President and CEO after ninety (90) business days).

2.5 Resolution of Support Request. OT Customer Support shall attempt to address each SR, regardless of classification, through the offering of technical advice, by locating an existing Workaround or by creating a new Workaround using the process described below in this Section 2.5. In the event of an outage, and depending on the cause and duration of the outage, OT may require the customer to restore from backup in order to return the system to a production state.

Once production service is restored, the SR classification is downgraded and root cause analysis may continue, as requested, during regular regional support hours of operation. OT offers additional services focused on the development of business continuity and disaster recovery plans. Please contact OptimizeSales@OpenText.com for more information.

Any software and/or hardware provided by and installed by OT and as agreed to by the customer to assist with the delivery of the Support Services and not purchased by the County must be removed and returned to OT upon termination of the program or related delivery component.

- 2.6 Resolution of Critical SRs. For SRs classified by OT as critical which have been caused by defects in the Covered Software, if the technical advice provided by OT Customer Support has not resolved the SR, and if no Workaround can be found or created to resolve the SR, OT Customer Support will use commercially reasonable efforts to develop a Product Patch to address the SR and provide it to the County. If the Product Patch is to be distributed to all OT Protect Software Maintenance Program subscribers, it will first be given to the OT System Testing department which will perform a regression test suite on some or all supported platforms with the Product Patch installed. In such cases, distribution of this Product Patch will be carried out through the next scheduled Product Patch release or Service Pack version release.
- 2.7 Resolution of Serious SRs. For SRs classified by OT as serious, OT may develop a Product Patch. If a Product Patch is created, it will be distributed through the next scheduled Product Patch release or service pack version release.
- 2.8 Resolution of Normal SRs. Product Patches for SRs classified as normal may be included in the next version release from OT.
- 2.9 Onsite Assistance. Onsite support is available as a fee-based service for OT products and solutions. This service may include, but not limited to, Workarounds or assistance with configuration changes as part of the Resolution of an open SR. Contact OptimizeSales@OpenText.com or local OT Customer Support office for more information.
- 2.10 Live Chat Assistance. Live Chat assistance is available as part of OT online resources by providing quick guidance and assistance in real-time. Live Chat is available to all partners and customers who participate in the OT Protect Software Maintenance Program, and is intended to assist with issues that do not require extensive investigation.
- 2.11 Conditions of a Support Request Resolution. OT Customer Support shall attempt to address each SR, regardless of classification; OT will have no obligation to provide a resolution for your SR as described above unless:
 - If running a version of the Covered Software which is under Current Maintenance and you have installed and implemented all of the most recently available relevant Updates, including the Product Patches, Service Packs, or any other Updates or you do so at the request of OT Customer Support. OT Customer Support will make that request if it reasonable believes that the installation and implementation is necessary to achieve resolution of your SR; AND,
 - If using the Covered Software on hardware and with third party approved by OT or as specified in the Documentation; AND,
 - The SR has, as determined by OT, not been caused by (a) you, including, but not

limited to your use of development tools, including SDK; (b) a third party resource; or (c) the operating environment in which the Covered Software is implemented, including, among other things, the operating system, database, other applications or programs, communication networks, or hardware; AND,

- POC is available to actively participate with OT on diagnosis, testing, and resolution. OT reserves the right to suspend its obligations during any time(s) in which a competent POC is unavailable for such participation; AND
- The County has provided OT with all of the information necessary to allow OT to reproduce the SR; AND,
- If required, the County provides remote access to OT for the system for which the SR has being requested. Such remote access will only be used within the context of troubleshooting.

3. SOFTWARE UPDATES

Software Updates will be made available to the County as part of the OT Protect Software Maintenance Program at no additional charge if and when such Software Updates are generally released to OT Protect Software Maintenance Program Subscribers. To receive such Updates the OT Protect Software Maintenance Program must be subscribed to at time of release and request. Subscribers are notified about new software versions in regular information bulletins and via Customer Service Portal. Software Updates include new versions of the Covered Software and Protect Patches.

4. LIMITATIONS

The following limitations apply to the OT Protect Software Maintenance Program:

- The OT Protect Software Maintenance Program only applies to the Covered Software as is described in the OT Documentation, and does not apply to any modifications, deliverables, or services provided by OTs Professional Services Staff or by third party resources which results in the alteration or extension of the Covered Software. Customer may engage OTs Professional Services for a fee-based assistance under separate Agreement.
- OTs obligation to address SRs and/or performance issues shall be strictly limited to those obligations as described in Section 2, OT Response to a Support Request.
- The OT Protect Software Maintenance Program, OT Protect Anytime and Protect Anywhere Support Programs do not provide for dedicated assistance with issues encountered as a result of implementing major changes to the technical architecture of the Covered Software (for example, upgrades to the application, underlying database, addition of new hardware, etc.). Standby or Dedicated Support are fee-based support services that must be pre-arranged for these types of activities.
- The provision of license keys is excluded from the Response Times described in Section 2.3 of this OT Protect Software Maintenance Program. Additionally, license keys from third party vendors are requested of the third party vendor, and provided by the third party vendor to either OT or the Customer as determined by OT.
- The software lifecycle for third party products resold by OT is established by third party vendors only. Third party software is excluded from Sections 1.3 and 3.
- OT is not responsible for providing Support Services for third party products resold by OT to the extent that addressing SRs is dependent on unresolved issues with third party products including, but not limited to, unavailability of third party support.

5. ADDITIONAL PROGRAMS AND/OR SERVICES

- 5.1 In order to purchase any of the Additional Programs, the Customer must participate in on the following: OT Software Maintenance or OT Protect Programs (collectively the “OT Software Maintenance Programs”). Customer must be a subscriber, through the duration of the Additional Program, to one of the OT Software Maintenance Programs.
- 5.2 OpenText Protect Anytime. The OT Protect Anytime Support Program (OT Protect Anytime) is a subscription based program designed to provide you with support for critical issues (as defined in Section 2.2) related to the Covered Software in the Customer’s production environment outside standard OT Customer Support hours. When the Customer initiates a critical SR with the OT Customer Support office, a support representative will respond within one (1) hour. The OT Customer Support representative will troubleshoot the issue, providing a solution or recommended Workaround to be implemented by the customer team. OT Customer Support resources will be on call and available (24 hours a day, 7 days a week) until production service is restored or a Workaround agreed upon. Customer may designate up to 3 additional POCs when subscribing to OT Protect Anytime (total of 6 POCs). Additional POCs over and above the designated amount may be purchased as specified in Section 5.4.
- 5.3 OpenText Protect Anywhere. The OpenText Protect Anywhere Program (OT Protect Anywhere) is designed for customers that have extended hours of operation or are global in reach. This program includes support for all issues of all severity classifications, 24x7x365. Troubleshooting of SRs may continue outside of regional hours of operation, at the customer’s request. Unless the SR is requested for on-going transfer to a different support center, the SR will remain with or be transferred to the support center within the customer POCs home region. Customer may designate up to 5 additional POCs when subscribing to OT Protect Anywhere (total of 8 POCs). Additional POCs over and above the designated amount may be purchased as specified in Section 5.4.
- 5.4 Additional Point(s) of Contact (POC). Additional POCs is a subscription-based option to extend the number of your designated employees who are authorized to contact OT Customer Support and open SRs Fees for additional POCs are annual. POC entitlements are in accordance with this Agreement.

6. TECHCONNECT PROGRAM

The OT TechConnect program provides an assigned technical expert and proactive solution to assist with business needs. In order to purchase to TechConnect program, the Customer must participate in one of OT Software Maintenance Programs. The Customer must be a subscriber, through the duration of the TechConnect program, to one of the OT Software Maintenance Programs.

TechConnect - Program Deliverables

The following table lists the specific deliverables associated with the OT TechConnect program. The schedule for this activities is determined with the Customer at the start of the program. Refer to Exhibit 1 for detailed information regarding the Services Description referred to in the below table.

Exhibit 1

This exhibit provides an overview of the elements that may be included as part of an OT TechConnect program delivered by Customer Support.

Service Description	Amount / Frequency
Technical Support (Technical Lead)	
Priority Call Handling	On-going
Assigned Technical Lead for issue resolution	On-going
Issue and Escalation Management	On-going
Program Planning and Review Meeting	Once per program term
Creation of Support/Communication Plan document	Once per program term
Status Calls	Monthly
Written Status Reports	Monthly
Creation of Site Inventory Document	Once per program term, with updates
Configuration Review	Once per program term
Private TechConnect Program Workspace	Active throughout program term

Technical Lead (“TL”)

The Technical Lead is a senior or principle support specialist who has in-depth technical knowledge and experience regarding OT solutions. The Technical Lead’s responsibilities, as part of the TechConnect program, may include:

- First technical point of contact for all assigned Customer SRs.
- Understanding the customer’s technical operations involving OT products and the business processes and staff that surround them. This understanding allows OT to partner with the customer to provide appropriate solutions to business needs.
- Working with the customer’s staff as a trusted advisor providing insight and guidance on the best practices with OT products.
- Maintaining technical oversight of the customer’s support tickets. Customer will provide the TL with in-depth and current knowledge of the customer environment which will help to form a vital link between the customer and OT, further enhancing the level of support available from OT.
- Provide technical guidance and knowledge transfer to OT staff delivering any additional optional support services, in the event the TL is not performing service.
- The TL is available during regular business hours, Monday to Friday, except for OT published holidays. Coverage during the business week for additional regions or during extended hours of operation may be provided for an additional charge as agreed to in writing by both OT and the customer.
- Management of all communication between the Customer and OT Customer Support through regular ticket status reporting and phone conference meetings.
- Acting as designated liaison for anything the Customer may require of OT Customers Support ensuring clear communication and effective escalation (the TL is notified when the customer logs a call with the support call intake team).
- Facilitating issue prioritization during standard OT Customer Support hours. The TL will collectively monitor open Support Requests taking into consideration, where possible, other related issues, current Customer activities, and other Customer priorities.
- Manage all escalations in the OT Customer Support / Development organization.
- Working with the customer and other Customer Support team members to create and

- maintain a customized communication plan and site inventory plan for the customer.
- Providing regular updates on the status of tickets, bugs and patches that may be relevant to the implementation of OT products.

Program Planning and Review Meeting

An annual planning and review meeting is conducted as part of the program, at a date and time as agreed to by both the Customer and OT, and may include:

- Review of program entitlements.
- Review of projects and activities for the upcoming year.
- Scheduling of site inventory.
- Communication plan review and updates.
- Scheduling of regular recurring status call.
- Defining the frequency of status report updates.
- Adjustments to the program to include any additional support services.
- Participation of OT resources on-site or remotely unless otherwise agreed to by the Customer and OT.

Communication Plan

An annual plan is created and maintained that outlines the communication policies, escalation and reporting processes, and procedures between OT Support and the Customer's support team to help successfully deliver the support services.

Issue and Escalation Management

The customer support representative will assign a unique tracking number to the Support Request and determine the priority status of the SR with the Customer. Upon submission of the SR, the TL is notified.

The Customer will advise the TL of the priority of an SR for their site and will define and agree to the method and frequency of communications. All SRs and the latest status update are included on the report.

The SR will remain open until an appropriate action has been agreed upon between OT and the Customer.

If the customer and OT mutually agree that on-site support is the best approach to resolve the SR, an OT resource can be made available to go on-site for an additional charge.

Status Calls

As part of an OT TechConnect program, regular status calls with the customer team are organized to discuss open/closed issues, tasks, upcoming changes/events, scheduling of activities or other items of interest to the customer. Frequency is monthly unless otherwise agreed to by the Customer and OT.

Service Request Status Report

As part of an OT TechConnect program, a regular status report will be delivered by the TL. This

report will include the following elements:

- Call summary: closed, open and wait.
- Overview of all calls logged and in progress (open).
- Overview of all calls waiting on input from Customer (wait).
- Overview of all calls resolved (closed).
- Usage summary of any additional and optional support programs or services the Customer is subscribed to.

A distinction will also be made in the report between support, product, consultancy, and training requests.

Site Inventory

The customer may, in cooperation with OT Support personnel, carry out a full site inventory detailing the configuration of the Customer's managed environments. An inventory may be comprised of the following elements: hardware, operating software, OT product and third-party product software, utilities, and customized software. In addition, full descriptions of the external file store database servers, network protocol, storage area network (if applicable) and web server and security settings will also be recorded. The customer's site inventory information may be stored in the OT Support call tracking system and through these mechanisms be made to all OT Support employees.

Configuration Review

As part of the Site Inventory, OT GTS personnel will review the OT product configuration against OT best practices, noting areas of improvement, if any. Findings will be shared with the Customer in a presentation.

Private TechConnect Workspace

A private TechConnect workspace will be created in OT's Customer Service Portal to manage all communication and reporting between OT and the Customer.

8. Licensed Components

The following table shows the Component System(s) Licensed to the County.

Description	Product Line	Product Name	Users	License
DCTM xCP User Unlimited Apps	Documentum	1000005599 (456-111-594_M)	7,000	Named User
RETENTION MANAGEMENT	Documentum	1000006389 (457-102-058_M)	7,000	Named User
Documentum Platform	Documentum	1000006509 (458-000-891_M)	7,000	Named User
DCTM TRUSTED CONTENT SVCS	Documentum	1000006059 (457-100-416_M)	7,000	Named User
Content Trans Services Documents	Documentum	1000005155 (456-107-270_M)	2	CPU
INTERACTIVE DELIVERY SVCS	Documentum	1000011899 (IDS-SRC-MC_M)	4	CORE
INTERACTIVE DELIVERY SVCS	Documentum	1000011901 (IDS-TAR-MC_M)	4	CORE

DCTM xCP Designer	Documentum	1000005601 (456-111-595_M)	4	Named User
Captiva Ent Srvr+Adv Recog 1M PPY	Captiva	1000006111 (457-100-445_M)	1,000,000	Pages / Year
Captiva Attended Client	Captiva	1000004369 (456-102-275_M)	10	Concurrent User
Captiva ScanPlus Module	Captiva	1000004365 (456-102-273_M)	1	Per Device
Captiva Attended Client	Captiva	1000004369 (456-102-275_M)	10	Concurrent User
Captiva Ent Srvr+Adv Recog 1M PPY	Captiva	1000004337 (456-102-259_M)	1,000,000	Pages / Year
Captiva Ent Srvr+Adv Recog 1M PPY	Captiva	1000004337 (456-102-259_M)	1,000,000	Pages / Year
Documentum Platform	Documentum	1000006509 (458-000-891_M)	2,625	Named User
Documentum Custom Client	Documentum	1000006211 (457-101-121_M)	7,875	Named User
Retention Management	Documentum	1000006389 (457-102-058_M)	2,625	Named User
Documentum Trusted Content Services	Documentum	1000005159 456-107-272_M	2,625	Named User
Documentum Platform	Documentum	1000006507 (458-000-890_M)	875	Named User
Retention Management	Documentum	1000005329 (456-109-189_M)	875	Named User
Documentum Custom Client	Documentum	1000005263 (456-108-736_M)	2,625	Named User
Documentum Trusted Content Services	Documentum	1000005293 (456-109-019_M)	875	Named User
Brava! for Documentum XCP, All function, Image formats	Brava!	1000029002 S-IGR-3-XCPI_M	5,800	Named User
Brava! Enterprise for Generis CARA	Brava!	1000028711 S-IGR-3- DCTMCARAI_M	1,000	Named Users
Blazon Enterprise add-on: Document Filtering Technology	Blazon	1000028080 SIGR-21-BLE-DFT_M	2	Server
Documentum Connector for SharePoint	Documentum	1000042470	77	Named Users

Appendix B
PRICE SCHEDULE

APPENDIX B – PRICE SCHEDULE

1. Annual Support Fees

Any and all support and maintenance services under this Agreement shall be compensated for by means of an annual flat rate. The fees are due for payment annually in advance upon invoicing by Contractor as set forth in the table below. The annual support fee escalation cap is a maximum, of 4% per year over the previous year actual Maintenance Support fees paid.

Contract Year	Description	Price
Year 1	ECM Enhanced Support plus Designated Support Engineer	\$570,462.27
Year 2	ECM Enhanced Support plus Designated Support Engineer	\$593,280.76
Year 3	ECM Enhanced Support plus Designated Support Engineer	\$617,011.99

2. Optional Years to Renew (OTR) Fees

Any and all support and maintenance services under this Agreement shall be compensated for by means of an annual flat rate. The fees are due for payment annually in advance upon invoicing by the Contractor as set forth in the table below. OTRs are at the sole discretion of the County.

OTR Year / Contract Year	Description	Price
OTR 1 (Contract Year 4)	ECM Enhanced Support plus Designated Support Engineer	\$641,692.47
OTR 2 (Contract Year 5)	ECM Enhanced Support plus Designated Support Engineer	\$667,360.17

3. Additional Products

Any additional procured products will have its annual support fee escalation cap limited to a maximum of 4% per year over the previous year actual Maintenance Support fees paid.

OpenText Additional Products	Additional products shall be discounted at least 40% below the current list price.
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4. Optional Professional Services

Task	Hourly Rate*
Project Manager	\$225.00
Architect	\$260.00
Principal Consultant	\$225.00
Architect – COE (Non-US Based)	\$65.00
Principal Consultant – COE (Non-US Based)	\$85.00

*During the term of this Agreement, these rates are subject to a 3% yearly increase on the anniversary date.

**These are rates for remote work, if on-site work is required then OT will negotiate in good faith with the County to modify these rates to include travel based on mutually agreeable travel rates.

5. Optional Training

Training Service	Rate*
Training Consultant, individual online public class seat, per day	\$805.50
Training Consultant, private group class, per day (up to 12 students) **	\$4,050.00
Training Consultant, training consulting, per day **	\$1,843.20
Learning on Demand Subscription (one named user for one year)	\$4,500.00

*During the term of this Agreement, these rates are subject to a 3% yearly increase on the anniversary date.

**These rates are for remote work, if on-site work is required then OT will negotiate in good faith with the County to modify these rates to include travel based on mutually agreeable travel rates.