

# MEMORANDUM

Agenda Item No. 8(M)(1)


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

**DATE:** October 16, 2024

**FROM:** Geri Bonzon-Keenan  
County Attorney

**SUBJECT:** Resolution approving award of Professional Services Agreement between Miami-Dade County and Ardurra Group, Inc., for Professional Engineering Services for the Department of Solid Waste Management Waste Facility Complex, Project No. E22-DSWM-03, not to exceed the amount of \$15,000,000.00 inclusive of contingency and dedicated allowances for a term of 1,825 calendar days; and authorizing the County Mayor to execute the Agreement and exercise all provisions contained therein, including any cancellation, renewal, and extension provisions

The accompanying resolution was prepared by the Solid Waste Management Department and placed on the agenda at the request of Prime Sponsor Commissioner Kionne L. McGhee.


  
\_\_\_\_\_  
Geri Bonzon-Keenan  
County Attorney

GBK/ks

MDC001

Date: October 16, 2024

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

From: Daniella Levine Cava   
Mayor

Subject: Contract Award Recommendation of a Professional Services Agreement to Provide Professional Engineering Services for Department of Solid Waste Management Waste Facility Complex; Contract No. 18472-DSWM22-PSA, SPD Project No. E22-DSWM-03; to Ardurra, Group Inc.

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## **EXECUTIVE SUMMARY**

This item recommends the County enters into a Professional Services Agreement (“PSA”) for architectural and engineering services with Ardurra Group, Inc. (the “Consultant”) for the Department of Solid Waste Management (“DSWM”) Waste Facility Complex (the “Project”), at the old South Dade Landfill located west of 9350 SW 248th Street, Miami, FL 33170. This PSA will provide DSWM with engineering services for the design and preparation of a complete set of construction documents for the Project.

## **RECOMMENDATION**

It is recommended that the Board of County Commissioners (“Board”), approve a competitive award of a PSA to Ardurra Group, Inc. under SPD Project No. E22-DSWM-03, Attachment 1, for DSWM in the amount of \$15,000,000.00, inclusive of contingency and dedicated allowances for a term of 1,825 Calendar Days. This PSA is project-specific.

## **SCOPE**

The Project scope includes the design and preparation of a complete set of construction documents, including a new transfer station building, administration building, Internal Services Department, Fleet Management Division’s (“ISD-FMD”) maintenance building, scale facility, customer drop-off area, household hazardous waste collection center, and a parking facility. The new complex will be constructed at DSWM’s old South Dade landfill located west of 9350 SW 248 Street, Miami, FL, 33170, just south of the existing South Dade Landfill in Commission District 9, which is represented by Commissioner Kionne L. McGhee.

## **DELEGATED AUTHORITY**

The County Mayor or County Mayor’s designee is authorized to execute the PSA and exercise all provisions contained therein, including any cancellation, renewal, and extension provisions.

## **BACKGROUND**

The tipping floor located at DSWM’s South Dade landfill is reaching its end of useful life and cannot accommodate future waste projections. The facility was not designed as a transfer station and is not efficient for waste transfer. The Project, designed to meet Miami-Dade County’s growing population, will also house other ancillary facilities, as previously mentioned. This Project includes efforts to relocate the ISD-FMD’s existing Heavy Vehicle Maintenance and Repair Facility from the South Dade Government Center to the new Project.

A Notice to Professional Services was issued under full and open competition on January 20, 2023. On the closing date of March 31, 2023, the County received one (1) proposal which was from a local firm. Because less than three (3) proposals were received, a Market Availability Analysis recommended to proceed with the sole proposer on April 17, 2023. The Office of Small Business Development (“SBD”) Compliance Review was requested on April 18, 2023, and received on May 2, 2023. The first-tier evaluation meeting was conducted on May 31, 2023. The firm was evaluated in accordance with Section 2-10.4 of the Code of Miami-Dade County, Fla. (the “Code”), Implementing Order No. 3-34 and Administrative Order No. 3-39.

After receipt of the draft PSA on December 18, 2023, and the availability of committee members, negotiations commenced on January 10, 2024, and concluded on February 5, 2024. There were a total of three (3) negotiation meetings.

**FISCAL IMPACT/FUNDING SOURCE**

This PSA is valued at \$15,000,000.00 for a term of 1,825 Calendar Days plus a Contingency Period of 182 Calendar Days.

<b>Base Contract Amount</b>	<b>Contingency Amount (Code Section 2-8.1)</b>
\$13,500,000.00	\$1,350,000.00 <b>Permit Fees:</b> \$50,000.00 <b>Dedicated Environmental Remediation:</b> \$100,000.00

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

<b>Funding Source(s)</b>	<b>Project No. &amp; Description</b>	<b>Project No.</b>	<b>Fund Code</b>	<b>Funding Amount</b>
Waste Disposal Operating Funds	PROJECT #2000000353 – Long Term Future Projects – New Transfer Station (South Dade) Adopted FY 2023-24 Budget and Multi-Year Capital Plan, Vol 3, Page 70, Department of Solid Waste Management	3000721	EW009	\$15,000,000. 00

**TRACK RECORD/MONITOR**

The designated staff to track and monitor this contract are Karina Careaga and Ravi Kadambala.

**VENDOR(S) RECOMMENDED FOR AWARD**

The table below depicts a summary of the recommended firm(s).

<b>Vendor Name</b>	<b>Principal Address</b>	<b>Local Address</b>	<b>Number of Employee Residents*</b> 1) Miami-Dade County 2) Percentage (%)	<b>Principal</b>
Ardurra Group, Inc.	8600 NW 17th St., Suite 200, Doral FL 33126	Same	1,466 1) 95 2) 6.5%	Christopher F. Kuzler, P.E.

\*Pursuant to Resolution No. R-1011-15, the percentage of employee residents is the percentage of the vendor’s employees who reside in Miami-Dade County as compared to the vendor’s total workforce.

According to the Consultant’s History Report, as provided by SBD, within the last twelve (12) years, Ardurra Group Inc. has been awarded eight (8) contracts with a total value of \$9,475,293.00. In addition, there are fourteen (14) evaluations on record for Ardurra Group, Inc., in the County’s Capital Improvements Information System, with an average rating of 3.6 out of a maximum of 4.0.

The Sub-Consultants/Subcontractors for this Project are:

300 Engineering Group, LLC	BND Engineers, Inc.
Bello & Bello Land Surveying Corporation	Geosol, Inc
Bercow Radell Fernandez Larkin & Tapanes, PLLC	Jacobs Engineering Group, Inc.
Bermello Ajamil & Partners, Inc.	SDM Consulting Engineers, Inc.

**DUE DILIGENCE**

Pursuant to Resolution No. R-187-12, due diligence was conducted in accordance with SPD’s Procurement Guidelines to determine the consultant’s responsibility, including verifying corporate status and ensuring that no performance or compliance issues exist. The lists referenced include Capital Improvements Information System, SBD database, Sunbiz, Tax Collector’s Office, convicted vendors, debarred vendors, delinquent contractors, suspended vendors, and federal excluded parties list. There were no adverse findings relating to vendor responsibility.

**APPLICABLE ORDINANCES AND MEASURES**

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

<b>Title</b>	<b>Legislation</b>	<b>Applicable (Yes or No)</b>	<b>Notations</b>
Small Business Enterprise - Architecture and Engineering	Code Section 2-10.4.01	Yes	SBE - A/E 20.5% Goal

Title	Legislation	Applicable (Yes or No)	Notations
Small Business Enterprise -Services	Code Section 2-8.1.1.1.1	No	
Small Business Enterprise -Goods	Code Section 2-8.1.1.1.2	No	
In-house Capabilities	Resolution No. R-1204-05	No	
Responsible Wages	Code Section 2-11.16	No	
Sea Level Rise	Ordinance 14-79	Yes	
Sustainable Buildings Measure	Implementing Order No. 8-8	Yes	
Local Preference	Code Section 2-8.5	Yes	Did not impact the award as the recommended firm is local.
Local Certified Veteran Business Enterprise Preference	Code Section 2-8.5.1	Yes	
Consultants' Competitive Negotiation Act	FL Stat. Section 287.055	Yes	
Office of Inspector General Fee	Code Section 2-1076	Yes	

Jimmy Morales  
 Chief Operating Officer



**MEMORANDUM**  
(Revised)

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

**DATE:** October 16, 2024

**FROM:**   
Gen Bonzon-Keenan  
County Attorney

**SUBJECT:** Agenda Item No. 8(M)(1)

Please note any items checked.

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

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(M)(1)  
10-16-24

RESOLUTION NO. \_\_\_\_\_

RESOLUTION APPROVING AWARD OF PROFESSIONAL SERVICES AGREEMENT BETWEEN MIAMI-DADE COUNTY AND ARDURRA GROUP, INC., FOR PROFESSIONAL ENGINEERING SERVICES FOR THE DEPARTMENT OF SOLID WASTE MANAGEMENT WASTE FACILITY COMPLEX, PROJECT NO. E22-DSWM-03, NOT TO EXCEED THE AMOUNT OF \$15,000,000.00 INCLUSIVE OF CONTINGENCY AND DEDICATED ALLOWANCES FOR A TERM OF 1,825 CALENDAR DAYS; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT AND EXERCISE ALL PROVISIONS CONTAINED THEREIN, INCLUDING ANY CANCELLATION, RENEWAL, AND EXTENSION PROVISIONS

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

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board hereby approves the award of a Professional Services Agreement to Ardurra Group, Inc. (the "Agreement"), in substantially the form attached hereto and made a part hereof, for the Department of Solid Waste Management Waste Facility Complex, Project No. E22-DSWM-03, in the not-to-exceed amount of \$15,000,000.00, inclusive of contingency and dedicated allowances for a term of 1,825 calendar days, and authorizes the County Mayor or County Mayor's designee to execute the Agreement and exercise all provisions contained therein, including any cancellation, renewal, and extension provisions.

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

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

The Chairperson thereupon declared this resolution duly passed and adopted this 16<sup>th</sup> day of October, 2024. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

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

JUAN FERNANDEZ-BARQUIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

dsh

David Stephen Hope



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**DEPARTMENT OF SOLID WASTE MANAGEMENT  
PROFESSIONAL ENGINEERING SERVICES FOR  
DEPARTMENT OF SOLID WASTE MANAGEMENT'S  
WASTE FACILITY COMPLEX  
PROFESSIONAL SERVICES AGREEMENT  
ISD PROJECT NO. E22-DSWM-03**

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This AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2024, between

**the Owner:**

Miami-Dade County Florida (the “County”), a political subdivision of the State of Florida, acting by and through its **Board of County Commissioners** (the “Board”), which shall include its officials, successors, legal representatives, and assigns.

**and the  
Consultant:**

**ARDURRA GROUP, INC.**

which term shall include its officials, successors, legal representatives, and assigns.

**For the Project:** Department of Solid Waste Management (“DSWM” or the “Department”), has a need to establish a Professional Services Agreement (“PSA”), to provide engineering services for the design and preparation of a complete set of construction documents for DSWM’s Waste Facility Complex (the “Project”). The new complex will be located at DSWM’s old South Dade landfill (West of 9350 SW 248th Street, Miami FL 33170), and includes at a minimum designing, permitting, bidding support and support during construction for a new transfer station building, administration building, Internal Service Department (“ISD”) maintenance building, scale facility, customer drop-off area, household hazardous waste collection center, and parking facility. It is anticipated that ground improvements will be required as part of foundation designs due to the presence of buried waste, including but not limited to, compacting, and stabilizing the waste and soil at the site prior to building the new facilities.

Elements of the work include, but are not limited to, designing, environmental permitting, preparation of a complete set of construction documents for approval by the building authority, bid documents, technical specifications, preparation of the engineer's estimate of probable construction cost, technical assistance throughout the bid and

award process, technical support during construction and construction management. The scope of work shall include all the necessary coordination with all involved agencies and organizations, including but not limited to DSWM, pertinent municipalities and institutions and all the appropriate permitting agencies. Elements of the work include but are not limited to: (i) topographic, and boundary surveys; (ii) identification of setbacks, right-of-way, and easements; (iii) geotechnical study, building architecture and engineering; (iv) ground improvements, including waste and soil compaction and stabilization; (v) site development, including existing utility identification and relocation, as required; (vi) storm water management; (vii) lighting; (viii) landscaping; and (ix) landfill gas mitigation systems.

Services will consider the following:

- Local impacts of expected future sea level rise and local flooding.
- Roofing materials shall comply with the Miami-Dade County Board of County Commissioners “Cool Roofs” Resolution No. R-54-18.
- The design shall comply with Miami-Dade County Implementing Order (“IO”) No. 8.8, “Sustainable Buildings Program” per which all new construction projects shall be required to attain “Silver” or higher-level rating under the LEED-NC Rating System.

The Scope of Services for ISD Project No. E22-DSWM-03 comprises the above tasks as applied to various buildings and structures located throughout the complex.

Refer to Exhibit 1, “Scope of Services”, for details.

The Owner and Consultant agree as set forth herein:

**PROFESSIONAL SERVICES AGREEMENT**

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AFFIDAVITS		
CERTIFICATE OF INSURANCE		

# WITNESSETH

## ARTICLE 1

### DEFINITIONS

This professional services agreement for engineering services for the design and preparation of a complete set of construction documents for the Project, hereby incorporates by reference all definitions included in the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes in addition to the following:

- 1.1 **ADDENDA:** A modification or clarification of the Contract Documents distributed to prospective Bidders prior to the opening of Bids.
- 1.2 **ADDITIONAL SERVICES:** Those services, in addition to the Basic Services in this Agreement, which the Consultant shall perform at Owner's option and when authorized by Service Order(s) in accordance with the terms of this Agreement.
- 1.3 **AFFIRMATIVE ACTION:** Action to be taken by the Consultant pursuant to a written, results-oriented program, meeting the requirements of 41 CFR Part 60, in which the Consultant details the steps to be taken to ensure equal employment opportunity, including, where appropriate, remedying discrimination against an affected class, or other actions, as necessary.
- 1.4 **AGREEMENT:** This written agreement between the Owner and the Consultant, including the Appendices attached hereto and all Amendments and Service Orders issued by the Owner hereunder.
- 1.5 **ALLOWANCE ACCOUNT(S):** Account(s) in which stated dollar amount(s) may be included in this Agreement for the purpose of funding portions of the Services or the Work. Allowance Accounts are included in this Agreement to pay for Additional Services, Work Site Services, Dedicated Services, Reimbursable Expenses, or Inspector General Services. Services to be paid from these Allowance Accounts shall be authorized by Service Order prior to the commencement of the Work under the Service Order.
- 1.6 **AMENDMENT:** A written modification to this Agreement executed by the Consultant and the Owner covering changes, additions, or reductions in the terms of this Agreement.
- 1.7 **ART IN PUBLIC PLACES:** A department of Miami-Dade County that is responsible for initiating and overseeing the incorporation of art into new County facilities.
- 1.8 **BASIC SERVICES:** Those services that the Consultant shall perform in accordance with the terms of the Agreement as directed and authorized by a Service Order(s). Any Services not specifically addressed as Additional Services, Work Site Services, or Dedicated Services are considered Basic Services.

- 1.9 BASIC SERVICES FEE: The basis for compensation of the Consultant for the Basic Services performed under this Agreement.
- 1.10 CHANGE ORDER: A written agreement executed by the Owner, the Consultant and the Consultant's Surety, covering modifications to the contract.
- 1.11 CODE: The Code of Miami-Dade County, Fla., as amended.
- 1.12 CONSULTANT: The named entity on page 1 of this Agreement.
- 1.13 CONTRACT: The legal agreement between the Owner and the Consultant for performance of Work.
- 1.14 CONTRACT DOCUMENTS: The documents prepared by the Consultant in accordance with the requirements of a Service Order(s) issued hereunder form the basis for which the Owner can receive bids for the Work included in the documents. The Contract Documents shall include, but not necessarily be limited to, the Advertisement for Bids, Instructions to Bidders, Bid Form, Bid Bond, Contract Summary, Surety Performance and Payment Bond, General Conditions, Special Provisions, Technical Specifications, and Plans together with all Addenda, and subsequent Change Orders, and Work Orders.
- 1.15 CONSTRUCTABILITY: The optimum use of construction knowledge and experience in planning, design, procurement, and field operations to achieve overall Project objectives.
- 1.16 CONSTRUCTION COST: Actual cost of the Work established in the Contract Documents and as may be amended from time to time.
- 1.17 CONSULTANT: The firm, company, corporation or joint venture contracting with the Owner for performance of Work covered in the Contract.
- 1.18 CONTRACT: The legal agreement between the Owner and the Consultant for performance of Work. The documents prepared by the Consultant in accordance with the requirements of a Service Order(s) issued hereunder form the basis for which the Owner can receive bids for the Work included in the documents.
- 1.19 COOL ROOF: A roof made of highly reflective and emissive materials that remain significantly cooler than traditional materials during peak summer weather, and which uses roofing materials that has solar reflectance and thermal emittance properties that are verifiably rated by the Cool Roof Rating Council ("CRRC").
- 1.20 DAYS: Reference made to Days shall mean consecutive calendar days.
- 1.21 DEDICATED SERVICES: Services performed pursuant to a dedicated Allowance Account(s) that are beyond the requirements for Basic Services and Additional Services

under this Agreement and shall be performed as required upon receipt of a Service Order. Such Services, if any, are specified in Article 9 “Special Provisions”.

- 1.22 DEFECT(S): Refers to any part of the Work that does not follow the Contract Documents, does not meet the requirements of a reference standard, test or inspection specified in the Contract Documents, does not meet the standard of care, or is incomplete. The adjective “defective” when it modifies the words “Work” or “work” shall have the same connotation as Defect.
- 1.23 DELIVERABLES REQUIREMENTS MANUAL: A manual provided by the Owner that prescribes the deliverables and their content to be provided by design professionals. This manual is made a part of this Agreement by reference.
- 1.24 DEPARTMENT OF SOLID WASTE MANAGEMENT: A department of Miami-Dade County, represented by and acting through the Director or his or her designee(s).
- 1.25 DESIGN DELIVERABLES: Deliverables to be presented and Services to be performed by the Consultant at various Phases of design. The design deliverables are to comply with the requirements of the Deliverables Requirements Manual and/or Service Order(s).
- 1.26 DESIGN DEVELOPMENT: That portion of the Services comprising Phase 200 of the Basic Services which the Consultant shall perform in accordance with the terms of this Agreement when directed and authorized by Service Order.
- 1.27 DESIGN GUIDELINES MANUAL: A manual provided by the Owner which comprises design standards and guidelines for use by the Consultant and other Design Professionals as provided by Service Order. It is made a part of this Agreement by reference.
- 1.28 DESIGN SCHEDULE AND COST MANAGEMENT PLAN: A progress schedule and earned value measurement plan for the Design Deliverables that will be developed by the Consultant in accordance with the Project and Phase schedule provided by the Owner. The Design Schedule and Cost Management Plan (“DSCMP”), shall meet all Project and Phase milestones in the Owner provided schedule and shall be approved by the Project Manager. DSCMP earned value procedures are based upon the agreed weighted percentage values of the deliverables.
- 1.29 DIRECT SALARIES: Monies paid at regular intervals to personnel other than principals of the Consultant directly engaged by the Consultant on the Project, as reported to the Director of United States Internal Revenue Service and billed to the Owner hereunder on a Multiple of Direct Salaries basis pursuant to a Service Order for Additional Services under this Agreement. Personnel directly engaged on the Project by the Consultant may include architects, engineers, designers, and specifications writers engaged or assisting in research, design, production of drawings, specifications and related documents, Work Related Services and other services pertinent to the Project Elements.



- 1.30 **DIRECTOR:** The Director of the Department of Solid Waste Management or authorized representative(s) designated in writing with respect to a specific matter(s) concerning the Services.
- 1.31 **EQUAL EMPLOYMENT OPPORTUNITY:** Opportunity provided by the Consultant pursuant to Executive Order 11246, as amended, and required to be part of all contracts covered by said Executive Order.
- 1.32 **FIELD REPRESENTATIVE:** An authorized representative of the Owner providing administrative and construction inspection services during the pre-construction, construction, and closeout Phases of the Contract.
- 1.33 **FIXED LUMP SUM:** A basis for compensation of the Consultant for Services performed.
- 1.34 **GREEN BUILDING CERTIFICATION INSTITUTE:** Green Building Certification Institute (“GBCI”), is the designated organization responsible for administering the LEED certification program.
- 1.35 **LEED:** The United States Green Building Council (“USGBC”), created Leadership in Energy and Environmental Design (“LEED”), as a rating system for green building practices.
- 1.36 **LEED AP:** A person(s) that is an employee of the CONSULTANT or is a Sub-consultant to the CONSULTANT that is certified by the GBCI or successor entity in the specialty specified in the Request for Qualifications/Proposals for this Project. The LEED AP shall: (1) assist the Owner in the Project LEED registration, application and certification process; (2) coordinate and otherwise guide the CONSULTANT in the design of the Project in order to achieve the points needed for the desired LEED certification; and (3) monitor the Consultant for the documentation required to meet the Consultant’s obligations to achieve the LEED credit points stipulated in the Contract Documents.
- 1.37 **LEED CERTIFICATION DOCUMENTS:** Reports, documents or other data required to apply for and obtain the desired LEED certification.
- 1.38 **LEED CERTIFICATION PLAN:** Plan developed by the LEED AP to develop and monitor the documentation required during design and construction for the LEED certification application process.
- 1.39 **LEED STATUS REPORT:** A periodic report produced by the LEED AP to inform the Owner and other stakeholders in the Project on the status of the design and construction relative to earning LEED credit points for the Project.
- 1.40 **LIFE CYCLE COSTING:** The process whereby all expenses associated with the operations, maintenance, repair, replacement and alteration costs of a facility or piece of equipment are identified and analyzed.

- 1.41 MULTIPLE OF DIRECT SALARIES: A basis for compensation of the Consultant for Services performed.
- 1.42 OWNER: Miami-Dade County. The term Owner as used in this Agreement shall exclude the County departments or their successor departments.
- 1.43 PERIOD OF WORK-RELATED SERVICES: Services beginning on the date established in the Notice to Proceed for commencement of the Work through the time allowed for substantial completion of the Work contained in the Contract Documents.
- 1.44 PHASE: The portion of the Basic Services that shall be accomplished by the Consultant for each of the Project's elements or, to the extent authorized by Service Order a portion or combination thereof as described in Article 4 "Basic Services" herein:
- Phase 1 - Preliminary Engineering
  - Phase 2 - Master Plan Development
  - Phase 3 - Design of Transfer Station Building, Administration Building and Scale Facility
  - Phase 4 - ISD Maintenance Building
  - Phase 5 - Customer Dropoff Area and Household Hazardous Waste Collection Center
  - Phase 6 - Other Infrastructure Development (as needed)
  - Phase 7 - Permitting and Bidding Services
  - Phase 8 - Construction Management & Observation Services
- 1.45 PLANS: The drawings prepared by the Consultant which show the locations, characters, dimensions and details of the Work to be done and which are parts of the Contract Documents.
- 1.46 PROBABLE CONSTRUCTION COST: The latest approved written estimate of Construction Cost to the midpoint of construction broken down by the Division format developed by the Construction Specification Institute ("CSI"), or unit price bid items, including construction allowance contingencies, submitted to the Owner, in a format provided by the Owner, in fulfillment of the requirement(s) of this Agreement.
- 1.47 PROFESSIONAL CONSTRUCTION ESTIMATOR: An individual construction estimator affiliated with a professional firm, company, joint venture, or corporation to provide and analyze cost estimates of the Project and individual Project Elements or parts thereof in order to determine the Probable Construction Cost at each Phase of the Basic Services requiring the submittal of a Probable Construction Cost.
- 1.48 PROGRAM: The initial description of a Project that comprises line drawings, narrative, cost estimates, and Project Budget, provided by the Owner in the form of a Project Definition Book and furnished to the Consultant.
- 1.49 PROJECT: Project Elements and components of the Project Elements and Services as set forth this Agreement and authorized by Service Order(s).

- 1.50 **PROJECT BUDGET:** Estimated cost for the Project, prepared by the Owner as part of the Program, including the estimated Construction Cost. The Project Budget may, from time to time, be revised or adjusted by the Owner, at its sole discretion, to accommodate approved modifications or changes to the Project or the scope of work.
- 1.51 **PROJECT ELEMENT:** A part of the Project for which Services are to be provided by the Consultant pursuant to this Agreement or by other consultants employed by the Owner.
- 1.52 **PROJECT MANAGER:** Individual designated by the Director to represent the Owner during the design and construction of the Project.
- 1.53 **PROLONGED PERIOD OF WORK-RELATED SERVICES:** The period from the original completion date of the contract as awarded to the date of official acceptance by the Owner of the Report of Contract Completion furnished by the Consultant.
- 1.54 **PUNCH LIST:** A running list of defects in the Work as determined by the Consultant performing Work Related Services, with input from the Field Representative and the Project Manager. The initial edition of the Punch List is modified in succeeding editions to reflect corrected and completed work as well as newly observed defects, until the time of Final Acceptance.
- 1.55 **RECORD DRAWINGS (AS-BUILT DRAWINGS):** Reproducible drawings showing the final completed Work as built, including any change to the Work performed by the Consultant pursuant to the Contract Documents which the Consultant considers significant based on marked-up as-built prints, drawings, and other data furnished by the Consultant.
- 1.56 **REIMBURSABLE EXPENSES:** Those expenses delineated in Article 6 “Reimbursable Expenses” of this Agreement which are separately approved by the Owner that are incurred by the Consultant in the fulfillment of this Agreement and which are to be compensated to the Consultant in addition to the Basic Services Fee.
- 1.57 **REVIEW SET:** A partial or complete set of Contract Documents, provided by the Consultant in accordance with the Deliverables Requirements Manual and/or Service Order, at the specified percentage of completion of a Phase of the Basic Services as provided for in this Agreement, on which the Owner may provide written review comments and acceptance of Services. Any review will be general in nature and shall neither constitute a detailed checking of the Consultant’s work, nor relieve the Consultant of the responsibility for the completeness and accuracy of its Services.
- 1.58 **SCHEMATIC DESIGN:** That portion of the Services comprising Phase 200 of the Basic Services which the Consultant shall perform in accordance with the terms of this Agreement.
- 1.59 **SERVICE ORDER:** A written order (consecutively numbered for reference and control purposes), initiated by the Project Manager in accordance with this Agreement, and

countersigned by the Director and by the Consultant, directing the Consultant to perform or modify the performance of any portion of the Services.

- 1.60 SERVICES: All services, work and actions by the Consultant performed pursuant to or undertaken under this Agreement.
- 1.61 SUB-CONSULTANT: An independent firm, company, joint venture, corporation or individual under contract with and compensated by the Consultant to perform a portion of the Services required hereunder.
- 1.62 SUBSTANTIAL COMPLETION: The stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Project for its intended use and shall occur when the Consultant issues a certificate of Substantial Completion. At this stage, all Punch List work shall be able to be completed by the Consultant in less than sixty (60) Days. The Certificate of Substantial Completion shall not be issued prior to the Consultant obtaining a Final Certificate of Occupancy or a Temporary Certificate of Occupancy, and a Final Certificate of Use or a Temporary Certificate of Use from the Regulatory and Economic Resources Department.
- 1.63 TECHNICAL SPECIFICATIONS: The general term comprising all the written directions, provisions and requirements contained herein, entitled "Technical Specifications," those portions of standard specifications to which reference is specifically made in the Technical Specifications, and any Addenda, Work Orders and Change Orders that may be issued for the Contract, all describing the work required to be performed, including detailed technical requirements as to labor, materials, supplies and equipment and standards to which such work is to be performed as well as any reports specifically issued with the Bid Documents and specifically identified in the Instructions to Bidders which may include geotechnical or other technical reports.
- 1.64 VALUE ANALYSIS: The systematic application of recognized techniques for optimizing both cost and performance in a new or existing facility or to eliminating items that add cost without contributing to required functions.
- 1.65 WORK: All labor, materials, tools, equipment, services, methods, and procedures necessary or convenient to performance by the Consultant of all duties and obligations imposed by the Contract Documents, and representing the basis upon which the total consideration is paid or payable to the Consultant for the performance of such duties and obligations.
- 1.66 WORK ORDER: A written order, authorized by the Owner, directing the Consultant to perform work under a specific Allowance Account(s) or which directs the Consultant to perform a change in the work that does not have a monetary impact.

- 1.67 **WORK-RELATED SERVICES:** Those portions of the Services comprising Phase of Phases 6 and 7 of the Basic Services that the Consultant shall perform in accordance with the terms of this Agreement when directed and authorized by a Service Order.
- 1.68 **WORK SEQUENCING SCHEDULE AND STAGING PLAN:** Plans prepared by the Consultant showing the stage-by-stage sequence of construction, the impact on adjacent or related facilities and on DSWM operations, as well as other features, as necessary, related to the overall schedule of construction.
- 1.69 **WORK-SITE SERVICES:** Those optional portions of the Services, beyond the requirements of Work-Related Services, involving the providing of on-site resident services, that the CONSULTANT shall perform as the Field Representative in accordance with the terms of this Agreement if directed and authorized by Service Order(s).

## **ARTICLE 2**

### **INFORMATION TO BE FURNISHED BY THE OWNER**

- 2.1 **INFORMATION TO BE FURNISHED BY THE OWNER:** The Owner will furnish any readily available information requested by the Consultant as expeditiously as practicable.
- 2.2 **OBLIGATION OF THE CONSULTANT:** The Consultant understands that it is obligated to verify to the extent it deems necessary all information furnished by the Owner and that it is responsible for the accuracy and applicability of all such information used by said Consultant for consistency with the required standard of care, provided however, that Consultant shall be solely responsible for the accuracy and applicability of all such information either (i) provided by Consultant and its Sub-consultants, or (ii) verified by Consultant or its Sub-consultants, consistent with the terms of this Agreement. Such verification shall include visual examination of existing conditions in all locations encompassed by the Project where such examination can be made without using destructive measures, e.g., excavation or demolition. DSWM shall approve any destructive measures that may be necessary. Survey information shall be spot checked to the extent the Consultant has satisfied itself as to the reliability of the information.

## **ARTICLE 3**

### **GENERAL PROVISIONS**

#### **3.1 INDEMNIFICATION AND HOLD HARMLESS**

- 3.1.1 Pursuant to Florida Statutes 725.08 and notwithstanding the provisions of Florida Statutes 725.06, the Consultant shall indemnify and hold harmless the Owner, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Consultant and other persons employed or utilized by the Consultant in the performance of this Agreement.
- 3.1.2 To the extent this indemnification clause or any other indemnification clause in this Agreement does not comply with Chapter 725, Florida Statutes, this provision and all aspects of the Contract Documents shall hereby be interpreted as the parties' intention for the indemnification clauses and Contract Documents to comply with Chapter 725, Florida Statutes.
- 3.1.3 Consistent with Section 725.06, Florida Statutes, . The limits required by Section 725.06, Florida Statutes, are delineated in Sub-Article 3.2.1 of this Agreement.
- 3.1.4 This Sub-Article 3.1 and its sub articles shall survive expiration or termination of this Agreement.

#### **3.2 INSURANCE:** The Consultant shall not be issued any Service Order under this Agreement until the insurance required hereunder has been obtained and the Owner has approved such insurance. The Consultant shall maintain required insurance coverage for the full term of this Agreement or for such longer period(s) as may be specifically required herein.

The Consultant shall furnish certificates of insurance to the Owner prior to commencing any operations under this Agreement. Certificates shall clearly indicate that the Consultant has obtained insurance, in the type, amount, and classifications, as required for strict compliance with this Article. The certificates must provide that in the event of material change in or cancellation of the policies reflecting the required coverages, thirty (30) days advance notice shall be given to the Department.

Consistent with Section 725.06, Florida Statutes, the Consultant 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 Consultant or its employees, agents, servants, partners principals or Sub-consultants. The Consultant 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 Consultant expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Consultant shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided. The limits required by Section 725.06, Florida Statutes, are delineated in Sub-Article 3.2.1 of this Agreement.

3.2.1 The Consultant shall provide (at its own cost):

The Consultant shall furnish and provide (at its own cost) to **Miami-Dade County 111 NW 1st Street, Suite 2340 Miami, Florida 33128**, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.
- B. Commercial General Liability 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 per occurrence for bodily injury and property damage.
- D. Professional Liability or Errors & Omissions insurance on a project specific basis in the name of the licensed professional Design-Builder and/or lead Design Firm providing architectural and/or engineering, project design, construction supervision, administration, surveying, testing, engineering and any other related professional qualifications or functions required by the project in an amount not less than \$5,000,000 per claim.
  - a. If any required insurance purchased by the Design-Builder and/or lead Design Firm has been issued on a 'claims made' basis, the purchaser of such claims made coverage must have an extended reporting or discovery "tail" period of not less than ten years after the project completion date and shall have a retroactive date to the date of first design.

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.

Miami-Dade County reserves the right, upon reasonable notice, to request and examine the policies of insurance (including but not limited to policies, binders, amendments, exclusions or riders, etc.).

**NOTE: CERTIFICATE HOLDER MUST READ:**

**MIAMI-DADE COUNTY  
111 NW 1st STREET  
SUITE 2340  
MIAMI, FL 33128**

3.2.2 All insurance policies required herein 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 financial strength, and no less than “Class VII” as to financial size according to the latest edition of Key Rating Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the written approval of the Owner.

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.

3.2.3 The Consultant and/or the Sub-consultants shall cooperate to the fullest extent with Miami-Dade County in all matters relating to the insurance provided and shall comply with all requirements of any insurance policy procured by the County. They shall also at their own expense furnish the County or its duly authorized representative with copies of all correspondence, papers, records, and other items necessary or convenient for dealing with or defending against claims and for administering the aforementioned insurance including furnishing the time of any of their employees, officers, or agents whose presence or testimony is necessary or convenient in any negotiations or proceedings involving such insurance.

- 3.2.4 If, at any time during the term of this Agreement, the actual provisions of the insurance described herein, or any part thereof, cannot be obtained or is non-renewable or is otherwise not available, then the County shall attempt to meet, as closely as possible, the objective and purpose of the original insurance program as outlined herein. Furthermore, the County and the Consultant shall agree as to their respective responsibilities and actions in this regard.
- 3.2.5 Immediate notification must be given to the County's Risk Management Division and DSWM and/or its agent in case of accident or occurrence which might give rise to a claim under any policy provided by the County, or any policy on which the County is a joint insured.
- 3.2.6 Compliance with the foregoing requirements as to the carrying of insurance shall not relieve the Consultant from liability under any portion of this Contract.
- 3.2.7 Cancellation of any insurance or non-payment by the Consultant of any premium for any insurance policy or bonds required by this Contract shall constitute a breach of this Contract. In addition to any other legal remedies, Miami-Dade County at its sole option may terminate this Contract or pay such premiums, and deduct the costs thereof from any amounts which are or may be due to the Consultant.
- 3.3 **ASSIGNMENT:** The Consultant shall not assign, transfer or convey this Agreement to any other person, firm, association, or corporation, in whole or in part. However, the Consultant will be permitted to cause portions of the services to be performed by Sub-consultants, as authorized elsewhere herein.
- 3.4 **PROVISION OF ITEMS NECESSARY TO COMPLETE SERVICES:** In the performance of the Services prescribed herein, it shall be the responsibility of the Consultant to provide all salaries, wages, materials, equipment, Sub-consultants and other purchased services, necessary to complete said Services.
- 3.5 **SUB-CONSULTANTS:** All services provided by the Sub-consultants shall be consistent with those commitments made by the Consultant during the selection process and interview. Such services shall be pursuant to appropriate agreements between the Consultant and the Sub-consultants, which shall contain provisions that preserve and protect the rights of the Owner under this Agreement. Nothing contained in this Agreement shall create any contractual relationship between the Owner and the Sub-consultants.

The Consultant shall not change any Sub-consultant without prior approval by the Director in response to a written request from the Consultant stating the reasons for any proposed substitution. Any approval of a Sub-consultant by the Owner shall not in any way shift the responsibility for the quality and acceptability by the Owner of the services performed by the Sub-consultant from the Consultant to the Owner. The Consultant shall cause the names of Sub-consultants responsible for significant portions of the Services to be inserted on the Plans and Specifications, subject to the approval of the Owner.

The Consultant may employ Sub-consultants to assist the Consultant in performing specialized Services. Payment of such Sub-consultants employed at the option of the Consultant shall be the responsibility of the Consultant and shall not be cause for any increase in compensation to the Consultant for the performance of the Basic Services. The quality of services and acceptability to the Owner of the services performed by such Sub-consultants shall be the sole responsibility of the Consultant.

- 3.6 **TERM OF AGREEMENT:** This term of this Agreement shall be for **1825** Calendar Days and shall begin upon execution by the parties and shall be in effect until all Services are completed or until those Services Orders in force at the end of the stated period of time have been completed and the Services accepted, whichever may be later.

Nothing in this Sub-Article shall prevent the Owner from exercising its rights to terminate the Agreement as provided elsewhere herein.

- 3.7 **TERMINATION OF AGREEMENT:** This Agreement may be terminated upon prior written notice by either party (a “Party”, and collectively the “Parties”), as described herein. The Owner may terminate this Agreement or any Service Order for cause or for convenience. The Consultant may terminate this Agreement for cause in the event that the Owner willfully violates any provisions of the Agreement. The Consultant shall have no right to terminate this Agreement for convenience of the Consultant, without cause.

- 3.7.1 **Owner's Termination for Cause:** The Owner may terminate this Agreement or any Service Order upon seven (7) Days written notice (a “Notice of Termination”), for cause in the event that the Consultant violates any provisions of this Agreement, or performs same in bad faith, or unreasonably delays the performance of the Services. Such written notice to the Consultant shall spell out the cause and provide reasonable time in the notification to remedy the cause.

The Owner may terminate this Agreement if the Consultant is found to have submitted a false certification or to have been, or is subsequently during the term of this Agreement, placed on the Scrutinized Companies for Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

Notwithstanding any other penalties for firms that have discriminated in violation of Article VII of Chapter 11A of the Code, the Owner may terminate the Agreement or require the termination or cancellation of a sub-consultant contract. In addition, a violation by the Consultant or a sub-consultant to it, or failure to comply with the Administrative Order (“A.O.”) No. 3-39 may result in the imposition of one or more of the sanctions listed in the A.O. (See [www.miamidade.gov/ao/home.asp](http://www.miamidade.gov/ao/home.asp)).

In the event the Owner terminates this Agreement for cause, the Owner will take over any and all documents resulting from Services rendered up to the termination and may complete them, by contracting with other architect(s), engineer(s) or otherwise, and in such event, the Consultant shall be liable to the Owner for any

additional cost incurred by the Owner due to such termination. "Additional Cost" is defined as the difference between the actual cost of completion of such incomplete Services and the cost of completion of such Services which would have resulted from payments to the Consultant hereunder had the Agreement not been terminated. Upon receipt of written Notice of Termination, the Consultant shall, when directed by the Owner, promptly assemble and submit as provided herein or as required in any Service Order issued hereunder, all documents including drawings, calculations, specifications, reports, correspondence, and all other relevant materials affected by such termination. No payments shall be made: (1) for Services not satisfactorily performed; and (2) for the cost of assembly and submittal of documents for services performed satisfactorily or unsatisfactorily.

- 3.7.2 Owner's Termination for Convenience: The Owner, in addition to the rights and options to terminate for cause pursuant to Sub-Article 3.7.1, or any other provisions set forth in this Agreement, retains the right to terminate this Agreement or any Service Order upon thirty (30) Days written notice at its sole option at any time for convenience, without cause, when in its sole discretion it deems such termination is in the best interest of the Owner.
- 3.7.3 Consultant's Termination for Cause: The Consultant may terminate this Agreement upon thirty (30) Days written notice for cause in the event that the Owner violates any provisions of this Agreement. Such written notice to the Owner shall spell out the cause and provide reasonable time in the notification to remedy the cause. In the event the Consultant exercises its right to terminate this Agreement for cause, payment for Services satisfactorily performed prior to the date of termination shall be made in accordance with Article 8 "Compensation for Services".
- 3.7.4 Implementation of Termination: In the event of termination, either for cause or for convenience, the Consultant, upon receipt of the Notice of Termination, shall:
1. Stop the performance of Services under this Agreement on the date and to the extent specified in the Notice of Termination (the "Effective Termination Date");
  2. place no further orders or subcontracts except as may be necessary for completion of any portion(s) of the Services not terminated, and as authorized by Service Order(s);
  3. terminate all orders and subcontracts to the extent that they relate to the performance of the Services terminated by the Notice of Termination;
  4. transfer title to the Owner (to the extent that title had not already been transferred) and deliver in the manner, at the times, and to the extent directed by the Owner, all property purchased under this Agreement and reimbursed as a direct item of cost and not required for completion of the Services not terminated;

5. take such action as may be necessary for the protection and preservation of the County's materials and property;
6. promptly assemble and submit as provided herein all documents for the Services performed, including plans, calculations, specifications, reports, and correspondence, and all other relevant materials affected by the termination; and
7. complete performance of any Services not terminated by the Notice of Termination.

3.7.5 Compensation for Terminated Work: Compensation for terminated work will be made based on the applicable provisions of the Article 8 "Compensation for Services".

### 3.8 SANCTIONS FOR CONTRACTUAL VIOLATIONS:

The County may terminate this contract or require the termination or cancellation of any sub-consultant contract, if the Consultant or any sub-consultant(s) violates Article VII of Chapter 11A of the Code. In addition, a violation by the Consultant, or sub consultant to the Consultant, or failure to comply with Section 2-10.4.01(5) of the Code, and A.O. No. 3-39 may result in the imposition of one or more of the sanctions listed in the Code and the A.O. respectively.

### 3.9 INTENT OF AGREEMENT:

- 3.9.1 The intent of the Agreement is for the Consultant to provide engineering services for the design, permitting, bidding and construction oversight for DSWM's Waste Facility Complex and to include all necessary items for the proper completion of such services, for a fully functional facility which, when constructed in accordance with the design, will be used by the Owner for its intended purpose subject to conditions and operations not disclosed or known or reasonably capable to be known by the Consultant. The Consultant shall perform, as Basic Services, such incidental work, which may not be specifically referenced, as necessary to complete the Project.
- 3.9.2 This Agreement is for the benefit of the parties only and it does not grant rights to a third party beneficiary, to any person, nor does it authorize anyone not a party to the Agreement to maintain a suit for personal injuries, professional liability or property damage pursuant to the terms or provisions of the Agreement.
- 3.9.3 No acceptance, order, payment, or certificate of or by the Owner, or its employees or agents shall either stop the Owner from asserting any rights or operate as a waiver of any provisions hereof or of any power or right herein reserved to the Owner or of any rights to damages herein provided.

- 3.10 SOLICITATION: The Consultant warrants that: (1) it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement; and (2) that it has not paid, nor agreed to pay any person, company, corporation, joint venture, individual, or firm, other than a bona fide employee working solely for the Consultant any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Owner has the right to annul this Agreement without liability to the Consultant for any reason whatsoever.
- 3.11 ACCOUNTING RECORDS OF CONSULTANT: The Owner reserves the right to audit the accounts and records of the Consultant including, but not limited to, payroll records and Federal Tax return, supporting all payments for Services hereunder on the basis of Multiple of Direct Salaries and Reimbursement of Actual Expenses incurred. Such audit may take place at any mutually convenient time during the performance of this Agreement and for three (3) years after final payment under this Agreement. The Architect/ Engineer shall maintain, as part of its regular accounting system, records of a nature and in a sufficient degree or detail to enable such audit to determine the personnel hours and personnel costs and other expenses associated with each Project and/or Phase authorized for performance by Service Order(s). In accordance with Section 287.055, Florida Statutes, the Consultant hereby certifies and warrants that wage rates and other factual unit costs as submitted supporting the compensation provided here are accurate, complete, and current as of the date of the submittal. It is further agreed that said compensation provided for in this agreement shall be adjusted to exclude any significant costs where the Owner determines that the payment for Services was increased due to inaccurate, incomplete, or non-current wage rates or other factual unit costs. All such adjustments in compensation paid or payable to Consultant under this Agreement shall be made within three (3) years from the date of final billing or acceptance of the Services by the Owner, whichever is later.
- 3.12 INSPECTOR GENERAL, INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL: Pursuant to Section 2-1076 of the Code, the Office of the Miami-Dade County Inspector General (“IG”), shall have the authority and power to review past, present, and proposed County programs, accounts, records, contracts, and transactions. The IG shall have the power to subpoena witnesses, administer oaths, and require the production of records. Upon ten (10) Days written notice to the Consultant from IG, the Consultant shall make all requested records and documents available to the IG for inspection and copying.

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

(1) If this contract is completely or partially terminated, the Consultant shall make available the records relating to the work terminated until three (3) years after any resulting final termination settlement; and

(2) The Consultant shall make available records relating to appeals or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

The IG shall have the power to report and/or recommend to the Board whether a particular project, program, contract, or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both financially and operationally. Monitoring of an existing project or program may include reporting whether the project is on time, within budget and in conformity with plans, specifications, and applicable law. The IG shall have the power to analyze the need for, and reasonableness of, proposed Change Orders.

The IG may, on a random basis, perform audits on all County contracts throughout the duration of said contract (i.e., random audits). This random audit is separate and distinct from any other audit by the County. To pay for the functions of the Office of the Inspector General, any and all payments to be made to the Consultant under this contract will be assessed one quarter of one percent (0.25%) of the total amount of the payment, to be deducted from each progress payment as the same becomes due, unless this Agreement is federally funded where federal or state law or regulations preclude such a charge or where such a charge is otherwise precluded as stated in Article 9 "Special Provisions". The Consultant shall, in stating its agreed prices, be mindful of this assessment, which will not be separately identified, calculated, or adjusted in the proposal or bid form.

The IG shall have the power to retain and coordinate the services of an independent private sector inspector general ("IPSIG"), who may be engaged to perform said random audits, as well as audit, investigate, monitor, oversee, inspect, and review the operations, activities, and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the Consultant, its officers, agents and employees, lobbyists, County staff, and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud. The IG is authorized to investigate any alleged violation by a Consultant of its Code of Business Ethics, pursuant to Section 2-8.1 of the Code.

The provisions in this section shall apply to the Consultant, its officers, agents and employees. The Consultant shall incorporate the provisions in this section in all subcontracts and all other agreements executed by the Consultant in connection with the performance of this contract.

#### INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL

The attention of the Consultant is hereby directed to the requirements of A.O. No. 3-20 and Resolution No. R-516-96: the County shall have the right but not the obligation to retain the services of an IPSIG who may be engaged to audit, investigate, monitor, oversee, inspect, and review the operations, activities, and performance of the Consultant and County in connection with this contract. The scope of services performed by an IPSIG may include, but are not limited to, monitoring and investigating compliance with Contract Specifications; project costs; and investigating and preventing corruption and fraud.

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

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

### 3.13 OWNERSHIP OF DOCUMENTS AND COPYRIGHTS:

- 3.13.1 All notes, correspondence, documents, designs, drawings, renderings, calculations, specifications, models, photographs, reports, surveys, investigations, and any other documents and copyrights thereto for Services performed or produced in the performance of this Agreement, whether in paper or other hard copy medium or in electronic medium is a work for hire and is the property of the Owner; however, the Owner may grant to the Consultant a non-exclusive license of the copyright to the Consultant for reusing and reproducing copyrighted materials or portions thereof as authorized by the Owner in advance and in writing. In addition, the Consultant shall not disclose, release, or make available any document to any third party without prior written approval from Owner.
- 3.13.2 The Consultant is permitted to reproduce copyrighted material described above subject to written approval from the Owner.
- 3.13.3 At the Owner's option, the Consultant may be authorized by Service Order to adapt copyrighted material for additional or other work for the Owner; however, payment to the Consultant for such adaptations will be limited to an amount not greater than fifty percent (50%) of the original fee earned to adapt the original copyrighted material to a new site.
- 3.13.4 The Owner shall have the right to modify the Project or any component thereof without permission from the Consultant or without any additional compensation to the Consultant. The Consultant shall be released from any liability resulting from such modification.
- 3.13.5 The Owner shall own rights to all passwords necessary to access Project registration and certification data submitted to the GBCI via internet websites or other means.



### 3.14 LAWS AND REGULATIONS:

3.14.1 The Consultant agrees to abide and be governed by all applicable laws. Applicable local laws and ordinances include but are not limited to the following:

A. Conflict of Interest and Code of Ethics Ordinance, Section 2-11.1 of the Code.

B. The Consultant shall comply with County Code Sections 2-10.4.01 and 10-38 of the Code, and IO No. 3-32 (Small Business Enterprise Architecture and Engineering Program for the purchase of Architectural, Landscape Architectural, Engineering, and Surveying and Mapping Services).

C. The Consultant shall comply with Section 2-1076 of the Code – Office of Inspector General.

D. The Consultant shall comply with the procedures contained in Sections 21-255 through 21-266 of the Code (False Claims Ordinance).

E. The Consultant shall comply with the financial disclosure requirements of Section 2-11.1(i) of the Code, by having on file or filing within thirty (30) Days of the execution of this Agreement one of the following with the Supervisor of the Miami-Dade County Elections Department, P.O. Box 521550, Miami, FL 33152-1550:

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

F. E-VERIFY - The attention of the Consultant is hereby directed to the requirements of Section 448.095, Florida Statutes ("Employment eligibility"). The Consultant hereby agrees to utilize the U.S. Department of Homeland Security's E-Verify system to confirm the employment eligibility of all persons assigned or authorized by the Consultant to perform work pursuant to the Contract with the County.

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

to have been, or is subsequently during the term of the Agreement, placed on the Scrutinized Companies for Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

H. The Consultant shall comply with Resolution No. R-451-14 and Section 2-1 of the Code (Board of County Commissioners Rule 5.09, consideration of sea level rise).

I. The Consultant shall comply with Life Cycle Costing procedures as enumerated in Miami-Dade County A.O. No. 11-03.

J. The Consultant shall comply with Resolution No. R-54-18 (cool roofs).

K. The Consultant shall comply with: (i) Resolution No. R-617-17; (ii) Sections 2-1 (Board of County Commissioners Rule 5.10) and 9-71 through 9-75 of the Code; (iii) IO No. 8-8, which established a County policy to incorporate, wherever practical, Green Building Practices into the planning, budgeting, design, construction, operations, management, renovation, maintenance and decommissioning of Public Projects. These sections of the Code together with the IO, are referred to as the “Sustainable Buildings Program”.

L. SUSTAINABLE BUILDINGS PROGRAM, Sections 9-71 through 9-75 of the Code (if applicable) - The primary method for determining compliance with the Sustainable Buildings Program shall be the USGBC LEED Rating System and the Institute for Sustainable Infrastructure’s (“ISI”), Envision Rating System. All construction projects are required to meet the standards delineated in the Code Sections cited above. Compliance shall be determined by completing a formal certification process with the USGBC or the ISI, or as otherwise directed by the County’s Sustainability Manager.

1. New Construction: All new construction (“NC”) projects shall be required to attain “Silver” or higher level rating under the LEED-NC Rating System or the Envision Rating System, contingent on the particular category of construction.

2. Major Renovations and Remodels: All major renovations and remodels shall attain “Certified” or higher level rating under the LEED-NC Rating System.

3. Non-Major Renovations and Remodels: All non-major renovations and remodels shall attain “Certified” or higher level rating under the appropriate LEED Rating System such as LEED-NC, LEED-Existing Building or LEED-Commercial Interior.

4. Renovations, remodels, and other building upgrades not meeting the above criteria are encouraged to incorporate the maximum number of

approved green building practices as are feasible from a practical and fiscal perspective; however, LEED and Envision certification will not be required.

M. ENERGY EFFICIENT BUILDING TAX CREDIT (if applicable) – The Consultant shall coordinate with the County to secure benefits for the County pursuant to Section 179D of the Internal Revenue Code of 1986, as amended (the “IRS Code”). The Energy Policy Act of 2005 allows taxpayers to accelerate depreciation on the cost of qualified energy efficient commercial building property placed-in-service after December 31, 2005 and updates thereto through the Emergency Economic Stabilization Act of 2008, the Inflation Reduction Act of 2022, Production Tax Credit under Section 45 of the IRS Code, the Consolidated Appropriations Act of 2021, the Investment Tax Credit and Renewable Energy Investment Tax Credit pursuant to Section 48 of the IRS Code, and the Renewable Electricity Production Tax Credit pursuant to Section 45 of the IRS Code.

N. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY - The Consultant shall comply with the public records laws of the State of Florida (the “Public Records Laws”), including but not limited to:

(1) Keeping and maintaining public records required by the public agency to perform the service; (2) upon request from the public agency’s custodian of public records or the public, providing the public agency or the public with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (3) ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Consultant does not transfer the records to the public agency; and (4) upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the Consultant or keeping and maintaining the public records required by the public agency to perform the service. If the Consultant transfers all public records to the public agency upon completion of the contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the contract, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency’s custodian of public records, in a format that is compatible with the information technology systems of the public agency.

- 3.14.2 NOT USED.
- 3.14.3 NOT USED.
- 3.14.4 In accordance with Section 119.071(3)(b), Florida Statutes, building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency, are exempt from Section 119.07 and Section 24(a), Article I of the Florida Constitution. This exemption applies to building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency before, on, or after the effective date of this act. Information made exempt by this paragraph may be disclosed to another governmental entity with prior approval by the Owner if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to a licensed architect, engineer, or Consultant who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency; or upon a showing of good cause before a court of competent jurisdiction. The entities or persons receiving such information shall maintain the exempt status of the information.
- 3.14.5 NOT USED
- 3.14.6 In addition to the above requirements in this Sub-Article, the Consultant agrees to abide by all federal, state, and County procedures, by which the documents are handled, copied, and distributed which may include, but is not limited to:
- 3.14.6.1 Each employee of the Consultant and Sub-consultant(s) that will be involved in the Project, shall sign an agreement stating that they will not copy, duplicate, or distribute the documents unless authorized by the Owner as required in Sub-Article 3.14.4.
  - 3.14.6.2 The Consultant and its Sub-consultant(s) agree in writing that the project documents are to be kept and maintained in a secure location.
  - 3.14.6.3 Each set of the Project documents is to be numbered and the whereabouts of the documents shall be tracked at all times.
  - 3.14.6.4 A log is developed to track each set of documents logging in the date, time, and name of the individual(s) that works on or views the documents.
- 3.15 **CORRECTIONS TO CONTRACT DOCUMENTS:** The Consultant shall prepare, without added compensation, all necessary supplemental documents to correct errors, omissions, and/or ambiguities that may exist in the Contract Document prepared by the Consultant including the documents prepared by its sub-consultants. Compliance with this Article shall not be construed to relieve the Consultant from any liability resulting from any such

errors, omissions, and/or ambiguities in the Contract Documents and other documents or Services related thereto.

- 3.16 **STANDARD OF CARE:** Notwithstanding anything to the contrary in this agreement or in any other contract document relating to the project, in performing its work under this contract Consultant shall perform its services to the standard of care of a reasonable architect or engineer that is performing the same or similar work, at the same time and locality and under the same or similar conditions faced by Consultant.
- 3.17 **OWNER REPRESENTATIVE:** The Owner will assign a Project Manager to the Project to coordinate all Owner responsibilities under this Agreement. All instructions from the Owner to the Consultant shall be issued by or through the Project Manager. The Consultant shall promptly inform the Project Manager in writing of any instructions received from others and of any other circumstances that arise that might affect the performance of the Services or of the Work.
- 3.18 **NOTICE OF DEFAULT AND OPPORTUNITY TO CURE:** If an Event of Default occurs in the determination of the County, the County shall notify the Consultant (the “Default Notice”), specifying the basis for such default, and advising the Consultant that such default must be cured immediately, or this Agreement may be terminated pursuant to Sub-Article 3.7.1. Notwithstanding, the County may, in its sole discretion, allow the Consultant to rectify the default to the County’s reasonable satisfaction within thirty (30) Days. 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 Consultant 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 Consultant shall discontinue the Services upon the Effective Termination Date.
- 3.19 **NON-EXCLUSIVITY:** Notwithstanding any provision of this Non-Exclusive Agreement, the Owner is not precluded from retaining or utilizing any other Architect, Engineer, Design Professional, or other consultant to perform any incidental Basic Services, Additional Services, or other Professional Services within the contract limits defined in the agreement. The Consultant shall have no claim against the County as a result of the County, electing to retain or utilize such other Architect, Engineer, Design Professional, or other consultant to perform any such incidental Services.
- 3.20 **CONTINUED ENGAGEMENT OF CRITICAL PERSONNEL:** In accordance with Resolution No. R-744-00, the Consultant shall identify its critical personnel on the Project in Exhibit 3, attached hereto and made a part hereof. Such critical personnel shall be the specific technical or professional personnel to perform the necessary services under this Agreement. Such critical personnel shall not be replaced except when the Owner determines, in its discretion, that the proposed replacement personnel has equal or greater qualifications or capabilities to perform the necessary services.
- 3.21 **CONSULTANT RESPONSIBILITY** 3.21.1 The Consultant is responsible for the professional quality, technical accuracy, completeness, performance, and coordination of

all work required under the Agreement (including the work performed by Sub-consultants), within the specified time period and specified cost. The Consultant shall perform the work utilizing the skill, knowledge, and judgment ordinarily possessed and used by a proficient consulting Consultant with respect to the disciplines required for the performance of the work in the State of Florida. The Consultant is responsible for, and represents that the work conforms to, the Owner's requirements as set forth in the Agreement. The Consultant shall be and remain liable to the Owner for all damages in accordance with applicable law caused by any failure of the Consultant or its Subconsultants to comply with the terms and conditions of the Agreement or by the Consultant's or Subconsultants' misconduct, unlawful acts, negligent acts, errors, or omissions in the performance of the Agreement. The Consultant is responsible for the performance of work by Sub-consultants and in approving and accepting such work to ensure the professional quality, completeness, and coordination of Sub-consultant's work.

3.21.2 In addition to all other rights and remedies that the Owner may have, the Consultant shall, at its expense, re-perform the services to correct any deficiencies that result from the Consultant's failure to perform in accordance with the above standards. The Consultant shall be and remain liable to the Owner for all damages in accordance with applicable law caused by any failure of the Consultant or its Subconsultants to comply with the terms and conditions of the Agreement or by the Consultant's or Subconsultants' misconduct, unlawful acts, negligent acts, errors, or omissions in the performance of the Agreement. The Consultant is responsible for the performance of work by Sub-consultants and in approving and accepting such work to ensure the professional quality, completeness, and coordination of Sub-consultant's work.

3.21.3 The Owner shall notify the Consultant in writing of any deficiencies and shall approve the method and timing of the corrections. Neither Owner's inspection, review, approval, or acceptance of, nor payment for, any of the work required under the Agreement shall be construed to relieve the Consultant or any Sub-consultant of its obligations and responsibilities under the Agreement, nor constitute a waiver of any of the Owner's rights under the Agreement or of any cause of action arising out of the performance of the Agreement.

3.21.4 Upon Owner's notification of deficient or defective work stemming from the Consultant's services, the Consultant shall have fourteen (14) Days to respond to the Owner's claim. The Owner shall implement its procedure for administrative review of the claim with notification to the Consultant of the findings from that review. Upon notification, the Consultant shall have fourteen (14) Days to request reconsideration of the findings.

3.22 **CONSULTANT PERFORMANCE EVALUATION:** In accordance with A.O. No. 3-39 entitled "Standard Process for Construction of Capital Improvements, Acquisition of Professional Services, Construction Contracting, Change Orders, and Reporting", the Consultant is advised that a performance evaluation of the services rendered throughout this Agreement will be completed by the Owner and kept in County files for evaluation of future solicitations.

- 3.23 ENTIRETY OF AGREEMENT: This Agreement represents the entire and integrated Agreement between the Owner and the Consultant and supersedes all prior negotiations, representations, or agreements between the parties hereto, either written or oral, pertaining to the Project(s). This Agreement shall not be amended except by written Amendment.
- 3.24 PROMPT PAYMENT: It is the policy of Miami-Dade County that payment for all purchases by County agencies and the Public Health Trust shall be made in a timely manner and that interest payments be made on late payments. In accordance with Section 218.74, Florida Statutes, and Section 2-8.10.4.01 of the Code, the time at which payment shall be due from the County or the Public Health Trust shall be fourteen (14) Days from receipt of a proper invoice. 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.
- 3.25 CERTIFICATION OF WAGE RATES: In accordance with Section 287.055(5)(a), Florida Statutes, the Consultant firm hereby certifies and warrants that wage rates and other factual unit costs, as submitted in support of the compensation provided are accurate, complete and current as of the date of this Agreement. It is further agreed that said compensation shall be adjusted to exclude any significant costs where the County shall determine that the contract price of services was increased due to inaccurate, incomplete or unclear wage rates or other factual unit costs. All such contract compensation adjustments shall be made within one (1) year from the date of final billing or acceptance of the Work by the County, or one (1) year following the end of the contract, whichever is later.
- 3.26 ETHICS COMMISSION: Pursuant to Section 2-11.1(w) of the Code, the Ethics Commission has jurisdiction over Consultants and vendors. The Consultant firm must provide the Ethics Commission with a written report regarding its compliance with any restriction contained in the advisory opinion issued by the Ethics Commission to the Consultant firm, Sub-consultants, or team members within ninety (90) Days of each Phase assignment. The report must be submitted to the Executive Director, Commission on Ethics and Public Trust at 19 West Flagler Street, Suite 207, Miami, Florida 33130.
- 3.27 TRUTH IN NEGOTIATION CERTIFICATION OF WAGE RATES: Pursuant to A.O. No. 3-39, for all lump sum costs or costs plus a fixed fee contract in which a fee will exceed One Hundred Fifty Thousand Dollars (\$150,000), the County will require the firm receiving the award to execute a Truth-In-Negotiation Certificate as required by Chapter 287, Florida Statutes.
- 3.28 NOT USED.

3.29 REMEDIES IN THE EVENT OF DEFAULT. If an Event of Default occurs, the Consultant shall be liable for all damages resulting from the default, including but not limited to:

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

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

3.30 ENERGY PERFORMANCE: Pursuant to Resolution No. R-740-08, Consultant agrees to the following terms and conditions of engagement if awarded the Agreement for the Work described herein:

(1) The purpose is to allocate accelerated depreciation benefits pursuant to Section 179D of the Internal Revenue Code of 1986, as amended (the "IRS Code"). The County reserves the right to designate any eligible entity as the "Designer" of the energy efficient improvements incorporated in this Project for the purpose is to allocate accelerated depreciation benefits pursuant to Section 179D of the IRS Code, as amended;

(2) if the County and the Internal Revenue Service (IRS) determine that the Consultant is eligible and shall receive accelerated depreciation benefits as a "Designer" for the purposes of Section 179D of the IRS Code or that Consultant shall otherwise benefit financially from the monetization of the accelerated depreciation benefit, the Consultant hereby agrees to discount its Contract price or provide a cash rebate to the County (the determination of rebate versus discount shall be determined by County at its sole discretion), in an amount equal to the total financial benefit realized by the Consultant, at the time the financial benefit to the Consultant becomes ascertainable;

(3) the County reserves the right to retain a third-party consultant (the "Energy Efficiency Consultant"), to manage and administer the process of obtaining and monetizing the accelerated depreciation benefit derived from the Project and to designate the Energy Efficiency Consultant as the "Designer" of the energy efficient improvements for the purposes of Section 179D of the IRS Code; and

(4) the Consultant agrees to cooperate in all reasonable respects with the Energy Efficiency Consultant's efforts to obtain and monetize any such benefits derived from the Project on behalf of the County.

The County shall have no obligation to: (a) designate any entity the Designer; (b) pursue such benefits on behalf of the Consultant; or (c) cooperate with Consultant in securing these benefits.



- 3.31 **AMERICANS WITH DISABILITIES ACT STANDARDS:** The design of this project shall meet the standards delineated in the 2010 Americans with Disabilities Act Standards for Accessible Design.
- 3.32 **ACCOUNTS RECEIVABLE ADJUSTMENTS:** In accordance with Miami-Dade County IO No. 3-9, Accounts Receivable Adjustments, if money is owed by the Consultant 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 Consultant under this Contract. Such retained amount shall be applied to the amount owed by the Consultant to the County. The Consultant 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 Consultant for the applicable payment due herein.
- 3.33 NOT USED
- 3.34 **ASPIRATIONAL POLICY REGARDING DIVERSITY:** Pursuant to Resolution No. R-1106-15, County vendors are encouraged to utilize a diverse workforce that is reflective of the racial, gender and ethnic diversity of Miami-Dade County and employ locally-based small firms and employees from the communities where work is being performed in their performance of work for the County. This policy shall neither be a condition of contracting with the County, nor will it be a factor in the evaluation of solicitations unless permitted by law.
- 3.35 **DISPUTE RESOLUTION:** The Consultant hereby acknowledges that the Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: (i) questions as to the value, acceptability and fitness of the Services; (ii) questions as to either Party's fulfillment of its obligations under the Contract; (iii) questions as to the interpretation of the Scope of Services; and (iv) claims for damages, compensation and losses.
1. The Consultant 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 Consultant 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.
  2. The Consultant must, in the first instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Consultant and the Project Manager are unable to resolve their difference, either Party may initiate a dispute with written notice to the other Party in accordance with the procedures set forth in this Section. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.
  3. In the event of such dispute, the Parties authorize the County Mayor or County Major's

designee, who may not be the Project Manager or anyone associated with the Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on the account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof), and the decision of each with respect to matters within the County Mayor's purview as set forth above shall be conclusive, final and binding on the Parties. Any such dispute shall be brought, if at all, before the County Mayor within ten (10) Days of the occurrence, event or act out of which the dispute arises.

The County Mayor or County Mayor's designee may base the 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 Consultant'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 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 Consultant to the County Mayor for a decision, together with all evidence and other pertinent information regarding such questions, in order that a fair and impartial decision may be made. Whenever the County Mayor is entitled to exercise discretion or judgment or to decide or form an opinion pursuant to the provisions of this Sub-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 Consultant. Except as such remedies may be limited or waived elsewhere in the Agreement, Consultant acknowledges and agrees that it will utilize the procedures in this Sub-Article before initiating any action or proceeding. If the Consultant fails to do so, the Consultant has not exhausted its administrative remedies. Consultant reserves the right to pursue any contractual remedies available under law for alleged breach of the Agreement after exhausting the provisions of this Sub-Article.

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

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

## **ARTICLE 4**

### **BASIC SERVICES**

- 4.1 **START OF WORK:** No Services under this Agreement shall be performed by the Consultant prior to the receipt of an appropriate Service Order. Each Service Order shall specify the following:
- the scope of work, time of completion, deliverables, and total compensation for the services authorized;
  - the consequences for failure of the Consultant to meet the DSCMP and for non-performance as outlined in Sub-Article 8.7 of this Agreement; and
  - type of services to be provided, whether Basic Services, Additional Services or Work Site Services.

A Service Order may also be issued to stop the performance of such Services.

- 4.2 **BASIC SERVICES SCHEDULE AND SUMMARY:** The Consultant agrees to furnish or cause to be furnished to the extent authorized by Service Order all architectural and engineering professional services, as further specified below, designated as Basic Services, in the Phases delineated and described herein unless modified by the Service Order, for the design, Work Related Services, and satisfactory completion of the Project described in a Project Definition Book or as may otherwise be described in the Special Provisions of this Agreement. The Consultant shall be responsible for correction of any errors, omissions, and/or ambiguities, as determined by the Owner/Project Manager, resulting from the Services.

Upon receipt by the Consultant of a Service Order to proceed with one Phase of the Basic Services, the Consultant shall prepare and submit to the Owner, for its review and approval, a DSCMP that conforms to the Project and Phase durations contained in the schedule in the Special Provisions.

The Consultant is firmly obligated to complete the services in accordance with the approved DSCMP, and shall furnish sufficient personnel, equipment, and facilities and shall work such hours as necessary to assure such completion. The Consultant shall meet once per month with the Project Manager to review the Consultant prepared DSCMP, which will establish the basis of payment and the actions necessary to correct schedule deficiencies. The Consultant may request modifications to the DSCMP by submitting a written request to modify with supporting justification. It shall be at the Owner's sole discretion whether to grant such a modification.

Phases included within this scope of services include but not limited to:

- Phase 1 - Preliminary Engineering
- Phase 2 - Master Plan Development
- Phase 3 - Transfer Station Building, Administration Building and Scale Facility
- Phase 4 - ISD Maintenance Building
- Phase 5 - Customer Dropoff Area and Household Hazardous Waste Collection Center
- Phase 6 - Other Infrastructure Development (as needed)
- Phase 7 - Permitting and Bidding Services
- Phase 8 - Construction Management & Observation Services

- 4.2.1 The Consultant shall provide a detailed proposal for review and approval prior to starting each phase of this contract. The proposal shall include a detailed scope, schedule and budget for the phase requested along with a list of deliverables and assumptions made. The proposal shall follow all the guidelines of this PSA. The approved proposal would be used to create a service order for the phase.
- 4.2.2 The Consultant shall furnish or cause to be furnished all professional design services prescribed in the Special Provisions of this Agreement and all other services normally required for projects of this type.
- 4.2.3 The Consultant shall design facilities that have common boundaries, surfaces, spaces, or that otherwise interface with other facilities or operations being designed, constructed, or operated by others not a part of this Agreement and shall also include the coordination of such design.
- 4.2.4 The Consultant shall design interim/temporary facilities included in the Project Budget with the necessary associated facilities to accommodate operations, pedestrian and/or vehicular traffic, tenants or concessionaires, as needed during construction.
- 4.2.5 It shall be the responsibility of the Consultant to follow and be responsive to the technical and schedule guidance and oversight furnished by the Project Manager.
- 4.2.6 All services performed during various Phases of the Basic Services shall comply with and be in conformance with the Deliverables Requirements and the Design Guidelines . In addition, applicable Projects shall be designed so as to be able to achieve the LEED category stipulated in Article 9 “Special Provisions”.
- 4.2.7 The LEED AP shall develop and implement a LEED Certification Plan to monitor and document progress during design and construction. Implementation shall include, but not be limited to, the following through-out all Phases: coordinate and verify selected materials, actions, and systems are Project-appropriate and meet LEED credit criteria; collect, organize, and prepare documents required for LEED certification, and performance verification; and

register the Project with GBCI, providing follow-through in attaining the required level of LEED certification.

- 4.2.8 Throughout all Phases of the Basic Services, the Consultant shall coordinate its Services with other Owner provided consultants.
- 4.2.9 For all Phases of the Basic Services, the Consultant shall submit to the Owner the deliverables listed under the various Phases in the Deliverables Requirements Manual in the format approved by the Owner. In addition, the Consultant shall submit with each set of deliverables a complete listing of the items required to be delivered for that Phase, by discipline, and indicate which of those items are actually being submitted. For any items not being submitted, the Consultant shall submit either a written statement as to why such items are not being submitted as required or an approved waiver for the omission. The Owner reserves the right to reject all or part of any submittals that are not complete in their content as required herein. The Consultant shall be totally responsible for any additional costs resulting, from such rejections and shall not be compensated in any manner by the Owner therefore.
- 4.2.10 For all Phases of the Basic Services, the Consultant shall submit estimates of Probable Construction Cost, as described in the Definitions. The estimates are to be prepared by a Professional Construction Estimator. Compensation to the Professional Construction Estimator shall be the sole responsibility of the Consultant and shall be considered part of the Consultant's compensation for Basic Services. As part of its Probable Construction Cost, the Consultant shall assist the Owner in identifying Project Elements that are eligible for Federal/State grant-in-aid participation. The Consultant shall assist in reviewing applications prepared by the Owner and the Project Manager. If meetings with grant agencies are required, attendance at such meetings will be compensated by the Owner as Additional Services.
- 4.2.11 To the extent authorized by Service Order, Submittals for all applicable Phases shall include a "Project LEED points estimate" and narrative, as appropriate, describing the materials, actions, and systems being incorporated in the Project to attain the stated LEED certification category.
- 4.2.12 Throughout all Phases of the Basic Services, all drawings shall be produced electronically using AUTOCAD software which shall be within two (2) years of the latest release. The Consultant must submit all original working drawings in an electronic vector format with an AUTOCAD drawing extension ".dwg". Within the drawing, all external reference files must be bound into one file that represents each of the drawings (hardcopy/prints) in the construction document set. With each submittal, all supporting electronic files, such as images, fonts and line types, shall be included with the drawings. All drawings must comply with and use a layering format adopted by the Owner.

- 4.2.13 The Owner retains all rights to further use of all electronic drawings as well as blocks, linotypes, layering convention and any other information contained in the electronic drawings that are needed to reproduce the drawings in the construction document set. If another software package is used to produce the drawings, the A/E is responsible for the conversion to an AUTOCAD format as stated above and must fix any anomalies in the electronic drawing before submitting the electronic drawings and submit all drawings utilizing the Owner's drawing layer scheme. This information can be obtained through DSWM Technical Support.
- 4.2.14 The Consultant shall submit hard and electronic format, as specified herein or otherwise by the Owner, copies of all documents required under each Phase for review, comments, and approval by the Owner. The number of copies and the distribution of those copies shall be specified in the Service Order for each Phase.
- 4.2.15 The electronic submittal required under this Agreement shall be in a format acceptable to the Owner and shall generally consist of the digital plot files and digital working files as indicated above and shall be organized and submitted on flash drive compatible with Owner's "Windows" operating system. This information can be obtained through DSWM Technical Support.
- 4.2.16 At the end of each Phase the Consultant shall, through the Project Manager, schedule a review(s) of all plans and programs with the user representatives of the Owner.
- 4.2.17 Recognizing that the construction of other projects at the facility may affect scheduling of the construction for each Project Element or components thereof, the Consultant shall diligently coordinate the performance of the Services with the Owner and its designees in order to provide for the safe, expeditious, economical, and efficient completion of the Project, without negatively impacting concurrent work by others or the facility operations.
- 4.2.18 To the extent authorized by Service Order, a formal Value Analysis/Engineering ("VA/E") study will be conducted at the end of all applicable Phases as determined by the Owner. The Consultant shall assist as directed by the Project Manager in the VA/E process.
- 4.2.19 The Consultant shall have a written design quality management program related to Construction Contract Document preparation and Work Related Services that details the methods and procedures that will be taken to assure that all services required by this Agreement conform to the required professional quality, technical accuracy, completeness, performance, and coordination of all work under the Agreement (including the work performed by Sub-consultants). Such program shall be submitted to the Owner within seven (7) Days after the Owner issues the first Service Order under this Agreement. The Consultant shall make all adjustments to the program deemed necessary by the Owner. The design

quality management program, as adjusted, shall be implemented throughout the entire design and construction process.

- 4.2.20 The Consultant's Probable Construction Cost (including construction contingency allowance), broken down by specification sections or unit prices, shall include any adjustments Consultant understands may be necessary for projected award dates, changes in requirements, or general market conditions. Service Orders to proceed with applicable Phases may not be issued if the Probable Construction Cost, as submitted by the Consultant, exceeds the total Owner allocated funds for the construction of the Project. No further progress payment shall be made should the Probable Construction Cost in any Phase exceed the Project Budget, until: (i) an alternate design is provided at no additional compensation, to bring the cost within the Project Budget limitations; or (ii) a change order which addresses and satisfies the Probable Construction Cost overrun has been approved by the Board.
- 4.2.21 To the extent authorized by Service Order, the Consultant shall provide a CSI formatted cost loaded construction schedule that conforms to both the latest Probable Construction Cost and the Work Sequencing and Staging Plan. The cost loaded schedule shall be updated at each Phase. The level of detail of the cost loaded schedule at each Phase shall be commensurate with the level of detail of the latest Probable Construction Cost.
- 4.2.22 Commissioning Plans: To the extent authorized by Service Order, The Consultant shall develop a commissioning plan in conformance with the current edition of the "DSWM Construction Contracts General and Legal Provisions and Division 1/Commissioning for Facilities Projects" and the Design Guidelines Manual.

#### 4.3 DESIGN DEVELOPMENT

- 4.3.1 Upon receipt from the Owner of a Service Order for a Phase, the Consultant shall prepare Design Development documents. The Design Development documents shall consist of Drawings, Outline Specifications, Work Sequencing Schedules, and other documents as may be necessary to fix and describe the size and character of the systems and components to be included in the Project. The systems, components, and associated controls shall integrate with and be of like character to those typically found in similar projects unless otherwise specifically approved by the Owner in writing.
- 4.3.2 The Owner, though, reserves the right to direct that the Project be divided into as many contracts as required by operational constraints, tenant or lessees needs, adjacent project scheduling, or other reasons as determined by the Owner.
- 4.3.3 Upon receipt from the Owner of a Service Order, the Consultant shall participate in a Value Analysis ("VA"), including Life Cycle Cost Analysis, lasting

approximately seven (7) Days. The Consultant will provide documents, make an opening presentation relative to the contents of those documents, respond to questions posed. Recommendations agreed to and required by the Owner will be incorporated by the Consultant into the design documents.

In performing the VA, the Consultant will be mindful of the required LEED certification level, and the Consultant shall address the benefits and drawbacks of any proposed system, item, or element to be the basis of the LEED certification, and shall be knowledgeable of alternatives available in order to ensure the attainment of that certification.

4.3.4 The Consultant shall prepare exhibits required to convey the intent of the design during presentation to the Owner for Owner's review. The Consultant shall resolve all comments, including a follow-up presentation(s) if required. Design Development drawings shall specifically note areas, systems, and/or items necessary for conformance to the required Project LEED certification category. If applicable, the Project LEED points estimate shall be updated at every submission and coordinated with the Probable Construction Cost estimate and the LEED Certification Plan. The Project LEED points estimate shall be realistic and not less than the top three (3) points specified in the certification category for the Project.

4.3.5 The Consultant shall also, to the extent applicable based on refinements and amplifications effected during the Design Development phase, review pertinent documents with the agencies having permitting or other approval authority with respect to the Project, including those agencies previously consulted above, to obtain the reviews of such agencies. The Consultant shall report in writing the findings of such reviews with said agencies and provide recommendations for approval by the Owner relative to such findings for implementation by the Consultant.

#### 4.4 CONTRACT DOCUMENTS

##### 4.4.1 30% Contract Documents

4.4.1.1 Upon receipt of a Service Order for each Phase, the Consultant shall prepare the 30% Contract Documents.

4.4.1.2 Using the documents prepared under this Article, the Consultant shall submit for review the necessary portions of the Contract Documents to the authorities, including but not limited to, County, State, and/or Federal, having jurisdiction over the Project by law or contract with the County.

4.4.1.3 The Consultant shall submit 30% Contract Documents for review and comments by the Owner. The 30% Contract Documents submittal shall apply to all applicable disciplines including, but not limited to, architectural, structural, mechanical/HVAC/plumbing/fire protection,



electrical, and civil. The 30% Contract Documents submittal shall include CSI Divisions 1 through 16. The 30% Contract Documents submitted shall also include updates to the Project Probable Construction Cost. These updates shall be based upon the approved size and character of the components of the Project Elements. If the Probable Construction Cost is higher than the Owner's Construction budget, no further progress payment shall be made until: (i) the Consultant provides an alternate design at no additional compensation, to bring the cost within the Project Budget limitations; or (ii) a change order which addresses and satisfies the Probable Construction Cost budgetary overrun has been approved by the Board. The Owner may direct the Consultant to modify without additional compensation, the 30% Contract Documents to bring the Probable Construction Cost within or below the Owners Construction budget. The Consultant shall not proceed with the following 75% Contract Documents until appropriate written approvals and comments on the deliverables and a Service Order are received from the Owner. All comments shall be addressed. The Consultant understands that such approvals, comments, and Service Order may be received individually and at different times. For LEED certified projects, the Consultant shall prepare and include drawings and specifications of each discipline identifying the specific elements that will qualify for LEED points, as well as the LEED point estimate. Specific areas, items, and elements that contribute to the Owner-required LEED category shall be listed, keyed, or otherwise highlighted for review purposes.

4.4.1.4 The Consultant shall, to the extent applicable based on refinements and amplifications effected during this Phase, review pertinent documents with those agencies having permitting or other approval authority with respect to the Project, including agencies previously consulted by the Consultant, in order to obtain changes in the opinions, comments, and suggestions of those agencies with respect to such refinement and amplifications. The Consultant shall report in writing to the Owner, for approval by the Owner, the findings of such reviews with said agencies and its recommendations relative to such findings for implementation by the Consultant.

#### 4.4.2 75% Contract Documents

The Consultant shall prepare the 75% Contract Documents from the approved 30% Contract Documents.

4.4.2.1 Using the documents prepared under this Article, the Consultant shall submit for review the necessary portions of the Contract Documents to the authorities including, but not limited to, County, state, and/or federal, having jurisdiction over the Project by law or contract with the County. Said documents shall be sufficient to be permitted as applicable by such authorities. The Consultant shall assist the Owner in coordinating with the Building Department to facilitate permit approval prior to approval by

the Owner of the 100% complete Review Set and printing of the Contract Documents.

- 4.4.2.2 The Consultant shall develop a coordinated plan of execution for this Phase, which will include an outline, or index, of the contents of the Contract Documents along with a schedule(s) for completion.
- 4.4.2.3 The Consultant shall prepare Plans in a manner that will ensure clarity of line work, notes and dimensions when reduced to 50 percent of the original size. After acceptance by the Owner, the Plans shall become part of the Contract Documents. The Technical Specifications shall provide that a system of quality control and quality assurance be a requirement of the work. The quality control and quality assurance system shall provide the procedures to be used by the Consultant and the Consultant to assure that the quality of all materials, equipment systems, and furnishings function as intended and are equal to or better than called for in the specifications.
- 4.4.2.4 The 75% Contract Documents submittal shall apply to all applicable disciplines including, but not limited to, architectural, structural, mechanical/HVAC/plumbing/fire protection, electrical, and civil. The 75% Contract Documents submittal shall include CSI Divisions 1 through 16. The 75% Contract Documents submitted shall also include updates to the Project Probable Construction Cost. These updates shall be based upon the approved size and character of the components of the Project Elements as developed in the approved 30% Contract Documents. If the Probable Construction Cost indicates that the Project cost shall be more than the Owner's Construction budget, the Consultant shall provide an alternate design, without additional compensation and without changing the scope of the Project, to bring the Probable Construction Cost within or below the Owners Construction budget.. No further progress payment shall be made until: (i) the Consultant provides an alternate design at no additional compensation, to bring the cost within the Project Budget limitations; or (ii) a change order which addresses and satisfies the Probable Construction Cost budgetary overrun has been approved by the Board. For LEED certified projects, the Consultant shall prepare and include drawings of each discipline identifying the specific elements that will qualify for LEED points. Specific areas, items, and elements that contribute to the Owner-required LEED level shall be listed, keyed, or otherwise highlighted for review purposes.
- 4.4.2.5 To the extent authorized by Service Order, the Consultant shall participate in a follow up VA/Life Cycle study/critique/constructability after submission of 75% Construction Documents. Participation shall be as necessary to assure that the Owner approved recommendations from the VA have been incorporated and that any additional recommendations from this VA are fully understood and will be incorporated into the Contract Documents.

#### 4.4.3 100% Contract Documents

4.4.3.1 The Consultant shall prepare the 100% Contract Documents from the approved 75% Contract Documents and shall produce the submittals as more fully detailed in the Deliverables Requirements Manual.

1. The Consultant shall submit all documents required under 100% Contract Documents for review and comments by the Owner. The 100% Contract Documents submittal shall apply to all applicable disciplines including, but not limited to, architectural, structural, mechanical/HVAC/plumbing/fire protection, electrical, and civil. The 100% Contract Documents submittal shall include CSI Divisions 1 through 16 and DSWM Division 0. The 100% Contract Documents submitted shall also include updates to the Project Probable Construction Cost. These updates shall be based upon the approved size and character of the components of the Project Elements as developed in the approved 75% Contract Documents. If the Probable Construction Cost indicates that the Project cost shall be more than the Owners Construction budget. No further progress payment shall be made until: (i) the Consultant provides an alternate design at no additional compensation, to bring the cost within the Project Budget limitations; or (ii) a change order which addresses and satisfies the Probable Construction Cost budgetary overrun has been approved by the Board. without changing the scope of the Project, to bring the Probable Construction Cost within or below the Owners Construction budget. The Owner may direct the Consultant to modify without additional compensation, the 100% Contract Documents to bring the Probable Construction Cost within or below the Owners Construction budget. The Consultant shall not proceed with the following Bid Documents until appropriate written approvals and comments on the deliverables are received from the Owner. All comments shall be addressed. The Consultant understands that such approvals, comments and Service Order may be received individually and at different times. For LEED certified projects, the Consultant shall prepare and include drawings of each discipline identifying the specific elements for LEED points that are required by the technical specifications to meet the necessary criteria.

#### 4.5 BID DOCUMENTS

4.5.1 After review by the Owner of the 100% Contract Documents, the Consultant shall respond to all comments in writing within seven (7) Days after receipt of the comments from the Owner, acknowledging acceptance of the comments(s) which will be incorporated into the documents, and identifying the rejection of those comments not to be incorporated as approved by the Owner.

- 4.5.1.1 The Consultant shall assemble and submit a consolidated set of 100% Contract Documents for back-check by the Owner. This set will reflect the revisions required after the 100% review by the Owner.
    - 4.5.1.2 The Consultant shall recommend and justify to the Owner the overall Project Contract Time, Phasing, Interim Completion Time(s), the amounts of liquidated damages, liquidated indirect costs, and the amount of Allowance Account(s) to be incorporated in the Contract Documents.
  - 4.5.2 Upon final approval of the 100% Contract Documents by the Owner and the receipt of a Service Order, the Consultant shall prepare the Advertisements for Bids, the Bid Forms, and finalize the Contract Documents to a condition suitable for final printing and distribution to prospective bidders. These 100% complete Contract Documents shall be submitted to the Owner for approval.
  - 4.5.3 Project registration with GBCI for certification shall be undertaken or updated, as appropriate.
- 4.6 BIDDING AND AWARD OF CONTRACT
- 4.6.1 Upon approval of the 100% Complete Contract Documents and the issuance of a Service Order by the Owner, the Consultant shall furnish the number of bound sets of the 100% complete Contract Documents (Plans and Project Manuals) as specified in the Service Order for bidding purposes, prior to advertising, or as may otherwise be directed by the Owner by the Service Order. The Consultant shall assist the Owner in obtaining bids, responding in writing to bidders' inquiries, preparation and issuance of addenda, evaluation of the Bids and Bidders, and the awarding of a contract(s) for all or a portion of the Work that was bid pursuant to the Contract Documents. The Consultant shall also participate in pre-bid conference(s) and attend the Bid opening.
  - 4.6.2 The Consultant shall distribute the Contract Documents to prospective Bidders and to other agencies as required by the Owner, in accordance with current Owner bidding procedures, as such procedures may be amended from time to time. Delivery cost to Bidders shall be paid by the Bidders.
  - 4.6.3 The Consultant shall, with prior approval and authorization by the Owner, develop, print, and distribute addenda and responses to bidder's inquiries.
  - 4.6.4 The Consultant shall: (a) prepare three (3) sets of Contract Documents in hardcopy format, and two (2) sets in a commercially available software, editable electronic format (flash drives), conformed with Addenda (if any) pasted or included therein for use by the Owner; (b) prepare a tabulation of bids received; (c) analyze the bids; and (d) make an initial recommendation of award. The award of the contract will be at the sole discretion of the Owner. Such action by the Owner shall not relieve the Consultant from any responsibility under this Agreement.

- 4.6.5 If the lowest qualified, responsive and responsible bid received exceeds the approved Probable Construction Cost, the Owner may at its discretion:
1. approve the increase of the cost of the Work that was bid pursuant to the Contract Documents; or
  2. direct the Consultant to revise the Contract Documents, without changing the scope of the Project, and re-bid the Work included in the revised Contract Documents (in which case the Consultant shall again perform the work specified herein before, for additional compensation, including for the reimbursement of the cost of printing of Contract Documents, except where the Consultant's services are not in accordance with the required standard of care); or
  3. suspend or abandon the Project or any components of the Work included in the Contract Documents.
- 4.6.6 Upon award of the Contract by the Owner and notification from Owner to the Consultant that the Contract be executed, the Consultant shall assemble, prepare, and transmit to the Owner six (6) sets of the bidding and Contract Documents, complete with all addenda, forms, and affidavits required by the Contract Documents.

#### 4.7 WORK RELATED SERVICES

- 4.7.1 Upon receipt of a Service Order for Work-Related Services, the Consultant shall provide the Services as set forth herein. The Work-Related Services will begin upon receipt of a Service Order. The Work-Related Services will end when the final request for payment from the Consultant has been approved by the Owner, the Consultant has submitted its Report of Contract Completion, and the Record Drawings (As-Built Drawings) and has completed all other Services required, including the warranty related services.
- 4.7.2 The Consultant shall provide the Owner a staffing plan including individual resumes that the Consultant, including Sub-Consultant(s), intends to use during the Work-Related Services for review by the Owner for adequate staffing.
- 4.7.3 The Consultant shall submit or otherwise affirm that it has submitted all necessary and requested data to GBCI for the attainment of the LEED certification category requested by the Owner.
- 4.7.4 The Consultant shall approve or take such other appropriate actions regarding the overall progress schedule, schedule of shop drawings submissions, schedule of values, and other schedules required of the Consultant under the Contract Documents. The Consultant shall visit the Work at least once per week, evaluate the work for compliance with the Contract Documents, prepare and submit to the Owner, via the Project Manager with copies to the Field Representative, a detailed written and sequentially-numbered report of the observed conditions of the Work,

the progress of the Work, and other Work observations, as found or made during each visit to the Work. Such report shall be submitted to the Owner at least monthly and more frequently on an interim basis if necessary to prevent or mitigate any increase in Project costs or damages to the Owner. The Consultant will not be held responsible for the means, method, techniques, sequences or procedures used, or for safety precautions and programs, in connection with the Work performed by the Consultant, but shall immediately report to the Owner any observations of conditions which in his judgment would endanger persons or property or which might result in liabilities to the Owner.

- 4.7.5 Appropriately qualified personnel of the Consultant, including Sub-consultant(s) if appropriate, shall visit the Work at least once per week, unless otherwise specified in the Special Provisions of this Agreement, Service Order and as necessary to fulfill the responsibilities of the Consultant hereunder and in order to respond to non-routine situations that call for the Consultant's expertise and /or approval in an expeditious manner. Such personnel shall coordinate with the Field Representative work-site personnel.
- 4.7.6 The Consultant shall review and certify the amounts due the Consultant and issue Certificates for Payment in such amounts. The Consultant's certification for payment shall constitute a representation to the Owner, based on the Consultant's evaluation of the Work and on the data comprising the Consultant's Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Consultant's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to minor deviations from the contract documents correctable prior to completion and to specific qualifications indicated by the Consultant. Such certification shall be based on the Consultant's review and acceptance of the following:
1. An evaluation of the Work for conformance with the Contract Documents.
  2. The Field Representative's certification of the Consultant's measurements for work satisfactorily completed.
  3. The results of any subsequent test required by the Contract Documents.
  4. The review of as-built drawings to determine completeness and accuracy up to the date of the pay request.
  5. Any specific qualifications stated in the request for payment.
  6. The Field Representative's confirmation of the cost of labor, materials, and equipment for cost-plus work including disputed work.
  7. Compliance with all LEED required activities. The review of the Consultant's LEED Certification Plan for compliance regarding inventory and receipt of

action documentation, including but not limited to, construction waste management, use of reduced impact materials, temporary storage of recyclables and discarded items, refrigerants, etc., necessary to attain maximum possible LEED certification points, up to the date of the pay request.

- 4.7.7 The Consultant shall assist the Project Manager, the Field Representative, and other consultants in reviewing and evaluating all Consultant's claims relating to the cost, execution, and progress of the Work and on all other matters or questions related thereto including, but not limited to, change orders, work orders and potential work orders.
- 4.7.8 The Consultant shall have authority to require special inspection or testing of any Work questioned as to conformity with the Contract Documents whether or not such Work has been fabricated and delivered to the Project, or installed and completed.
- 4.7.9 The Consultant shall provide general consultation and advice, interpret the Plans Specifications, and other such Contract Documents in order to clarify the intent of the Consultant with respect to the contents of the Contract Documents.
- 4.7.10 The Consultant shall promptly review and approve shop drawings, samples, and other submissions of the Consultant(s) for conformance with the design concept of the Project Element(s) and for compliance with the information given in the Contract Documents. The Consultant shall render decisions, issue interpretations, and issue correction orders within the times specified in the Contract Documents or, absent such specification, on such timely basis so as not to delay the progress of Work as depicted in the approved construction schedule.

Should the Consultant fail to perform these services within the time frames specified in the Contract Documents or, if no time frames are specified, in a timely manner, so that such failure causes a delay in the progress of the Work, the Consultant shall be liable for damages to the Owner resulting from such delay, including inefficiencies incurred by the Consultant for which the Owner may be responsible. The Consultant shall revise Plans, specifications and other Contract Documents as necessary, shall review Change Orders, Work Orders, Bulletins, and other appropriate documentation prepared by the Field Representative, and shall assist the Project Manager and Owner in negotiations with the Consultant(s) with respect to all changes in the Work. If the need to revise Plans, specifications and other Contract Documents and/or to review Change Orders, Work Orders, Bulletins, and other documentation is a result directly or indirectly of errors, omissions, and/or ambiguities in the Services rendered by the Consultant, including Sub-consultants, then such work shall be provided by the Consultant at no additional cost to the Owner.

- 4.7.11 The Consultant's Services for Substantial Completion and Final Acceptance shall include, but not be limited to, the following:

- 4.7.11.1 Inspections for Substantial Completion for all or a portion of the Work: The Consultant shall, prior to Substantial Completion of the Work, inspect the Work with the Field Representative, to determine initial Punch List items and to ensure that all mechanical/electrical/plumbing systems have been commissioned in accordance with the requirements of the Contract Documents. The Consultant shall re-inspect the work with the Field Representative as many times thereafter as is needed to establish a time of Substantial Completion. The Consultant shall review each edition of the Punch List before it is issued by the Field Representative. Each edition of the Punch List will be distributed by the Field Representative after review by the Consultant. Any user contributions to the Punch List shall be only as approved by Owner. Punch Lists shall record:
1. defects observed in the Work and incomplete commissioning in first and succeeding visits; and
  2. defects corrected (recorded by striking items from the punch list or by identifying items as corrected).
- 4.7.11.2 Consultant's Closeout Submittals and Actions: The Consultant shall review the Field Representative's record of closeout submittals and actions for concurrence.
- 4.7.11.3 Determination of Substantial Completion: When the Punch List of defective items has been reduced to the point at which, in the judgment of the Consultant and Field Representative, the Work can be immediately utilized for its intended purpose, division of responsibility for carryover items from the Consultant to the Owner has been set forth, and all Punch List items are judged to be capable of completion in not more than 60 days or such other time as may otherwise be approved by the Owner, upon recommendation by the Field Representative, the Consultant shall review, concur, and upon approval by the Owner, set the date of Substantial Completion.
- 4.7.11.4 Certificate of Occupancy: If a Certificate of Occupancy is required on this project, the Consultant and Field Representative shall not certify the Work as substantially complete until a Certificate of Occupancy has been issued in accordance with the Florida Building Code.
- 4.7.11.5 Determination That the Work Is Not Substantially Complete: If the required submittals and actions by the Consultant are deficient, or if in the judgment of the Field Representative and/or the Consultant the Work will not be ready for final acceptance within the time parameters specified herein, the Consultant shall notify the Project Manager, the Field Representative and the Consultant in writing that Substantial Completion cannot be declared, and include a list of deficient



Consultant's submittals, deficient Consultant's actions, defective or incomplete items in the Work, and any other supporting reasons the Field Representative and/or the Consultant may wish to state.

- 4.7.11.6 Retainage for Uncompleted Work: The Consultant shall review and concur with the Field Representative's recommendation of an amount that will ensure that the Owner can employ other Consultants to complete each item of work in the event of the Consultant's failure to complete. Upon approval by the Owner, this retainage for uncompleted work shall be deducted from the retainage amount otherwise due the Consultant at the time of Substantial Completion. Retainage for uncompleted work will not be paid until the Consultant completes all uncompleted items.
- 4.7.11.7 Final Acceptance: When, in the judgment of the Field Representative and the Consultant the Work is complete, the date of Final Acceptance shall be set by the Owner.

4.7.12 The Consultant's Services after Final Acceptance shall include, but not be limited to, the following:

- 4.7.12.1 The Consultant shall furnish to the Owner at the Consultant's expense a final, complete, and fully updated record set of documents. The record drawings shall be submitted in the following formats:
  - A. Two (2) sets of 30" x 42" Electrostatic black line prints.
  - B. Two (2) sets of electronic drawings.

Based on submission date the .DWG version must be within two (2) years of the AutoCad version currently being shipped. Any of the following transmission methods are acceptable: CD, DVD, or external hard drive.

In compliance with the DSWM Technical Support Facility Management Layering System requirements in DWG compiled format, not X-REF. Please refer to the DSWM CAD Standards Guidelines (DSWM Design Guidelines Manual available through the DSWM Project Manager.

If manual drafting was approved by the Owner, the record drawings shall be scanned into an electronic TIFF or CAL file format.

- C. Building Information Modeling ("BIM") – To the extent authorized by Service Order, the A/E shall employ the use of BIM technology utilizing Autodesk Revit software.

The record drawings shall be presented to the Project Manager for transmittal of one copy of each format, through the Commissioning

Team, to the designated representatives of the DSWM Division of Technical Support.

- 4.7.12.2 The complete set of Record Drawings shall include all pertinent shop drawings as well as the Plans included in the Contract Documents as adjusted to comply with the as-built Work. The Consultant shall verify that all Record Drawings prepared by the Consultant are prepared in a manner that will ensure clarity of line work, notes, and dimensions. The Consultant shall provide a certification of the quality of all equipment and systems that are a part of the finished work.
- 4.7.12.3 The Consultant shall furnish to the Owner in an electronic data base (Microsoft Excel 2000 or higher) an index, summary, and copies of all warranty documents required to be furnished by the Consultant under the consolidated Contract Documents. The Field Representative and Consultant will be responsible for providing an index and summary list of the equipment by serial number and indicate for each the warranties, the term, conditions, and the purported legal enforcement and recourse rights of the Owner as indicated by the language in the Warranty. This list shall be reviewed by the Consultant.
- 4.7.12.4 To the extent authorized by Service Order, the Consultant shall inspect the entire Project thirty (30) Days prior to the expiration of the warranties. The Consultant shall report its findings to the Owner sufficiently prior to the end of the warranty period to enable the Owner to issue an action report to the Consultant prior to the expiration of the warranty period. The Consultant's report shall be complete with specific recommendations covering any portion of the Work to be repaired or replaced.
- 4.7.12.5 In addition to the requirements set forth above, the Consultant shall perform those duties of the Consultant as set forth in the Contract Documents.
- 4.7.12.6 LEED Certification Documents: The Consultant shall furnish to the Owner copies of the LEED Certification Documents necessary to obtain the required LEED certification category; provided, however, Consultant is not responsible for the failure to obtain a LEED certification category where such failure is cause by the Owner not timely providing the requisite LEED information or documentation.. The format of the documentation shall be as required by the certifying body, and shall encompass such necessary design, material selection process, Plans and details Consultant's purchasing criteria, proof of purchase locations, site practice requirements and implementation documentation, and list(s) of qualifying elements. This material shall be organized, reviewed, and approved by the Consultant as adequate in form and substance for submittal to the certifying body. The Consultant shall also make the

application to the certifying body for certification, for review and submittal to the certifying body.

#### 4.8 MEETINGS AND REPORTS

- 4.8.1 Meetings: As part of providing the Basic Services, the Consultant shall attend all meetings wherein information relating to the Basic Services is discussed, and shall provide consultation to the Owner regarding such information. These meetings shall include, but shall not necessarily be limited to, regularly scheduled monthly meetings concerning design coordination, and such other meetings, whether regularly scheduled or specially called, as may be necessary to enable the Consultant to coordinate its Services with, and provide information to and/or obtain information from, the Owner, its consultants and Consultants, and all others with whom coordination or liaison must take place in order to fulfill the intent and purposes of this Agreement and the Contract Documents. Unless otherwise directed by the Owner, the Consultant shall prepare and disseminate in a timely manner meeting notices and agenda, briefing materials, meeting minutes, and meeting reports, appropriate to such meetings.
- 4.8.2 Reports: In addition to any specific reports called for elsewhere in this Agreement, the Consultant shall submit to the Owner a monthly progress report of the status and/or results of all Services required to be performed under this Agreement. This Report shall be submitted with the invoice for Services performed during the corresponding period. Each report shall include but not be limited to: a brief narrative the progress made during the previous month and the estimated incremental and total percentages of each assigned Project Element which have been completed; any problem(s) encountered during the month and any actions taken to solve or alleviate the problem(s); any changes which may have occurred in the projected dates of the events; a statement from the Consultant as to each Project Element that the Project is either on schedule or the Project Element is not on schedule and should the latter be stated, then the Consultant shall also state the length of delay and the reasons for the delay. The Consultant shall explicitly state recommendations for alleviating the delay and in subsequent monthly progress reports state whether or not the delay has been alleviated. Such report shall also relate the aggregate services performed to the total compensation paid and payable to the Consultant hereunder for each Phase of the Basic Service as set forth in the corresponding invoice for payment.
- 4.8.2.1 Status of Project LEED elements and requisite documentation shall be stated, along with recommendations to correct noted problems or deficiencies.
- 4.8.3 Partnering: the Owner has committed itself to the practice of partnering, a team commitment to create an environment in which design and construction differences are dealt openly, with members of the design and construction team taking responsibility for timely and cost-conscious performance. The process will start with key participants of the Project team, including Consultant's personnel,

attending a Partnering Meeting to establish terms of the partnering agreement. The meeting will enable the Project team to establish methods of issue/conflict resolution, delegate authority for decision making to the lowest possible level, and develop a continuous evaluation process. Follow-up meetings with the facilitator will be held as necessary during the construction to spur the Project's on-schedule completion.

## **ARTICLE 5**

### **ADDITIONAL AND WORK-SITE SERVICES**

- 5.1 **AUTHORIZATION:** Any Services beyond the requirements for Basic Services shall be performed by the Consultant upon receipt of a Service Order issued by the Owner. The Owner reserves the right to have any or all of the Services listed below performed by consultants other than the Consultant. The Consultant shall have no claim to any of these Services except as authorized by the Owner with a Service Order.
- 5.2 **ADDITIONAL SERVICES:** Additional Services listed below are beyond the requirements for Basic Services under this Agreement and shall be performed upon receipt of a Service Order.
- 5.2.1 Special analyses of the needs of the Owner related to financial feasibility, or other special studies not otherwise necessary for the satisfactory performance of the Basic Services.
- 5.2.2 Incorporation of any user recommendations, as approved by the Owner, into drawings.
- 5.2.3 Any Services after Owner's acceptance of documents by the Owner relative to future facilities, systems, and equipment but not intended to be included in the Contract Documents.
- 5.2.4 Services with respect to verification of Owner-supplied information that cannot be made visually or by careful review of the available information, but which requires extraordinary investigation, such as excavation, demolition or removal, as well as investigations and the development of additional information, as agreed to by the Owner, required as a result of deficiencies in the as-built conditions, utility information, survey information and/or soils investigation which are deemed necessary to provide a satisfactory basis on which to perform the Basic Services.
- If any independent engineering, testing laboratory or surveyor is employed by the Consultant to perform any or all of the requested additional services, the Consultant shall obtain the Owner's approval of the use of and the fees for such independent engineering, testing laboratory or surveyor prior to commencing such work. Verification of the work performed by such Sub-consultant(s) and the cost associated therewith shall be the sole responsibility of the Consultant and not compensable by the Owner.
- 5.2.5 Extra work required, as directed by the Owner, to break the Project into more bidding packages than specified herein, including making studies and advising the Owner of the number and type of construction contracts, taking into consideration phasing and coordination of work with the Consultants, cost impact, and the requirements and needs of the Owner and users (if applicable).

- 5.2.6 Meetings with federal and/or state grant providing agencies required to assist the Owner in obtaining grant funding for the Project.
  - 5.2.7 Extended assistance requested in writing by the Owner for the preparation of operating and maintenance manuals, other than those provided by the Consultant, Sub-consultants, or manufacturer, in accordance with the Contract Documents.
  - 5.2.8 Consultation concerning replacement of any work damaged by fire or other disaster during construction, and professional services in connection with replacement of such work.
  - 5.2.9 Preparing to serve or serving as an expert witness at the request and on behalf of the Owner, in connection with the Project or any Project Element or component thereof, except in situations where such service is a result of the Consultant's errors, omissions, or ambiguities.
  - 5.2.10 Professional services required after acceptance of the Work by the Owner except as otherwise required under Basic Services.
  - 5.2.11 Professional services made necessary by the default of the Consultant or by major defects in work performed under the construction contract that have not resulted from errors, omissions, or ambiguities of the Consultant.
  - 5.2.12 Environmental services beyond that which is required to verify Owner supplied information or that is beyond the scope of the Basic Services herein.
  - 5.2.13 Environmental Remediation engineering services. These services will be negotiated, authorized, and paid as Additional Services; however, the incorporation of standard details and/or technical specifications provided by the Owner into the Contract Documents does not constitute Additional Services.
  - 5.2.14 Services required to participate in, or otherwise assist the Owner during bid protests or negotiations with the bidder(s) after bid opening but before the award of the Contract with the Consultant.
  - 5.2.15 Preparation of reports, which are not a requirement of Basic Services, and participation in meetings during construction, should the Owner elect not to take the option for Work-Site Services; provided, however, that such meetings and reports are not a result, directly or indirectly, of errors, omissions, and/or ambiguities in the services rendered by the Consultant, including Sub-consultants engaged by the Consultant.
- 5.3 **WORK-SITE SERVICES:** At the sole option of the Owner and after receipt of a Service Order specifically authorizing such Services, the Consultant shall provide Work-Site Services as set forth herein. In discharging such Services, the Consultant shall provide an on-site resident Field Representative(s) approved by the Owner who shall act as the agent of the Consultant.

The Consultant shall fulfill all other requirements and duties, not a part of the Basic Services, imposed on the Consultant by the Contract Documents or through Service Order by direction of the Owner.

Should the Consultant fail to perform these services within the time frames specified in the Contract Documents or, if no time frames are specified, in a timely manner, so that such failure causes a delay in the progress of the Work, the Consultant shall be liable for damages to the Owner resulting from such delay, including inefficiencies incurred by the Consultant for which the Owner may be responsible.

## **ARTICLE 6**

### **REIMBURSABLE EXPENSES**

The following activities and entities may be considered as Reimbursable Expenses under this Agreement. Any Reimbursable Expenses shall be approved by the Owner in advance and authorized by a Service Order.

- 6.1 Sub-consultants not included as part of the original Consultant's team, when recommended by the Consultant, and approved by the Owner in writing, and when in the opinion of the Consultant, said Sub-consultant services are necessary of the accomplishment of the Services.
- 6.2 All printing and reproduction costs, in excess of that required under Basic Services. Such costs will be reimbursed at the same rate paid by the Owner to its vendors. Printing costs for internal coordination, reviews, and other in-house uses will not be reimbursed.
- 6.3 Living and traveling expenses of employees and principals, when away from Miami-Dade County on business in conjunction with authorized Additional Services, as limited by A.O. No. 6-1, "Travel on County Business" and Resolution No. R-1345-03. For purpose of this Agreement, all personnel are assumed to be residents of Miami-Dade County and all travel would originate in Miami-Dade County. Records must include employee name, dates, points of travel, mileage rate, lodging, and meals.
- 6.4 Fees paid to the certifying body for LEED project registration and certification will be reimbursed at the GBCI member rates. All LEED expedited project reviews will be approved in advance by the Owner.
- 6.5 BIM software license fees for license obtained under the Owner's name will be reimbursed.



## **ARTICLE 7**

### **EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION**

- 7.1 **EQUAL EMPLOYMENT OPPORTUNITY:** The Consultant shall not discriminate against any employee or applicant for employment because of race, color, national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression or status as victim of domestic violence, dating violence or stalking, nor in accordance with the Americans with Disabilities Act, discriminate against any otherwise qualified employees or applicants for employment with disabilities who can perform the essential functions of the job with or without reasonable accommodation. The Consultant shall take affirmative actions to ensure that applicants are employed and that employees are treated during their employment without regard to race, color, national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression or status as victim of domestic violence, dating violence or stalking. Such actions include, but are not limited to, employment, upgrading, transfer or demotion, recruitment, recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices provided by the County setting forth the provisions of this Equal Employment Opportunity clause. The Architect/ Engineer shall comply with all applicable provisions of the Civil Rights Act of 1964, Executive Order 11246 of September 24, 1965, as amended by Executive order 11375, revised Order No. 4 of December 1, 1971, as amended, and the Americans with Disabilities Act. The Age Discrimination in Employment Act effective June 12, 1968, the rules, regulations and relevant orders of the Secretary of Labor, Sections 112.041, 112.042, 112.043 of Florida Statutes, and Sections 11A1 through 13A1, Articles 3 and 4 of the Code.

The Consultant shall assign responsibility to one of its officials to develop procedures that will ensure that the policies of Equal Employment Opportunity and Affirmative Action are understood and implemented.

- 7.2 **NONDISCRIMINATORY ACCESS TO PREMISES AND SERVICES:** The Consultant, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant that: (1) no person on the grounds of race, color, national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression or status as victim of domestic violence, dating violence or stalking shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the premises, including the construction of any improvements, or services provided the Consultant; (2) the Consultant shall obligate their sub-consultants to the same nondiscrimination requirements imposed on the Consultant and assure said requirements are included in those sub-agreements.

7.3 BREACH OF NONDISCRIMINATION COVENANTS: In the event it has been determined that the Consultant has breached any enforceable nondiscrimination covenants contained in Sub-Article 7.1 “Equal Employment Opportunity” and Sub-Article 7.2 “Nondiscriminatory Access to Premises and Services” above, pursuant to the complaint procedures contained in the applicable federal regulations, and the Consultant fails to comply with the sanctions and/or remedies which have been prescribed, the County shall have the right to terminate this Agreement pursuant to the Termination of Agreement section hereof.

7.4 NONDISCRIMINATION: During the performance of this Agreement, the Consultant agrees as follows: The Consultant shall, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, national origin, religion, ancestry, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression or status as victim of domestic violence, dating violence or stalking. The Consultant shall furnish all information and reports required by Executive order 11246 of September 24, 1965, as amended by Executive Order 11375 and by rules, regulations, and orders of the Secretary of labor, or pursuant thereto, and will permit access to Consultant books, records, accounts by the County and Compliance Review Agencies for purposes of investigation to ascertain by the compliance with such rules, regulations, and orders. In the event of the Consultant’s noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, and orders, this Agreement may be cancelled, terminated, or suspended in whole or in part in accordance with the Termination of Agreement section hereof and the Consultant may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 and such sanctions as may be imposed and remedies invoked as provided in Executive Order 11375 and such sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 as amended or by rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

The Consultant will include Sub-Article 7.1 “Equal Employment Opportunity” and Sub-Article 7.2 “Nondiscriminatory Access to Premises and Services” of this Article in Consultant sub-contracts in excess of \$10,000.00, unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375, so that such provisions will be binding upon each Sub-consultant.

The Consultant shall take such action with respect to any subcontract as the County may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a sub-consultant as the result of such direction by the County or by the United States, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

7.5 DISABILITY NONDISCRIMINATION AFFIDAVIT: By entering into this Agreement with the County and signing the Disability Nondiscrimination Affidavit, the Consultant attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related

Acts) or Resolution No. R-385-95. If the Consultant or any owner, subsidiary or other firm affiliated with or related to the Consultant is found by the responsible enforcement officer of the courts or the County to be in violation of the Act or the Resolution, such violation shall render this Contract terminable in accordance with the Termination of Agreement section hereof. This Contract shall be void if the Consultant submits a false affidavit pursuant to this Resolution or the Consultant violated the Act or the Resolution during the term of this Contract, even if the Consultant was not in violation at the time it submitted its affidavit.

- 7.6 **AFFIRMATIVE ACTION/NON-DISCRIMINATION OF EMPLOYMENT, PROMOTION, AND PROCUREMENT PRACTICES:** In accordance with the requirements of Section 2-8.1.5 of the Code, all firms with annual gross revenues in excess of five million dollars (\$5,000,000) seeking to contract with Miami-Dade County shall, as a condition of award, have a written Affirmative Action Plan and Procurement Policy on file with the County's Office of Small Business Development ("SBD"). Said firms must also submit, as a part of their proposals/bids to be filed with the Clerk of the Board, an appropriately completed and signed Affirmative Action Plan/Procurement Policy Affidavit.

Firms whose Boards of Directors are representative of the population make-up of the nation are exempt from this requirement and must submit, in writing, a detailed listing of their Boards of Directors, showing the race or ethnicity of each board member, to SBD. Firms claiming exemption must submit, as part of their proposal/bids to be filed with the Clerk of the Board, an appropriately completed and signed Exemption Affidavit in accordance with Section 2-8.1.5 of the Code. These submittals shall be subject to periodic reviews to assure that the entities do not discriminate in their employment and procurement practices against minorities and women-owned businesses.

It will be the responsibility of each firm to provide verification of their gross annual revenues to determine the requirement for compliance with the Code. Those firms that do not exceed \$5 million annual gross revenues must clearly state so in their bid/proposal.

- 7.7 **CONTRACT MEASURES:** The Consultant is required under this Agreement to achieve Small Business Enterprise Architecture in accordance with the Contract Measures applied to this Project as shown in Article 9 "Special Provisions" of this Agreement and the attached SBE IO Nos. 3-32 and 3-41, SBD Worksheet, Letter(s) of Agreement and Schedule of Intent affidavit(s) as presented in the Consultant's Proposal for the Project.

The Director may declare the Consultant in default of this agreement for failure of the Consultant to comply with the requirements of this paragraph.

## ARTICLE 8

### COMPENSATION FOR SERVICES

The Owner agrees to pay to the Consultant and the Consultant agrees to accept for all Services rendered pursuant to this Agreement, the amounts determined in accordance with this Article. No payment will be made to the Consultant for work performed without a Service Order.

All allocations of money between Basic, Work-Site, Work-Related, and Additional services are for budgetary purposes only. The County, in issuing service orders, may transfer monies between such service categories without restraint, subject to the overall contract allocation for this Agreement. No payment will be made to the Consultant for work performed without a Service Order. The Consultant agrees that all such services can be provided within the awarded amount of this Agreement.

8.1 COMPENSATION FOR SERVICES: Unless otherwise authorized by Amendment to this Agreement, payments to the Consultant for Basic Services, Work Site, Work-Related and Additional Services and Reimbursable Expenses performed shall be the Fixed Lump Sum amount and shall be disbursed as reflected herein.

8.2 PAYMENT FOR SERVICES: The fee for Services to be provided under each service Order, will be computed by one of the following methods as mutually agreed to by the Owner and the Consultant:

Fixed Lump Sum

Multiple of Direct Salaries

8.2.1 Fixed Lump Sum: Under this compensation basis, the Consultant agrees to perform specifically described services for an agreed fixed dollar amount of compensation.

8.2.2 Multiple of Direct Salaries: Under this compensation basis, the Consultant is compensated for the time of personnel engaged directly in performing Services under this Agreement. The compensation to be paid shall consist of the Direct Salaries of such personnel, as reported to the Director of the United States Internal Revenue Services, times a multiple of such Direct Salaries. A not-to-exceed cap for the total fee for assignments given under this compensation basis shall be established prior to the issuance of the initial Services Order.

8.2.3 The Fee to the Consultant based on a Multiple of Direct Salaries shall be determined as follows:

8.2.3.1 Compensation for the Principal shall be at the flat rate without application of any multiplier of **\$230.00** per hour.

Principal(s) to be paid this rate is/are those listed by name in Exhibit 2 - "Principals of the Consultant", attached to this Agreement.

Upon mutual agreement between the Owner and the Consultant, the Principals identified in Exhibit 2 - “Principals of the Consultant”, may be substituted, provided the total number of Principals does not exceed the number of Principals originally listed.

8.2.3.1.1 Compensation for all other personnel performing Services shall be a multiple of **2.8** times Direct Salaries. The maximum rate of compensation for office personnel including the multiple of Direct Salaries shall not exceed the following:

PERSONNEL	MAXIMUM
Director	\$125.00
Senior Project Manager	\$100.00
Project Manager	\$65.00
Senior Engineer	\$85.00
Professional Engineer	\$70.00
Project Engineer	\$58.00
Staff Engineer	\$45.00
Senior Designer	\$60.00
Designer	\$45.00
Sr. Scientist	\$80.00
Sr. Construction Manager	\$100.00
Construction Manager	\$60.00

The maximum flat rate without a multiplier of compensation for all other office personnel, not listed above, including the multiple of Direct Salaries shall not exceed \$300.00 per hour. The Owner reserves the right to adjust the maximum rate.

8.2.3.2 In the event the Owner authorizes the Consultant to perform Work Site Services, compensation shall be at a multiple of 2.35 times the Direct Salaries. The maximum rate of compensation for field personnel including the multiple of Direct Salaries shall not exceed the following:

PERSONNEL	MAXIMUM
Clerical / Administrative	\$30.00
Senior Field Representative	\$45.00
Assistant Field Representative	\$40.00
Inspectors	\$35.00

The maximum rate of compensation for all other field personnel, not listed above, including the multiple of Direct Salaries shall not exceed **105.00** per hour. The Owner reserves the right to adjust the maximum rate.

- 8.2.3.3 Compensation for authorized overtime services must be approved in writing by the Owner prior to incurring overtime charges. Employees that are salaried are not required to be paid at time and one half for work over 40 hours. The following formula will be utilized for calculating overtime for salaried employees: Forty (40) hours multiplied by the base pay rate (\$) multiplied by the appropriate multiple (M); plus Hours Worked Beyond Forty (40) Hours During Week (Hrs) multiplied by the pay rate (\$) multiplied by 1.1. Using conventions contained in Microsoft Excel, the equation for this would be:

$$(40*\$*M) + (Hrs*\$*1.1)$$

Employees that are on an hourly basis and are required to be paid at a time and one half overtime rate, the following formula will be utilized for calculating overtime: Hours Worked Beyond Forty (40) Hours during Week (Hrs) multiplied by the premium pay rate (\$\*1.5) and then multiplied by 1.1. Using conventions contained in Microsoft Excel, the equation for this would be:

$$(40*\$*M) + (Hrs*\$*1.5*1.1)$$

*EXAMPLE*

*Hours worked during week = 50 Pay rate = \$30/hr.*

*Multiplier = 2.65*

$$(40*30*2.65) + (10*30*1.1) = 3180+330 = \$3510 \text{ or } \textit{EXAMPLE}$$

*Hours worked during week = 50 Pay rate = \$30/hr.*

*Multiplier = 2.65*

$$(40*30*2.65)+(10*30*1.5*1.1) = 3180+495 = \$3675$$

- 8.2.3.4 Consultant shall not invoice Owner for charges for office, rent or

overhead expenses of any kind, including but not limited to, insurance, telephone (except long distance calls authorized by the Owner), and utility charges, office/drafting supplies, depreciation of equipment, professional dues, subscriptions, reproduction of drawings and/or specifications for internal use, mailing, stenographic, clerical, nor shall it invoice for other employee time to travel and subsistence not directly related to the Project. The multiple factor set forth above shall cover all such costs pertinent to the Project.

8.2.3.5 When Services are authorized as a Multiple of Direct Salaries, the Consultant shall submit the names, classification, salary rate per hour, applicable multiple, hours worked, and total charge for all personnel directly engaged on the project.

8.2.4 The Consultant shall not be entitled to additional compensation (30% Contract Documents through Bidding) for the provision of an alternate design required because of the failure of the Consultant to design the Project so that it may be constructed within the Project Budget and Probable Construction Cost.

8.2.5 No further progress payment shall be made should the Probable Construction Cost in any Phase exceed the Project Budget, until: (i) an alternate design is provided at no additional compensation, to bring the cost within the Project Budget limitations, or (ii) a change order which addresses and satisfies the Probable Construction Cost overrun has been approved by the Board.

8.2.6 Payments of the Work Related Services Fee, shall be made in monthly installments. The amount of each monthly installment payment shall be determined by increasing the Construction Contract Time for completion of all work for this project, as stated in the Service Order in calendar days, by twenty percent (20%) then dividing the calculated number of days by thirty (30) days/month and rounding up to the next integer. This integer will be the number of months over which the Work Related Services Fee will be paid.

8.2.6.1 In the event that Prolonged Period of Contract Administration, of Basic Services becomes necessary, payment for the Prolonged Period of Contract Administration shall be the same amount as the monthly installment payments for Work Related Services. Payments for Prolonged Period of Contract Administration shall begin once the original contract time has been exceeded by twenty percent (20%) if such extended time is due to no fault of the Consultant.

8.3 PAYMENT FOR REIMBURSABLE EXPENSES: Reimbursable Expenses as described in Article 6 "Reimbursable Expenses" of this Agreement will be reimbursed by the Owner as verified by appropriate bills, invoices, or statements.

8.4 INVOICES AND METHODS OF PAYMENT: The Consultant shall submit monthly to the Project Manager, two (2) copies of a duly certified invoice for payments due on account of the portion(s) of the Services performed and eligible for payment based

upon the earned value measurement procedure contained in the DSCMP. A copy of the applicable Service Order shall accompany the original copy of the invoice. The format, content, and submittal date of the invoice shall be as specified by the Project Manager. The Architect/ Engineer shall meet monthly with the Project Manager to verify that the Consultant's reported progress and earned value is in accordance with the accepted DSCMP. Monthly progress payments will be based on the monthly DSCMP meeting with the Project Manager.

Subsequent to the monthly DSCMP meeting, the Consultant shall submit its invoice for those services to the Project Manager. The Owner shall make payment in accordance with the provisions of Chapter 218 of the Florida Statutes. However, the Owner may reject the invoice in whole or in part. If rejected, the Owner shall notify the Consultant in writing, specifying the deficiencies and corrective action required. If the Owner rejects only a part of the invoice, the Owner shall pay the undisputed portion of the invoice on a timely basis. Rejected or partially rejected invoices shall be corrected by the Consultant and resubmitted to the Project Manager for payment. Resubmitted partially rejected invoices shall separately indicate the previously undisputed amount of the invoice.

- 8.5 **PAYMENT TO SUB-CONSULTANTS:** All payments to Sub-consultant(s) employed hereunder shall be the sole responsibility of the Consultant unless otherwise provided for herein or within a Service Order. The Consultant shall, upon receipt of progress and/or final billing(s) from such Sub-consultant(s) for Services satisfactorily performed incorporate such billing(s) in the manner and to the extent appropriate to the applicable payment basis(es), in the next following invoice submitted by the Consultant to the Owner. The Consultant shall not submit invoices that include charges for Services by Sub-consultant(s) unless such Services have been performed satisfactorily and the charges are, in the opinion of the Consultant, payable to such Sub-consultant(s). The Consultant shall make all payments to such Sub-consultant(s) promptly following receipt by Consultant of corresponding payment from the Owner. Prior to any payments to Sub-consultant(s), the Consultant shall, if requested by the Project Manager, furnish to the Owner a copy of the agreement(s) providing for such payments.
- 8.6 **SUBCONSULTANTS PAYMENT REPORT:** In accordance with Section 2-8.8 of the Code (as amended by Ordinance No. 11-90), an entity contracting with the County as a condition of final payment under a contract, the Consultant/Consultant shall submit to the County via its web based system all Sub-consultants used in the work, the amount of each subcontract, and the amount paid to each Sub-consultant. In the event that the Consultant intends to pay less than the subcontract amount, the Consultant shall deliver to the County a statement explaining the discrepancy or any disputed amount.
- 8.7 **CONSEQUENCE FOR NON-PERFORMANCE:** Should the Consultant fail to perform these services within the time frames specified in the Contract Documents or, if no time frames are specified, in a timely manner, so that such failure causes a delay in the progress of the Work, the Consultant shall be liable for damages to the Owner resulting from such



delay, including inefficiencies incurred by the Consultant for which the Owner may be responsible.

8.8 **PAYMENT FOR ABANDONED, TERMINATED OR SUSPENDED SERVICES:** In the event of termination or suspension of the services or abandonment of a Project Element(s) (including the failure of the Owner to advertise the Contract Documents for bids, or the Owner's failure to award a Contract for the Work on the basis of any such bids received, within the time limits set forth in this agreement) the Consultant shall be compensated as follows:

8.8.1 Payment for Services completed and approved prior to receipt by the Consultant of notice of abandonment of a Project Element, termination, or suspension, for which payment has not yet been made to the Consultant by the Owner, shall be made in the same manner as would have been required had such abandonment of a Project Element, termination or suspension not occurred.

8.8.2 For Services partially completed and satisfactorily performed prior to receipt by the Consultant of notice of abandonment of a Project Element, termination, or suspension, the Consultant shall be compensated on the basis of payment in same manner as would have been required had such abandonment of a Project Element, termination or suspension not occurred, adjusted to the level of completion portion of the service. A claim by the Consultant for compensation shall be supported by such data as the Owner may reasonably require. In no case shall fees for partially completed Services exceed the fees that would have been paid for such Services had they not been abandoned, terminated or suspended.

8.8.3 Upon payment to the Consultant for Service associated with abandoned, terminated, or suspended Project Elements in accordance with this Article, the Consultant shall have no further claim for Services related to the abandoned, terminated, or suspended Project Elements.

8.8.4 No payment shall be made by the Owner to the Consultant for loss of anticipated profit(s) from any abandoned, terminated, or suspended Project Elements.

8.9 **MAXIMUM PAYABLE ALLOWANCE ACCOUNT:** The aggregate sum of all payments to the Consultant for Allowance Account Services payable on this Project shall not exceed (Permit Fees: \$50,000; Environmental Remediation: \$100,000). Any Allowance Account expenses shall be approved by the Owner in advance and authorized by a Service Order. Any portion of this sum for which payment is not authorized in writing by the Project Manager shall remain the property of Owner.

8.10 **INSPECTOR GENERAL AUDIT ACCOUNT:** An audit account is hereby established to pay for mandatory random audits by the County's Inspector General pursuant to Section 2-1076 of the Code. The amount for the Inspector General Audit Account is hereby set at \$37,500 (0.25%) of \$15,000,000. The Consultant shall have no entitlement to any of these funds. The Owner retains all rights to these funds, may

expend these funds at its sole discretion, and any funds not expended from these audit accounts remain the property of the County.

- 8.11 **TOTAL AUTHORIZED AMOUNT FOR THIS AGREEMENT:** The Total Authorized Amount for this Agreement is \$15,000,000. The Owner retains all rights to these funds, may expend these funds at its sole discretion, and any funds not expended from this total authorized agreement amount remain the property of the Owner.

## ARTICLE 9

### SPECIAL PROVISIONS

- 9.1 At any time during the term of this Agreement Owner can require the Consultant provide Project Specific Professional Liability Insurance in the amount of \$1,000,000 (or such other amount as may be specified in these Special Provisions) per claim to last the life of the Project plus three (3) years. The premium for this coverage shall be reimbursed to the Consultant in accordance with Article 6 “Reimbursable Expenses” of this Agreement.
- 9.2 Pursuant to Sub-Article 3.28, the Consultant shall meet the LEED certification category indicated in the Service Order.
- 9.3 The Consultant shall consider future impacts of sea level rise that may be addressed during design considerations.

Pursuant to Sub-Article 4.2, the Consultant shall submit, for each Service Order, a DSCMP in Excel, Microsoft Project, or Primavera format and shall include, among other things, proposed durations, from authorization to proceed, for each applicable phase.

- 9.4 Pursuant to Sub-Article 4.2.1, the Consultant shall furnish or cause to be furnished architectural services; engineering services, including all civil, structural, electrical, mechanical, plumbing, HVAC, and fire protection; interior design; signage and graphics; maintenance of traffic; safety plans; environmental, including removal and disposal of contaminated soils/water, asbestos abatement, erosion controls, Storm Water Pollution Prevention Plan provisions, and preliminary application for the dewatering permits; lighting; communications; and landscape design.
- 9.5 The Consultant shall be responsible for all transportation to, from and within the project site for all services at no additional cost to the owner.
- 9.6 Pursuant to Sub-Article 7.7, the contract measures for this Agreement are:  
Small Business Enterprise Architecture & Engineering (SBE/AE) **20.50%** Goal
- 9.7 The deduction of one quarter of one percent (0.25%) from each progress payment to pay for the functions of the Office of Inspector General is inapplicable because this Contract is either financed by solid waste management revenue bonds or funded by solid waste management revenue, which are subject to federal regulations.
- 9.8 ORGANIZATIONAL CONFLICT OF INTEREST

#### 1. Policy

It is the policy of the County, implemented through this section, to identify, analyze and address organizational conflicts of interest that might otherwise exist in order to maintain the public’s trust in the integrity and fairness of the County’s contracting for the Terminal Optimization Program, and to protect the business interests of the County, thereby safeguarding public dollars. This policy shall be supplemental to and not in

derogation of any other requirements of law relating to conflicts of interest including, but not limited to, the County's Code of Ethics.

2. Definitions

Organizational conflict of interest situation in which the Consultant: (a) under this Agreement, or any part thereof, including a particular work order or defined Phase, is required to exercise judgment to assist the County in a matter such as in drafting specifications or assessing another consultant or Consultant's proposal or performance and the Consultant has a direct or indirect financial or other interest at stake in the matter, so that a reasonable person might have concern that when performing work under the contract, the Consultant may be improperly influenced by its own interests rather than the best interest of the County; or (b) would have an unfair competitive advantage in a County competitive solicitation as a result of having performed work on this Agreement that puts the consultant in a position to influence the result of the solicitation.

Affiliates: business concerns are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both.

Sub-consultants: firms under contract with the Consultant under this Agreement.

3. Certification of no organizational conflict of interest

The Consultant: (a) execution of this Agreement or any work order and/or (b) making a claim for payment under this Agreement, constitutes the Consultant's certification to the County that the Consultant or its subconsultants do not have knowledge of any organizational conflicts of interest that exists in performing the work under this Agreement. False certifications may be considered a material breach of the Agreement and the Consultant may be liable to the County for a false claim under the County's false claim ordinance. At any time during the performance of the Agreement, the County may require the Consultant to execute an express written certification that after diligent inquiry the Consultant does not have knowledge of any organizational conflict of interest. The County may also require the Consultant to set forth in writing the scope of the inquiry conducted to make the express certification. Failure to make diligent inquiry, to disclose a known conflict or potential conflict, or to execute the documents required to be produced may be considered a material breach of the contract and may disqualify the Consultant or its Sub-consultants from award of other County professional service agreements.

4. Identification of organizational conflict of interest

The Consultant and its subconsultants shall be obligated to disclose to the County any organizational conflict of interest which may exist or arise during the performance of this Agreement, or the potential for such conflicts to occur, immediately upon the discovery of such actual or potential conflict. The disclosure shall be in writing, addressed to the Director or his designee. The disclosure shall identify the organizational conflict of interest with sufficient detail for the County's analysis and shall propose a method to address the same. Such disclosure shall be simultaneously

reported to the Office of the Inspector General and the Commission on Ethics and Public Trust. The Consultant /subconsultants' failure to identify an organizational conflict of interest, or to disclose the same to the County in the manner set forth in this Section, may be considered a material breach of the Agreement. In addition, in any subsequent solicitation for professional services for which the Consultant or its subconsultants compete for award, the Consultant and/or its subconsultants shall identify and address any potential organizational conflict of interest as between that solicitation and this Agreement or the work hereunder, particularly in those instances where the Consultant offers to use the same sub-consultants which may be primes or sub-consultants in other Program contracts where such use is not specifically prohibited by the advance restrictions set forth in this policy. The potential for organizational conflicts of interest, and the methodology offered to prevent organizational conflicts of interest, may be evaluated by the County as a criterion for selection as set forth in the applicable competitive solicitation documents.

5. Addressing organizational conflicts of interest

The County will analyze and address organizational conflicts of interest on a case-by-case basis, because such conflicts arise in various, and often unique, factual settings. The Director of DSWM, subject to the approval of the Executive Director of the Commission on Ethics or his designee, shall make the decision of how to address an organizational conflict of interest. The Executive Director of the Commission on Ethics or his designee shall render its determination promptly to avoid impacting the Program. The County shall consider the specific facts and circumstances of the situation and the nature and potential extent of the risks associated with an organizational conflict of interest when determining what method or methods of addressing the conflict will be appropriate. When an organizational conflict of interest is such that it risks impairing the integrity of the Program, then the County must take action to substantially reduce or eliminate those risks. If the only risk created by an organizational conflict of interest is a performance risk relating to the County's business interests, then the County shall have broader discretion in accepting some or all of the performance risk, but only when the potential harm to the County's interest is outweighed by the expected benefit from having the conflicted Consultant perform the Agreement. The County shall balance risks created by any organization conflict of interest against potential impacts to the Community Business Enterprise community in analyzing the appropriate method of addressing any organizational conflict of interest. Notwithstanding the preceding, the County's decision as to the existence of, and/or remedy for, any organizational conflict of interest shall be wholly binding on the Consultant, and shall be made in the County's sole and complete discretion.

6. Measures to address organizational conflicts of interest

The measure, or combination of measures, which may be appropriate to address an organizational conflict of interest, if any, shall be decided by the Director of DSWM and include, but are not limited to: (a) avoidance of risk through reduction of subjectivity in the analysis or by defining work Phases and deliverables with specificity, (b) requiring the Consultant and/or its Sub-consultants to implement structural barriers (firewalls) and internal corporate controls, (c) limiting the Consultants or Sub-consultant or the specific personnel to be involved in a work assignment, (d) employing specific hourly limits on defined Phases, (e) limiting or

prohibiting certain pass through fees and markups, (f) executing a mitigation plan which will define specific Consultant and Sub-consultant duties to mitigate organizational conflicts of interest, (g) requiring Sub-consultants who are conflict free to perform identified areas of work, (h) requiring the Consultant or its Sub-consultants to adopt, disseminate and instruct staff on conflict of interest identification and remediation procedures and (i) relying on more than one source or on objective or verifiable data or information.

7. Documentation and evaluation

The Director of DSWM will set forth in the Agreement file a written explanation of the methodology used to address an identified organizational conflict of interest. The County shall periodically evaluate the effectiveness of the methodology in the protection of the Program. Upon the rendering of a decision regarding the resolution of a reported conflict of interest, a copy of such finding shall be forwarded to the OIG and the COE.

8. Organizational conflicts of interest which are not remedied

If in the sole discretion of the County there is no measure or combination of measures which protect the County against the organizational conflict of interest, the County may require that the Consultant cease the activity which creates a conflict with this Agreement. Failure to abide by this requirement shall result in the Consultant being in breach of this Agreement. In addition, the County may without penalty decline to award future professional service agreements or other contracts to the Consultant or its subconsultants if the award of such agreement or conflict with result in a conflict which cannot be remedied.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials as of the date first above written.

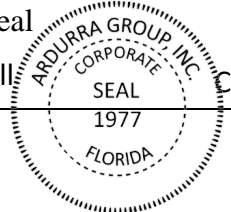
**CONSULTANT (CORPORATION)**

Ardurra Group, Inc. \_\_\_\_\_  
Legal Name of Corporation

**ATTEST:**

Secretary: Catherine Cahill By: Christopher Kuzler  
Signature and Seal Consultant - Signature

Catherine Cahill \_\_\_\_\_ Christopher Kuzler, Southeast Regional Operations Director  
Type Name Type Name & Title



**CONSULTANT (INDIVIDUAL, PARTNERSHIP OR JOINT VENTURE)**

\_\_\_\_\_  
Legal Name

Witness: \_\_\_\_\_ By: \_\_\_\_\_  
Signature

Witness: \_\_\_\_\_ By: \_\_\_\_\_  
Signature

FEIN \_\_\_\_\_

**MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS**

By: \_\_\_\_\_  
Mayor

**ATTEST: Juan Fernandez-Barquin, Clerk**

BY: \_\_\_\_\_  
(Miami-Dade County Seal)

Approved for Form and Legal Sufficiency  
[Signature]  
(Assistant County Attorney)

Approved by Miami-Dade County Risk Management

\_\_\_\_\_  
(Risk Management)

## EXHIBIT 1

### Scope of Work:

The Miami-Dade Department of Solid Waste Management (“DSWM”), will require professional engineering services from a qualified Consultant to provide engineering services comprising of design, permitting, bidding support and support during construction for an approximately \$15,000,000 complex to be located on the closed Old South Dade Landfill site located west of 9350 SW 248th Street in Miami (the “Complex”). The Complex will include at a minimum the following facilities:

#### Transfer Station Building

- Three thousand (3,000) tons per day enclosed transfer station building.
- Separate tipping areas for a two thousand (2,000) ton per day Class I (Garbage) waste and a one thousand (1,000) ton per day of Class III (Trash) waste.

#### Administration Building

- Two (2) story, concrete masonry unit building with a metal roof.
- The first floor of the building will include a lobby, break room, men’s and women’s rest/locker rooms and an electrical room for the transfer station building.
- The second floor of the building will include nine offices, an IT room, a mechanical room, rest rooms and a conference room.

#### ISD Maintenance Building

- Building with twelve (12) service bays, thirty feet (30’) high for servicing mainly dump trucks.
- Tire shop: two (2) bays, one for servicing, one for storage, and a compressor building.
- Welding shop: welding canopy for repairing dump trucks and other large vehicles.
- Fuel island: four (4) pumps, eight (8) hoses, six (6) of those for dispensing diesel and two (2) for unleaded.
- Other facilities includes eight (8) offices, warehouse, parts room, restrooms and a breakroom.

#### Scale Facility

- Two (2) inbound scales, one (1) outbound scale and a scale house.
- The scale house would be a pre-engineered metal building with an attendants’ area for an inbound and outbound attendant, a small break area and rest room, two (2) offices, an electrical/IT room, and a storage room.

#### Customer Dropoff Area (“CDA”)

- Elevated cast-in-place concrete “z-wall” that allows customers to drop non-putrescible waste over a wall and into roll off containers on a lower level.
- Six (6) roll off stations and a lower-level access road and ramp to allow the roll off containers to be pulled and transported up to the transfer station tipping floor for emptying.

#### Household Hazardous Waste Collection Center (“HHW”)

- To be located on the upper level of the CDA to allow customers to pull through the CDA and drop off household hazardous waste.
- Two (2) structures separated by a fourteen feet (14’) wide breezeway. The smaller structure is a block building containing an office, a restroom, and small kitchen and an electrical room for the combined HHW/CDA. A concrete curbed containment area outside the smaller building contains storage tanks for motor oil and antifreeze.



- The larger building is compartmentalized storage building constructed of a combination of full height block walls and forty-two feet (42") high walls under metal canopy. Full height enclosed rooms to include a small lab and an equipment and emergency spill room.

#### Parking

- Twenty-six (26) covered spots for pickup trucks up to 0.25 tons, with solar panels.
- One hundred-fifty (150) uncovered spots for large vehicles and dump trucks.
- Fifty-two (52) uncovered spots for staff private cars and visitors.

#### Utilities

- All required utility connections.

Services shall include but shall not be limited to, topographic survey, boundary survey, and geotechnical study. Independent value engineering analysis for different design options shall be provided as part of this contract, per Administrative Order No. 3-26, "Value Analysis/Engineering Studies".

Other requirements:

- Development of waste compaction/consolidation plan
- Design of a methane gas mitigation system.
- Design will take into consideration the possible effects of expected future sea level rise and local flooding.
- Roofing materials will comply with the Miami-Dade County Board of County Commissioners "Cool Roofs" Resolution No. R-54-18.
- Buildings will incorporate as many Leadership in Energy and Environmental Design ("LEED") features as possible, up to and including LEED certification, if possible.

**Exhibit 2**

**PRINCIPALS OF THE CONSULTANT**

ISD Project No. E22-DSWM-03  
Professional Engineering Services for Department of Solid Waste Management's  
Waste Facility Complex

<b>Name</b>	<b>Title</b>
Ernesto Aguilar	Chief Executive Officer and President
Catherine Cahill	Chief Financial Officer, Treasurer, Secretary
Lisa Penna	Vice President
Donald Stouten	Vice President
Kartik Vaith	Chief Strategy Office
Alexandra Smith	Assistant Vice President
Carmen Kasner	Vice President
Christopher Kuzler	Regional Director
Scott Smith	Vice President
William Fulgham	Vice President
Edwin Buck	Practice Director
Agustin Maristany	Principal

**Exhibit 3**

**CRITICAL PERSONNEL**

ISD Project No. E22-DSWM-03  
Professional Engineering Services for Department of Solid Waste Management's  
Waste Facility Complex

<b>Name</b>	<b>Role</b>
Christopher Kuzler, PE	Project Manager
Agustin Maristany, PE	Principal-in-Charge
Ricardo Maristany, PE	QA/QC & Technical Advisor
Sharmeela Khemlani, PE	Civil/Site Systems Manager, Envision, Permitting
Alessandra Monetti, PE	Site Integration / Leachate / Utilities
Vivian Hong, PE	Planning / Site Integration / Leachate / Utilities
Mark Gladbach	Site Integration / Leachate / Utilities
Nicole Lynn, PE	Civil / Stormwater
Ytve Guerrero, PE	Traffic
Alfredo Reyna, PE	Traffic, Maintenance of Traffic, Pavement
Chris Bryant	Ecological Services

# Exhibit 4



## Small Business Development Division

### Project Worksheet

**Project/Contract Title:** Professional Engineering Services for DSWM's South Dade Solid Waste Management Complex  
**Received Date:** 10/3/2022  
**Project/Contract No:** E22-DSWM-03  
**Funding Source:** Waste Disposal Operating Funds  
**Department:** Solid Waste Management  
**Estimated Cost of Project/Bid:** \$15,000,000.00  
**Description of Project/Bid:** A Professional Services Agreement ("PSA") to establish a contract for the engineering services, design and preparation of a complete set of construction documents for DSWM's Waste Facility Complex (the "Project"), The new complex will be located at DSWM's old South Dade landfill (West of 9350 SW 248th Street, Miami FL 33170), and includes designing a new transfer station building, administration building, Internal Service Department (ISD) maintenance building, scale facility, customer drop-off area (CDA), household hazardous waste collection center (HHW), and parking facility. The waste and soils at this site must be compacted and stabilized prior to building the new facilities.

#### Contract Measure

<u>Measure</u>	<u>Program</u>	<u>Goal Percent</u>
Goal	SBE - A&E	20.50%

#### Reason for Recommendation

SBD reviewed this project pursuant to Implementing Order 3-32 for SBE-A & E measures. Project information analyzed included the project's scope of services, estimated project cost, minimum requirements/qualifications and funding source. Additional factors included the Verification of Availability (VOA) process to determine firms availability and assignment of the noted measures. Two hundred eight (208) SBE firms certified in the technical categories (TCs) below were contacted via the VOA process; however, three (3) or more firms certified in the technical codes required of the prime (7.00 & 16.00) did not respond as being able to perform the required scope of services. As such, a 20.50% SBE-A&E sub-consultant goal is applicable to this solicitation.

The work description codes assigned based on the scope are:

MDC-TCC 07 SOLID WASTE COLLECTION AND DISPOSAL SYSTEMS, MDC-TCC 11 GENERAL STRUCTURAL ENGINEERING, MDC-TCC 12 GENERAL MECHANICAL ENGINEERING, MDC-TCC 13 GENERAL ELECTRICAL ENGINEERING, MDC-TCC 14 ARCHITECTURE, MDC-TCC 16 GENERAL CIVIL ENGINEERING, MDC-TCC 17 ENGINEERING CONSTRUCTION MANAGEMENT, MDC-TCC 20 LANDSCAPE ARCHITECTURE, MDC-TCC 03-09 SIGNING, PAVEMENT MARKING, AND CHANNELIZATION, MDC-TCC 06-01 WATER DISTRIBUTION AND SANITARY SEWAGE COLLECTION AND TRANSMISSION, MDC-TCC 09-02 GEOTECHNICAL AND MATERIALS ENGINEERING SERVICES, MDC-TCC 10-01 STORMWATER DRAINAGE DESIGN ENGINEERING SERVICES, MDC-TCC 10-05 CONTAMINATION ASSESSMENT AND MONITORING, MDC-TCC 15-01 Surveying and Mapping - Land Surveying, MDC-TCC 15-03 Underground Utility Location

#### Small Business Contract Measure Recommendation

<u>Subtrades</u>	<u>Category</u>	<u>Percentage</u>
3.09 SIGNING, PAVEMENT MARKING, AND CHANNELIZATION	SBE - A&E	0.50%
6.01 WATER DISTRIBUTION AND SANITARY SEWAGE COLLECTION AND TRANSMISSION	SBE - A&E	0.50%
9.02 GEOTECHNICAL AND MATERIALS ENGINEERING SERVICES	SBE - A&E	1.00%
10.01 STORMWATER DRAINAGE DESIGN ENGINEERING SERVICES	SBE - A&E	2.00%
10.05 CONTAMINATION ASSESSMENT AND MONITORING	SBE - A&E	1.00%
11.00 GENERAL STRUCTURAL ENGINEERING	SBE - A&E	3.00%
12.00 GENERAL	SBE - A&E	2.00%
13.00 GENERAL ELECTRICAL ENGINEERING	SBE - A&E	2.00%
14.00 ARCHITECTURE	SBE - A&E	2.00%
15.01 LAND SURVEYING	SBE - A&E	0.50%
15.03 UNDERGROUND UTILITY LOCATION	SBE - A&E	0.50%
17.00 ENGINEERING CONSTRUCTION MANAGEMENT	SBE - A&E	5.00%
20.00 LANDSCAPE ARCHITECTURE	SBE - A&E	0.50%

Living Wages: YES  NO

Highway: YES  NO

Heavy Construction: YES  No

Responsible Wages: YES  NO

Building: YES  NO

  
\_\_\_\_\_  
SBD Director

10-24-22  
Date

# AFFIDAVITS



## ISD FORM NO. 1 – LOCAL BUSINESS PREFERENCE AFFIDAVIT

The evaluation of competitive solicitations is subject to Section 2-8.5 of the Miami-Dade County Code, which, except where contrary to federal or state law, or any other funding source requirements, provides that preference be given to local businesses. A local business, for the purposes of receiving the aforementioned preference above, shall be defined as a Proposer which meets all of the following:

1. Proposer has a valid Local Business Tax Receipt, issued by Miami-Dade County at least one year prior to proposal submission.

**Proposer shall attach a copy of said Miami-Dade County Local Business Tax Receipt hereto. (Note: Current and past year licenses may need to be submitted as proof that it was issued at least one year prior to the proposal due date.)**

2. Proposer has a physical business address located within the limits of Miami-Dade County from which the Proposer operates or performs business. (Post Office Boxes are not verifiable and shall not be used for the purpose of establishing said physical address.)

**Proposer shall state its Miami-Dade County (or other County if applicable, see note below) physical business address**

8700 West Flagler Street, Suite 180, Miami, FL 33174

3. Proposer affirms that the local business address location has served as the place of employment for at least three full-time employees for a continuous period of one year prior to proposal submission or the Proposer is a Small Business Enterprise and the local business address location has served as the place of employment for at least one full-time employee for a continuous period of one year prior to proposal submission.

Check box, if applicable:

- a) Proposer is NOT a Small Business Enterprise and affirms that the local business address location has served as the place of employment for at least three full-time employees for a continuous period of one year prior to proposal submission. Write the number of full-time employees at the local business address location : 140.
- b) Proposer is a Small Business Enterprise and affirms that that the local business address location has served as the place of employment for at least one full-time employee for a continuous period of one year prior to proposal submission. Write the number of full-time employees at the local business address location : \_\_\_\_\_.

4. Proposer contributes to the economic development and well-being of Miami-Dade County in a verifiable and measurable way. This may include but not be limited to the retention and expansion of employment opportunities and the support and increase in the County's tax base. To satisfy this requirement, the Proposer shall affirm in writing its compliance with any of the following objective criteria as of the proposal submission date:

Check box, if applicable:

- a) Retention and expansion of employment opportunities in Miami-Dade County.
- b) Proposer contributes to the County's tax base by paying either real property taxes or tangible personal property taxes to Miami-Dade County.
- c) Proposer contributes to the economic development and well-being of Miami-Dade County by some other verifiable and measurable contribution by \_\_\_\_\_

Proposer shall check the box if applicable and, if checking item "c", shall provide a written statement, above, defining how Proposer meets that criteria.

By signing below, Proposer affirms that it meets the above criteria to qualify for Local Preference and has submitted the requested documents.

Proposer: Ardurra Group, Inc.

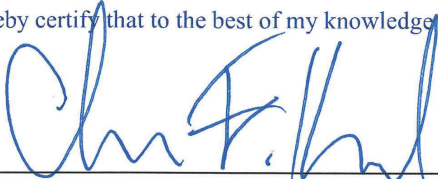
Federal Employer Identification Number: 59-1782900

Address: 8700 West Flagler Street, Suite 180, Miami, FL 33174

City/State/Zip: Miami, FL 33174

Telephone: 813-880-8881 Fax: \_\_\_\_\_

I hereby certify that to the best of my knowledge and belief all the foregoing facts are true and correct.



Signature of Authorized Representative

Title: Director

Date: 03/15/2023

STATE OF Florida

COUNTY OF: Hillsborough

SUBSCRIBED AND SWORN TO (or affirmed) before me on, 3/15/2023,  
(Date)

by Christopher F. Kuzler He/She is personally known to me or has presented  
(Affiant)

N/A as identification.  
(Type of Identification)

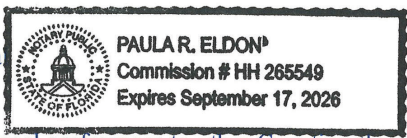
Paula R. Eldon  
(Signature of Notary)

HA 265549  
(Serial Number)

Paula R. Eldon  
(Print or Stamp Name of Notary)

9/17/2026  
(Expiration Date)

Notary Public: Florida  
(State)

Notary Seal: 

Note: Local preference is only applicable to the Proposer. If the County extends local preferences to other Counties, those Counties will participate in local preference considerations. The Proposer shall complete, sign and submit the Miami-Dade County ISD Form No. 1 - Local Business Preference Affidavit.

**MIAMI-DADE COUNTY  
ISD FORM NO. 5 - LOBBYIST REGISTRATION FOR ORAL PRESENTATION**

- 1. **PROJECT TITLE:** Professional Engineering Services for Department of Solid Waste Management's Waste Facility Complex
- 2. **ISD PROJECT NO.:** E22-DSWM-03      **DEPARTMENT:** Department of Solid Waste Management
- 3. **FIRM/PROPOSER'S NAME:** Ardurra Group, Inc.  
**ADDRESS:** 8700 West Flagler Street, Suite 180, Miami, FL 33174      **ZIP:** 33174  
**BUSINESS TELEPHONE:** 813.880.8881      **FAX:** N/A
- 4. **List All Members of Presentation Team Who Will Participate in the Oral Presentation**

**LOBBYIST REPRESENTATIVE**

NAME	TITLE	EMPLOYED BY	TELEPHONE NO.
<u>Chris Kuzler, PE</u>	<u>Director</u>	<u>Ardurra Group, Inc.</u>	<u>813.880.8881</u>
<u>Paola Davalos, PE, ENV SP</u>	<u>Sr Project Manager</u>	<u>300 Engineering Group, LLC</u>	<u>786.873.5200</u>
<u>Agustin Maristany, PE</u>	<u>Principal</u>	<u>Ardurra Group, Inc.</u>	<u>305.807.6068</u>
<u>Franklin Torrealba, PE, ENV SP</u>	<u>President</u>	<u>300 Engineering Group, LLC</u>	<u>305.763.9829</u>
<u>Sharmeela Khemlani, PE, ENV SP</u>	<u>Sr Engineer</u>	<u>Ardurra Group, Inc.</u>	<u>813.419.2896</u>
<u>RJ Bo Bruner, PE</u>	<u>Sr Project Manager</u>	<u>Jacobs</u>	<u>352.213.3466</u>
<u>Kevin Regalado, AIA, RA, NCARB, LEED AP</u>	<u>Director of Architecture</u>	<u>Jacobs</u>	<u>305.302.1140</u>
<u>Maureen Kussler, RA, LEED AP</u>	<u>Sr Project Architect</u>	<u>Jacobs</u>	<u>561.317.5485</u>

**MIAMI-DADE COUNTY  
ISD OFFICE USE ONLY**

**SIGNATURE**

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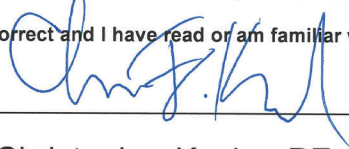
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The individuals named above are Registered and the Registration Fee is not required for the Oral Presentation ONLY. Proposers are advised that any individual substituted for or added to the presentation team after submittal of the proposal and filing by staff, **MUST** register with the Clerk of the Board and pay all applicable fees. Other than for the oral presentation, Proposers who wish to address the county commission, county board or county committee concerning any actions, decisions, or recommendations of County personnel regarding this solicitation in accordance with Section 2-11.1(s) of the Code of Miami-Dade County **MUST** register with the Clerk of the Board (Form BCCFORM2DOC) and pay all applicable fees.

I do solemnly swear that all the foregoing facts are true and correct and I have read or am familiar with the provision of Section 2-11.1(s) of the Code of Metropolitan Dade County as amended.



SIGNATURE OF AUTHORIZED REPRESENTATIVE \_\_\_\_\_

STATE OF Florida Christopher Kuzler, PE, Director  
(Name and Title of Signatory, Printed or Typed)

COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 3/16/2023

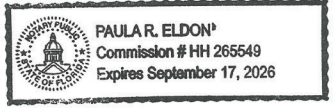
BY Christopher Kuzler, a Corporation  
(Individual, Officer, Partner or Agent) (Sole, Corporation or Partnership)

Personally Known To Me  
who is personally known to me or who has produced as identification, and who did/did not take an oath.  Did Not Take An Oath

  
(Signature of Notary Public Taking Acknowledgment)

Paula R. Eldon  
(Name of acknowledged typed, printed or stamped)

Notary HH 265549  
(Title or Rank) (Serial Number, if any)



(ATTACH ADDITIONAL COPIES OF THESE SHEETS IF NECESSARY)



MIAMI-DADE COUNTY – STRATEGIC PROCUREMENT DEPARTMENT (SPD)  
SPD FORM NO. 9 – Fair Subcontracting Policies  
(Section 2-8.8 of the Miami-Dade County Code)

**FAIR SUBCONTRACTING PRACTICES**

In compliance with Section 2-8.8 of the Miami-Dade County Code, the Proposer submits the following detailed statement of its policies and procedures for awarding subcontracts:

\_\_\_\_\_

I hereby certify that the foregoing information is true, correct and complete.

Signature of Authorized Representative: Chris E. Kyle

Title: \_\_\_\_\_ Date: \_\_\_\_\_

Proposer's Name: \_\_\_\_\_

**Miami-Dade County  
Contractor Due Diligence Affidavit**

Per Miami-Dade County Board of County Commissioners (Board) Resolution No. R-63-14, County Vendors and Contractors shall disclose the following as a condition of award for any contract that exceeds one million dollars (\$1,000,000) or that otherwise must be presented to the Board for approval:

- (1) Provide a list of all lawsuits in the five (5) years prior to bid or proposal submittal that have been filed against the firm, its directors, partners, principals and/or board members based on a breach of contract by the firm; include the case name, number and disposition;
- (2) Provide a list of any instances in the five (5) years prior to bid or proposal submittal where the firm has defaulted; include a brief description of the circumstances;
- (3) Provide a list of any instances in the five (5) years prior to bid or proposal submittal where the firm has been debarred or received a formal notice of non-compliance or non-performance, such as a notice to cure or a suspension from participating or bidding for contracts, whether related to Miami-Dade County or not.

All of the above information shall be attached to the executed affidavit and submitted to the Procurement Officer overseeing this solicitation/contract/purchase order. The Vendor/Contractor attests to providing all of the above information, if applicable, to the County.

**NOTE:** "Pursuant to Florida Statutes s. 92.525, under penalties of perjury....." vendors who are unable to obtain a Notary Public during the COVID-19 declared emergency are permitted to use the below declaration in lieu of (notarized) affidavits for responses to solicitations.

**Written Declaration:** Pursuant to Florida Statutes s. 92.525, under penalties of perjury, I declare that I have read the foregoing Contractor Due Diligence Affidavit and that the facts stated in it (attached to it) are true.

**Contract No. :**  **Federal Employer Identification Number (FEIN):**

**Contract Title:**

Printed Name of Affiant Printed Title of Affiant Signature of Affiant

Name of Firm Date

Address of Firm State Zip Code

**Notary Public Information**

Notary Public – State of Florida County of Hillsborough

**Subscribed and sworn to** (or affirmed) before me this 15<sup>th</sup> day of March 2023 by Christopher F. Kuzler He or she is personally known to me or has produced identification

Paula R. Eldon HH 265549  
Signature of Notary Public Serial Number

Paula R. Eldon 9/17/2026  
Print or Stamp of Notary Public Expiration Date



rev. COVID-19 declared emergency



**CONTRACTING WITH ENTITIES OF FOREIGN COUNTRIES OF CONCERN PROHIBITED  
AFFIDAVIT**

The Contracting with Entities of Foreign Countries of Concern Prohibited Affidavit Form ("Form") is required by [Section 287.138, Florida Statutes \("F.S."\)](#), which is deemed as being expressly incorporated into this Form. The Affidavit must be completed by a person authorized to make this attestation on behalf of the Bidder/Proposer for the purpose of submitting a bid, proposal, quote, or other response, or otherwise entering into a contract with the County. The associated bid, proposal, quote, or other response will not be accepted unless and until this completed and executed Affidavit is submitted to the County.

\_\_\_\_\_ does not meet any of the criteria set forth in Paragraphs 2 (a) – (c)


Bidder's/Proposer's Legal Company Name

of [Section 287.138, F.S.](#)

Pursuant to Section 92.525, F.S., under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Print Name of Bidder's/Proposer's Authorized Representative: \_\_\_\_\_

Title of Bidder's/Proposer's Authorized Representative: \_\_\_\_\_

Signature of Bidder's/Proposer's Authorized Representative:  \_\_\_\_\_

Date: \_\_\_\_\_

INSURANCE PLACEHOLDER  
AFTER BOARD APPROVAL