

TPO State Legislative Advocacy Services
Contract No. RFQ-01387-B

THIS AGREEMENT made and entered into as of this 24TH day of DECEMBER 2019 by and between Ronald L. Book, P.A., a corporation organized and existing under the laws of the State of Florida, having its principal office at 18851 NE 29th Avenue, Suite 1010, Aventura, FL 33180 (hereinafter referred to as the "Contractor"), and Transportation Planning Organization, (hereinafter referred to as the "TPO"), previously known as the Metropolitan Planning Organization for the Miami Urbanized Area, created pursuant to Section 339.175, Florida Statutes (hereinafter referred as the "MPO"), having its principal office at 111 NW First Street, Suite #920, Miami, Florida 33128.

WITNESSETH:

WHEREAS, the Contractor has offered to provide State Legislative Advocacy Services, on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Qualifications (RFQ) No. 01387 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

WHEREAS, the Contractor has submitted a written proposal dated November 21, 2019, hereinafter referred to as the "Contractor's Proposal" which is incorporated herein by reference; and,

WHEREAS, the TPO desires to procure from the Contractor such State Legislative Advocacy Services for the TPO, in accordance with the terms and conditions of this Agreement;

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

ARTICLE 1. DEFINITIONS

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

- a) The words "Contract" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), all other appendices and attachments hereto, all amendments issued hereto, RFQ No. 01387 and all associated addenda, and the Contractor's Proposal.
- b) The words "Contract Date" to mean the date on which this Agreement is effective.
- c) The words "Contract Manager" to mean the Miami-Dade TPO Executive Director, or the duly authorized representative designated to manage the Contract.

- d) The word "Contractor" to mean Ronald L. Book, P.A. and its permitted successors.
- e) The word "Days" to mean Calendar Days.
- f) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the TPO's Contract Manager for review and approval pursuant to the terms of this Agreement.
- g) The words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the TPO's Contract Manager; and similarly the words "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the TPO's Contract Manager.
- h) The words "Extra Work" or "Additional Work" to mean additions or deletions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the TPO.
- i) The words "Project Manager" to mean the County Mayor or the duly authorized representative designated to manage the Project.
- j) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.
- k) The word "subcontractor" or "subconsultant" to mean any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.
- l) The words "Work", "Services" "Program", or "Project" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) these terms and conditions, 2) the Scope of Services (Appendix A), 3) the Miami-Dade County's RFQ No. 01387 and any associated addenda and attachments thereof, and 4) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

- a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.
- b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.
- c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.

- d) The titles, headings, captions and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify or modify the terms of this Contract, nor affect the meaning thereof.

ARTICLE 4. NATURE OF THE AGREEMENT

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

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date indicated on the first page and shall continue through the last day of the 12th month. The TPO, at its sole discretion, reserves the right to exercise the option to renew this Contract for a period of two (2) additional one-year terms. The TPO reserves the right to exercise its option to extend this Contract for up to three hundred sixty-five (365) calendar days beyond the current Contract period and will notify the Contractor in writing of the extension, upon approval by the TPO Governing Board, as appropriate.

ARTICLE 6. NOTICE REQUIREMENTS

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

(1) to the TPO

- a) Aileen Bouclé, AICP
TPO Executive Director
Transportation Planning Organization (TPO)
111 NW 1st Street, Suite 920
Miami, FL 33128
(305) 375-4507
Aileen.boucle@mdtpo.org

and,

- b) Zainab Salim, Contract Manager
Transportation Planning Organization (TPO)
111 N.W. 1st Street, Suite 920
Miami, FL 33128
(305) 375-4507
Zainab.salim@mdtpo.org

(2) To the Contractor

Ronald L. Book, P.A.
18851 NE 29th Avenue, Suite 1010
Aventura, FL 33180
Attention: Ronald L. Book, President
Phone: (305) 935-1866
E-mail: ron@rlbookpa.com

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

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Contractor warrants that it has reviewed the TPO's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order to determine the price the Contractor will charge to provide the Work and Services to be performed under this Contract. The compensation for all Work and Services performed under this Contract, including all costs associated with such Work and Services, shall be in the total amount of Seventy-five thousand Dollars (\$75,000). The TPO shall have no obligation to pay the Contractor any additional sum in excess of this amount, except for a change and/or modification to the Contract, which is approved and executed in writing by the TPO and the Contractor.

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

With respect to travel costs and travel-related expenses, the Contractor agrees to adhere to

Section 112.061 of the Florida Statutes as they pertain to out-of-pocket expenses, including employee lodging, transportation, per diem, and all miscellaneous cost and fees. The TPO shall not be liable for any such expenses that have not been approved in advance, in writing, by the TPO.

ARTICLE 8. PRICING

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

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The Contractor agrees that under the provisions of this Agreement, as reimbursement for those actual, reasonable and necessary costs incurred by the Contractor, which are directly attributable or properly allocable to the Services, the Contractor may bill the TPO periodically, but not more than once per month, upon invoices certified by the Contractor. All invoices shall be taken from the books of account kept by the Contractor, shall be supported by copies of payroll distribution, receipt bills or other documents reasonably required by the TPO, shall show the TPO's contract number, and shall have a unique invoice number assigned by the Contractor. It is the policy of the TPO that payment for all purchases shall be made in a timely manner.

Invoices and associated back-up documentation shall be submitted in duplicate by the Contractor to the TPO as directed by the Contract Manager.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

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

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

1. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.
2. Commercial General Liability Insurance on a comprehensive basis in an amount not less than \$300,000 per occurrence, and \$600,000 in the aggregate. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
3. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in

connection with the Services, in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.

4. Professional Liability Insurance in an amount not less than \$1,000,000 per claim.

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

OR

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

The certificate holder must appear on the certificate of insurance as follows:

CERTIFICATE HOLDER MUST STATE:

**Miami-Dade TPO in its role as the MPO
for the Miami Urbanized Area
111 NW 1st Street
Suite 920
Miami, Florida 33128**

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

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

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

The Contractor shall assure that the Certificates of Insurance required in conjunction with this Section remain in full force for the term of the Contract, including any renewal or extension periods that may be exercised by the County. If the Certificate(s) of Insurance is scheduled to expire during the term of the Contract, the Contractor shall submit new or renewed Certificate(s) of Insurance to the County a minimum of ten (10) calendar days before such expiration. In the event that expired Certificates of Insurance are not replaced or renewed to cover the Contract period, the County may suspend the Contract until the new or renewed certificates are received by the County in the manner prescribed herein. If such suspension exceeds thirty (30) calendar days, the County may, at its sole discretion, terminate the Contract for cause and the Contractor shall be responsible for all direct and indirect costs associated with such termination.

ARTICLE 11. MANNER OF PERFORMANCE

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

ARTICLE 12. EMPLOYEES OF THE CONTRACTOR

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

ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the TPO. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all

times, and in all places, be subject to the Contractor's sole direction, supervision and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the TPO shall be that of an independent contractor and not as employees and agents of the TPO.

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

ARTICLE 14. AUTHORITY OF THE TPO CONTRACT MANAGER

- a) The Contractor hereby acknowledges that the TPO's Contract Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Contractor's Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Contractor shall be bound by all determinations or orders and shall promptly comply with every order of the Contract Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Contract Manager's determination or order. Where orders are given orally, they will be issued in writing by the Contract Manager as soon thereafter as is practicable.
- c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Contract Manager. In the event that the Contractor and the Contract Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.
- d) In the event of such dispute, the parties to this Agreement authorize the TPO Executive Director or designee, who may not be the Contract Manager or anyone associated with this Contract, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the TPO Executive Director's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the TPO Executive Director within 10 days of the occurrence, event or act out of which the dispute arises.
- e) The TPO Executive Director may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the TPO Executive Director participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the TPO Executive Director for a decision, together with all evidence and other pertinent

information in regard to such questions, in order that a fair and impartial decision may be made. Whenever the TPO Executive Director is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The TPO Executive Director, as appropriate, shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

ARTICLE 15. MUTUAL OBLIGATIONS

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

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

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

ARTICLE 17. AUDITS

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

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

ARTICLE 18. SUBSTITUTION OF PERSONNEL

In the event the Contractor wishes to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the TPO in writing and request written approval

for the substitution at least ten (10) business days prior to effecting such substitution.

ARTICLE 19. CONSENT OF THE TPO REQUIRED FOR ASSIGNMENT

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

ARTICLE 20. SUBCONTRACTUAL RELATIONS

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

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

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

ARTICLE 22. SEVERABILITY

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

ARTICLE 23. TERMINATION AND SUSPENSION OF WORK

- a) The TPO may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the TPO through fraud, misrepresentation or material misstatement.
- b) The TPO may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the TPO and that such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.
- c) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the TPO through fraud, misrepresentation or material misstatement may be debarred from TPO contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the Code of Miami-Dade County.
- d) In addition to cancellation or termination as otherwise provided in this Agreement, the TPO may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Contractor.
- e) In the event that the TPO exercises its right to terminate this Agreement, the Contractor shall, upon receipt of such notice, unless otherwise directed by the TPO:
 - i. stop work on the date specified in the notice ("the Effective Termination Date");
 - ii. take such action as may be necessary for the protection and preservation of the TPO's materials and property;
 - iii. cancel orders;
 - iv. assign to the TPO and deliver to any location designated by the TPO any non-cancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole

- purpose of this Agreement and not incorporated in the Services;
- v. take no action which will increase the amounts payable by the TPO under this Agreement; and
- f) In the event that the TPO exercises its right to terminate this Agreement, the Contractor will be compensated as stated in the payment Articles herein for the:
- i. portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and
 - ii. non-cancelable Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement, but not incorporated in the Services.
- g) All compensation pursuant to this Article are subject to audit.

ARTICLE 24. EVENT OF DEFAULT

- a) An Event of Default shall mean a breach of this Agreement by the Contractor. Without limiting the generality of the foregoing, and in addition to those instances referred to herein as a breach, an Event of Default shall include the following:
- i. the Contractor has not delivered Deliverables on a timely basis;
 - ii. the Contractor has refused or failed to supply enough properly skilled staff personnel;
 - iii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;
 - iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
 - v. the Contractor has failed to obtain the approval of the TPO or the County where required by this Agreement;
 - vi. the Contractor has failed to provide "adequate assurances" as required under subsection b below;
 - vii. the Contractor has failed in the representation of any warranties stated herein.
- b) When, in the opinion of the TPO, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the TPO may request that the Contractor, within the timeframe set forth in the TPO's request, provide adequate assurances to the TPO, in writing, of the Contractor's ability to perform in accordance with the terms of this Agreement. Until the TPO receives such assurances, the TPO may request an adjustment to the compensation received by the Contractor for portions of the Services which the Contractor has not performed. In the event that the Contractor fails to provide to the TPO or the County the requested assurances within the prescribed timeframe, the TPO may:

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

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

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

ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT

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

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

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

ARTICLE 27. PATENT AND COPYRIGHT INDEMNIFICATION

Not applicable.

ARTICLE 28. CONFIDENTIALITY

- a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the TPO in connection with the Services performed under this Agreement, made or developed by the Contractor or its subcontractors in the course of the performance of such Services, or the results of such Services, or which the TPO holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the TPO, be used by the Contractor or its employees, agents, subcontractors or suppliers for any

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

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

ARTICLE 29. PROPRIETARY INFORMATION

Not applicable.

ARTICLE 30. PROPRIETARY RIGHTS

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

shall become the property of the TPO.

- c) Accordingly, neither the Contractor nor its employees, agents, subcontractors or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, agent, subcontractor or supplier thereof, without the prior written consent of the TPO, except as required for the Contractor's performance hereunder.

ARTICLE 31. VENDOR REGISTRATION/CONFLICT OF INTEREST

a) Vendor Registration

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

1. **Miami-Dade County Ownership Disclosure Affidavit**
(Section 2-8.1 of the Code of Miami-Dade County)
2. **Miami-Dade County Employment Disclosure Affidavit**
(Section 2-8.1(d)(2) of the Code of Miami-Dade County)
3. **Miami-Dade County Employment Drug-free Workplace Certification**
(Section 2-8.1.2(b) of the Code of Miami-Dade County)
4. **Miami-Dade County Disability and Nondiscrimination Affidavit**
(Section 2-8.1.5 of the Code of Miami-Dade County)
5. **Miami-Dade County Debarment Disclosure Affidavit**
(Section 10.38 of the Code of Miami-Dade County)
6. **Miami-Dade County Vendor Obligation to County Affidavit**
(Section 2-8.1 of the Code of Miami-Dade County)
7. **Miami-Dade County Code of Business Ethics Affidavit**
(Sections 2-8.1(i), 2-11.1(b)(1) through (6) and (9), and 2-11.1(c) of the Code of Miami-Dade County)
8. **Miami-Dade County Family Leave Affidavit**
(Article V of Chapter 11 of the Code of Miami-Dade County)
9. **Miami-Dade County Living Wage Affidavit**
(Section 2-8.9 of the Code of Miami-Dade County)
10. **Miami-Dade County Domestic Leave and Reporting Affidavit** (Article VIII, Section 11A-60 - 11A-67 of the Code of Miami-Dade County)
11. **Miami-Dade County E-Verify Affidavit**
(Executive Order 11-116)
12. **Miami-Dade County Pay Parity Affidavit**
(Resolution R-1072-17)
13. **Miami-Dade County Suspected Workers' Compensation Fraud Affidavit**
(Resolution R-919-18)
14. **Subcontracting Practices**
(Section 2-8.8 of the Code of Miami-Dade County)
15. **Subcontractor/Supplier Listing**
(Section 2-8.1 of the Code of Miami-Dade County)
16. **Form W-9 and 147c Letter**
(as required by the Internal Revenue Service)
17. **FEIN Number or Social Security Number**
In order to establish a file, the Contractor's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Contractor's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:
 - Identification of individual account records
 - To make payments to individual/Contractor for goods and services provided to Miami-Dade County
 - Tax reporting purposes
 - To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records
18. **Office of the Inspector General**
(Section 2-1076 of the Code of Miami-Dade County)
19. **Small Business Enterprises**
The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.1.1.1, 2-8.1.1.2 and 2-8.2.2 of the Code of Miami-Dade County and Title 49 of the Code of Federal Regulations.
20. **Antitrust Laws**
By acceptance of any contract, the Contractor agrees to comply with all antitrust laws of the United States and the State of Florida.

b) Conflict of Interest and Code of Ethics

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

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

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

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all contract renewals and extensions.

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

inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award.

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

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

ARTICLE 33. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

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

- a) Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.
- b) Miami-Dade County Small Business Enterprises Development Participation Provisions, as applicable to this Contract.
- c) Environmental Protection Agency (EPA), as applicable to this Contract.
- d) Section 2-11.1 of the Code of Miami-Dade County, "Conflict of Interest and Code of Ethics."
- e) Section 10-38 of the Code of Miami-Dade County, "Debarment of Contractors from County Work."
- f) Section 11A-60 - 11A-67 of the Code of Miami-Dade County, "Domestic Leave."

- g) Section 21-255 of the Code of Miami-Dade County, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.
- h) The Equal Pay Act of 1963, as amended (29 U.S.C. 206(d)).
- i) Section 448.07 of the Florida Statutes "Wage Rate Discrimination Based on Sex Prohibited."
- j) Chapter 11A of the Code of Miami-Dade County (§ 11A-1 et seq.) "Discrimination."
- k) Chapter 22 of the Code of Miami-Dade County (§ 22-1 et seq.) "Wage Theft."
- l) Chapter 8A, Article XIX, of the Code of Miami-Dade County (§ 8A-400 et seq.) "Business Regulations."
- m) Any other laws prohibiting wage rate discrimination based on sex.

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

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

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

ARTICLE 34. NONDISCRIMINATION

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

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

the Act or the Resolution during the term of this Contract, even if the Contractor was not in violation at the time it submitted its affidavit.

ARTICLE 35. CONFLICT OF INTEREST

The Contractor represents that:

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

ARTICLE 36. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

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

- a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the TPO, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the TPO. Such approval may be withheld if for any

reason the TPO believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and

- b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the TPO; and
- c) Except as may be required by law, the Contractor and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Contractor or such parties has been approved or endorsed by the TPO.

ARTICLE 37. BANKRUPTCY

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

ARTICLE 38. GOVERNING LAW

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

ARTICLE 39. COUNTY USER ACCESS PROGRAM (UAP)

a) User Access Fee

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

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

b) Joint Purchase

Only those entities that have been approved by the County for participation in the County's Joint Purchase and Entity Revenue Sharing Agreement are eligible to utilize or receive County Contract pricing and terms and conditions. The County will provide to approved entities a UAP Participant Validation Number. The Contractor must obtain the participation number from the entity prior to filling any order placed pursuant to this Section. Contractor participation in this joint purchase

portion of the UAP, however, is voluntary. The Contractor shall notify the ordering entity, in writing, within three (3) business days of receipt of an order, of a decision to decline the order.

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

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

c) Contractor Compliance

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

ARTICLE 40. FIRST SOURCE HIRING REFERRAL PROGRAM

Not applicable.

ARTICLE 41. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF MIAMI-DADE COUNTY

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

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

ARTICLE 42. SURVIVAL

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

ARTICLE 43. INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION and/or PROTECTED HEALTH INFORMATION

Not applicable.

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

Ronald L. Book, P.A.

Miami-Dade TPO

By:

Name: RONALD L. BOOK

Title: CEO

Date: 12/24/2019

Attest: Bonette Moschella
Corporate Secretary/Notary Public
BONETTE MOSCHELLA

By:

Name: Aileen Bouclé, AICP

Title: TPO Executive Director

Date:

Attest: TPO Clerk of the Board

Corporate Seal/Notary Seal



Approved as to form and legal sufficiency

Assistant County Attorney

Appendix A Scope of Services

2.1 General

This contract is for State legislative advocacy services to represent the TPO's legislative policy interests and assist in the development of strategies for advancing actions at the state and local levels that are beneficial to the TPO and its programs, including carrying out the vision in the Strategic Miami Area Rapid Transit (SMART) Plan. The SMART Plan includes six (6) rapid transit corridors and a network of bus express rapid transit (BERT) corridors throughout Miami-Dade County.

Contractor will provide the TPO with the required staff, resources, and expertise to effectively perform and complete the Scope of Services in this contract. The Contractor shall provide a written monthly status report on pending legislation, budgetary issues, administrative policies, and other developments at the state and/or local levels that are of interest to the TPO, as well as provide legislative updates and presentations to the TPO Governing Board and/or staff as needed. In addition, the Contractor shall provide an annual summary to be completed by June 1 of each year detailing developments on significant issues and actions taken to address TPO priorities and the issues that are likely to emerge in the coming year.

2.2 Assignment of Work

The TPO reserves the right to request that the Contractor obtain services through subcontractors to supplement the expertise and resources which may be required at any given time and for the purposes of carrying out the intent of the requirements herein.

2.3 Requirements and Services to be Provided

A. Lobbying Ordinances and Resolution Requirements

The Contractor shall abide by and be governed by Miami-Dade County Ordinances and Resolutions, which may have a bearing on the services involved in any agreement(s) issued as a result of this Contract, including but not limited to, Section 2-11.1 of the Code of Miami-Dade County (Ordinance 72-82, Conflict of Interest Ordinance); Resolution No. R-1236-99 (Resolution Directing the County Mayor to Report Intergovernmental Activity by County Staff, Lobbyists, and Entities that Represent Miami-Dade County at the State and Federal Levels); Resolution No. R-232-01 (Resolution Instructing County Staff and Lobbyists to Limit Legislative Initiatives and Funding Requests to Those Approved by the County Commission); Section 2-11.1.2 of the Code of Miami-Dade County (Ordinance No. 00-64, Ordinance Relating to County's Lobbyists); and Resolution No. R-56-10 (Resolution Setting Policy for Miami-Dade County that all Contract Lobbyists shall Obtain a Waiver from the Board of County Commissioners Prior to Representing any Client in any Forum that is Adverse to the County), all as such may be amended from time to time.

A person or entity, whether an individual, firm, partnership or corporation, which receives compensation either directly or indirectly from the TPO for lobbying on behalf of the TPO shall represent any entity in any forum to support a position in opposition to a position of the TPO unless the TPO Governing Board grants a specific waiver for a specific lobbying activity. The

failure to comply with this provision shall result in either or both of the following: (i) the Contractor's contract being voidable by the TPO or (ii) a prohibition, for a period of up to three years, as determined by the TPO Governing Board in its sole discretion, on the Contractor entering into a lobbying contract with the TPO.

The Contractor, on behalf of itself and any and all employees, partners, and subcontractors, shall have an affirmative obligation to notify the TPO Executive Director in writing of each and every party the Contractor and/or its employees, partners, or subcontractors wishes to represent before the Florida Legislature, the Governor's Office, or any state agency, as well as the nature of the proposed representation. This obligation shall apply whether such party or interest is adverse to the TPO or not. Such notification must include all parties the Contractor, its employees, partners, or subcontractors wishes to represent.

Separate and independent from the above-referenced obligation, the Contractor, on behalf of itself and any and all employees, partners, and subcontractors, must advise the TPO Executive Director in writing of any position in opposition to a position of the TPO taken by the Contractor, any employee, partner, or subcontractor and request a waiver of such conflict by the TPO Governing Board or designee. A position in opposition to a position of the TPO may take the form of an adverse policy position or fiscal impact on the TPO, either direct or indirect. A position in opposition to a position of the TPO is not limited to a position that conflicts with an express provision of the legislative package adopted by the TPO Governing Board. It may also arise in other areas. Not every TPO interest can be anticipated or enumerated in the TPO legislative package, and issues arise and change over the course of the legislative process. It is incumbent on the Contractor, employees, partners, and subcontractors to remain mindful of the TPO's policy and fiscal interests and positions vis-à-vis other clients. If an actual or perceived conflict arises, the Contractor and/or subcontractor must advise the TPO Executive Director immediately in writing and seek a waiver of the conflict by the TPO Governing Board, as appropriate.

Once a conflict waiver request has been received by the TPO, the TPO Executive Director reserves the right to determine whether the Contractor and/or employee, partner, or subcontractor may continue representing the TPO and the other interest until the TPO Governing Board can consider the conflict issue. The TPO Governing Board may take, in its sole discretion, any action regarding a waiver request, including but not limited to the following: (i) grant a waiver and allow the Contractor, and/or employee, partner, or subcontractor to continue to represent both the TPO and the other party; (ii) refuse to grant a waiver and require the Contractor, and/or employee, partner, or subcontractor to choose between representing the TPO or the other party, or to discontinue representing the other party; (iii) refuse to grant a waiver and void its contract with the Contractor and/or employee, partner, or subcontractor; or (iv) grant a limited waiver and allow the Contractor and/or employee, partner, or subcontractor to continue to represent both the TPO and the other party under whatever limitations or restrictions the TPO, in its sole discretion, determines to be appropriate.

The Contractor and each subcontractor shall prepare regular monthly reports advising the TPO Executive Director of the current status of all issues that the lobbyist is monitoring or tracking that may affect the TPO, the actions taken on such issues, and the recommendations for future actions on such issues. The Contractor and each subcontractor shall also raise, discuss and recommend any affirmative legislative action that may benefit the TPO. Also, all TPO contracts and subcontracts for lobbying or representation at the state level and/or individuals and firms hired to represent the TPO issues must be approved by the TPO Governing Board. As such, any

subcontractors that the Contractor seeks to hire to fulfill the requirements of any contract issued as a result of this Contract must receive prior approval by the TPO Governing Board.

The Contractor's and each subcontractor's individuals registered as a contract lobbyist to lobby the State Legislature on behalf of the TPO shall be prohibited from lobbying the TPO Governing Board during the regular state legislative session. This does not prohibit individuals who are not registered as state legislative contract lobbyists for the TPO from lobbying the TPO Governing Board and does not apply to individuals lobbying on behalf of municipalities. The TPO staff shall provide each TPO Governing Board Member with a list at the beginning of each session of all TPO contract lobbyists registered to lobby the legislative branch at the state level on behalf of the TPO, and any subsequent changes or updates to such a list.

B. Representation and Consulting Services

The Contractor shall provide a full range of State advocacy services requested by the TPO that will yield effective representation regarding transportation initiatives before the State's executive branch, legislative branch, the Florida Department of Transportation (FDOT) and related transportation agencies.

1. Deliverables:

- a. **Annual Submission of Suggested Legislative Strategy** - The Contractor will provide a proposed written legislative strategy for the Miami-Dade TPO to consider, based on the approved Miami-Dade TPO Legislative Platform, which includes the advancement of the SMART Plan. The strategy should be based on pending legislative actions, trends, and political activities, etc. The strategy will incorporate the Miami-Dade TPO's Legislative Platform which the Contractor will assist in developing. The strategy shall have specific objectives for key meetings to arrange, activities to monitor, and other actions that will occur over the coming year. The strategy will also include talking points to be used by the TPO's Executive Director.
- b. **Monthly Written Reports** - The Contractor will provide monthly written summaries of all activities performed and the status of ongoing talks, in support of the Miami-Dade TPO representation. Monthly reports will be attached to the monthly invoices.
- c. **As Needed Reports** - The Contractor will provide necessary reports on an as needed basis at the request of the TPO Executive Director or designee regarding; regular State legislative session, as well as any extended or special sessions, TPO Governing Board meetings, and/or conducting other services and participation in meetings, as may be deemed necessary, to implement the Miami-Dade TPO's Legislative Program.

2. General requirements under this section:

- a. All invoices shall be accompanied with the monthly report and any other document(s) requested by the TPO Executive Director.
- b. The TPO Executive Director shall have the option to request formal hard copies of reports for dissemination to the TPO Governing Board or informal electronic submittals.

3. Optional Services:

The Miami-Dade TPO reserves the right to request office space in the vicinity of the Capitol, with ancillary services including, but not limited to, parking, phones, computer equipment, supplies, clerical support to TPO staff, facsimile, copy machine, filing space, and an intern/runner, for use by TPO staff for the duration of their time in Tallahassee. The TPO has the option of requiring any Contractor to provide the referenced office space and ancillary services at an agreed upon cost. All optional services and related expenses require prior written TPO approval.

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