

**MIAMI-DADE COUNTY, FLORIDA
NOTICE TO PROFESSIONAL CONSULTANTS
MIAMI-DADE COUNTY
DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT (DERM)
ENVIRONMENTAL CLEANUP, COMPLIANCE AND RELATED SERVICES
FOR MIAMI-DADE TRANSIT DEPARTMENT (MDT) AND OTHER COUNTY FACILITIES
FUNDED WITH FEDERAL AND/OR TRANSIT SURTAX FUNDS
OCI PROJECT NO. E09-DERM-01 PTP**

The County Mayor, Miami-Dade County (County), pursuant to Section 287.055, Florida Statutes, 2-8.1 and 2-10.4 of the County Code and Administrative Order 3-39, announces that professional engineering services will be required for environmental cleanup, compliance and related services for Miami-Dade Transit Department (MDT) and other County facilities funded with Federal and/or Transit surtax funds.

Prime and sub-consultants that are members of the Program Management Consultant (PMC) team, OCI Project No. E03-MDT-01 – Project Name – Program Management Consulting for the implementation of the People’s Transportation Plan (PTP), Contract No. TR04-PTP1, are precluded from participating on this solicitation.

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ATTACHMENTS:

Miami-Dade County LOQ, OCI Forms Nos. 6 REFERENCE, 7 REFERENCE, 8 REFERENCE, 3 and 5.

Exhibit "A" Community Business Enterprise (CBE) Provisions

Exhibit "B" Disadvantaged Business Enterprise (DBE) Requirements

Exhibit "C" Federal Provisions

DIVISION 1.0 PROCEDURES AND SCOPE OF SERVICES

1.1 DEFINITIONS

The following definitions, as well as additional terms necessary for understanding the provisions of this solicitation are defined in Administrative Order 3-39, which may be obtained on the Internet at www.miamidade.gov, or from the Clerk of the Board, refer to Division 2.2 for location.

- a) **A/E** means architectural and engineering.
- b) **Competitive Selection Committee** or **CSC** as defined in Section 2-10.4 (5) of the Code, shall be the committee appointed by the County Mayor or County Mayor's designee to evaluate qualifications and performance of the firms requesting consideration for the specific project and select the most qualified firm (s) to perform the services.
- c) **Consultant** means the respondent that receives an award of a Contract from the County as a result of this solicitation, which is also to be known as "Prime Consultant".
- d) **Contract** is synonymous with the term "Agreement", an Agreement refers to the Professional Services Agreement (PSA).
- e) **Letter of Qualification (LOQ)** is a two-page document identified in this NTPC, which will be utilized by Miami-Dade County to obtain information from architecture and engineering (A&E) firms about their qualifications. Subject LOQ is required to be submitted on or before the deadline for receipt of proposals.
- f) **Multiple Projects Contract** is a contract for a "project" which constitutes a grouping of minor or substantially similar construction, rehabilitation or renovation activities as defined in Section 2-10.4(1)(e)(1) and (2), Code of Miami-Dade County.
- g) **Non-Responsive** means a proposer who in the County's sole discretion, has not complied with all of the material requirements outlined in the solicitation, as applicable, and may not be considered for contract award.
- h) **NTPC** means Notice to Professional Consultants, and denotes a document soliciting professional services which contains a description of the scope of services, technical certification requirements, contract measures established for the subject project, data sheets (forms to be completed and submitted as part of the proposal), and submission dates.

- i) **OCI** means the Miami-Dade County Office of Capital Improvements.
- j) **Pre-Qualification Certification** means an annual certification process required of all firms providing architectural, engineering, landscape architectural, land surveying and mapping professional services, for firms serving as prime consultant or sub-consultant, pursuant to Miami-Dade County professional services agreements. Pre-Qualification Certification is the consolidation of the various certification processes into one streamlined process and includes, but may not be limited to, technical certification, affirmative action plan verification, vendor registration and execution of the basic Miami-Dade County affidavits, as applicable. The pre-qualification certification program is administered by the Office of Capital Improvements (OCI). Pre-Qualification approval is granted to firms who have received approval from OCI on all the required certification processes outlined above.
- k) **Project Specific Contract** is a contract for professional services for work of a specified nature, study or planning activity, as defined in Section 2-10.4(1)(e)(1) and (2), Code of Miami-Dade County.
- l) **Proposer** is synonymous with the words “Submitter” or “Respondent”, means the person, firm, entity or organization submitting a response to this solicitation.
- m) **Responsive** means a proposer who in the County’s sole discretion, has complied with all of the requirements outlined in the solicitation, as applicable.

1.2 SCOPE OF SERVICES

The scope of services includes:

- A. Performing environmental investigation and/or rehabilitation and related tasks, including drilling, surveying and mapping and laboratory services, at Miami-Dade County owned and/or operated sites in accordance with Chapters 62-770, 62-782 and 62-785 of the Florida Administrative Code (FAC), Chapter 24 of the Miami-Dade County Code and all applicable regulations.
- B. Performing services related to the modification, repair, removal, replacement, installation and/or abandonment of any underground or aboveground storage systems, and any related tasks, in accordance with Chapters 62-761 and 62-762 FAC, Chapter 24 of the Miami-Dade County Code and all applicable regulations.
- C. Performing services as design criteria professionals and performing duties related to construction management for environmentally necessary construction tasks related to A and B above.
- D. Performing environmentally related construction tasks related to A and B above, as warranted and approved by the COUNTY, in compliance with all applicable rules and regulations that govern construction.
- E. Performing other related environmental work not identified above, necessary for investigation and/or prevention of potential or known contamination, for compliance with applicable regulations, for protection of the environment and the public health and for cleanup of environmental contamination.

DERM will administer the agreements and be responsible for routing eligible tasks through the Equitable Distribution Program (EDP) and for the use of Miscellaneous Construction Contracts. DERM will distribute the work among the firms as evenly as possible, with consideration of any factors affecting such distribution being justified by DERM

Two (2) qualified consultants will be retained under non-exclusive professional services agreements for a term of three years and a compensation of \$2,500,000 per agreement, plus contingency in accordance with Ordinance 00-65, for each professional services agreement. The County Mayor or his designee has the authority to extend the contract duration, with no increase in the contract amount, for two (2) consecutive one-year periods.

1.3 TEAMING RESTRICTIONS

Respondents must select between submitting as a prime consultant or sub-consultant when responding to a specific solicitation. All affected proposals, wherein the respondent is in violation of this condition, shall not be considered.

1. Consultants electing to submit as a prime firm may only respond once to a solicitation, limited to participation on a single team. If submitting as a prime firm, said firm may not participate as a sub-consultant on the same solicitation. In the event of specific industry requirements, the County Mayor or County Mayor's designee may make exceptions.
2. Due to the availability of firms in each of the specified A/E technical certification categories, A/E sub-consultants may only participate on three (3) teams when responding to a solicitation.
3. Due to the limited availability of firms to provide services for technical certifications **9.01**, Soils, Foundations and Material Testing – Drilling, Subsurface Investigations and Seismographic Services and **15.01**, Surveying and Mapping – Land Surveying, sub-consultants may participate on more than three (3) teams for these categories of service.

Please be advised that in the event a prime firm or sub-consultant fails to adhere to the restrictions stated herein and participates in more than the outlined maximums, then all affected proposals shall be found non-responsive.

1.4 PRE-QUALIFICATION REQUIREMENTS

All firms and/or individual consultants properly licensed to provide engineering, architectural, landscape architectural, land surveying and mapping services, (A/E) regardless of their individual assignments in connection with this project, and responding to this solicitation must have filed with the Office of Capital Improvements (OCI), a pre-qualification package and have an approved pre-qualification status from OCI, in accordance with Chapter 2, Section 2-10.4 and Administrative Order 3-39 of Miami-Dade County, by the response deadline of this solicitation. Firms and/or individual consultants are required to have and maintain an approved pre-qualification certification status at the time of submittal to this "Notice to Professional Consultants", throughout the selection process, at time of award, and throughout the duration of the contract term without any lapses.

Interested A/E firms **MUST** secure the required pre-qualification certification, which includes, but may not be limited to technical certification, affirmative action plan verification and vendor registration, prior to the submittal

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date.

PLEASE VERIFY EACH TEAM MEMBER PROVIDING A/E SERVICES HAS AN **APPROVED PRE-QUALIFICATION CERTIFICATION** PRIOR TO THE RESPONSE DEADLINE.

1.5 WORK HISTORY DISCLOSURE

Work History Disclosure (WHD) and Supplement forms are not required to be submitted with the proposal. Any firm proposing on this solicitation who has not previously submitted a WHD is required to submit WHD forms to the Small Business Development Department 111 N.W. 1st Street, 19th Floor, Miami, Florida 33128, Attention: Ms. Patrice King prior to the submittal date. New firms requesting pre-qualification certification with Miami-Dade County to provide engineering, architectural, landscape architectural, land surveying and, mapping services are required to submit WHD forms to the Small Business Development Department with their Prequalification package. Ms. Patrice King may be contacted at (305) 375-3103 for additional information.

1.6 A/E TECHNICAL CERTIFICATION REQUIREMENTS

- 10.05 ENVIRONMENTAL ENGINEERING - CONTAMINATION ASSESSMENT AND MONITORING (PRIME)**
- 10.06 ENVIRONMENTAL ENGINEERING - REMEDIAL ACTION PLAN DESIGN (PRIME)**
- 10.07 ENVIRONMENTAL ENGINEERING - REMEDIAL ACTION PLAN IMPLEMENTATION/ OPERATION/ MAINTENANCE (PRIME)**
- 16.00 GENERAL CIVIL ENGINEERING (PRIME)**
- 17.00 ENGINEERING CONSTRUCTION MANAGEMENT (PRIME)**
- 9.01 SOILS, FOUNDATIONS AND MATERIALS TESTING - DRILLING, SUBSURFACE INVESTIGATIONS AND SEISMOGRAPHIC SERVICES
- 15.01 SURVEYING AND MAPPING - LAND SURVEYING

To satisfy the technical certification requirements for the requested services, valid technical certification in all of the above-specified area(s) of work must be held by a firm responding as a sole respondent, or a team of firms. Teams of firms must designate one of its members as the “prime consultant”. The **Prime Consultant** will be held responsible for the coordination of all work and must hold technical certification in Category **10.05** – Environmental Engineering – Contamination Assessment and Monitoring, **10.06** – Environmental Engineering – Remedial Action Plan Design, **10.07** – Environmental Engineering – Remedial Action Plan Implementation/Operation/Maintenance, **16.00** – General Civil Engineering, and **17.00** – Engineering Construction Management. Joint ventures shall not be allowed. Furthermore, if an individual is providing services that require technical certification by Miami-Dade County, the individual is required to have the relevant certification(s). Individuals who are not technically certified will not be allowed to perform work for those scopes of work requiring technical certification. Additionally, firms that list other areas of work as supplements to the required technical certifications must also be certified for those supplemental areas.

For questions regarding Miami-Dade County's A/E Technical Certification, that are not related to this project and Certification Committee meeting dates, please contact Jamila Gibson, Office of Capital Improvements, (305) 375-4784. Technical Certification application submission deadline dates and Technical Certification meeting dates may be accessed via the following website: http://www.miamidade.gov/oci/library/pqc-tc_schedule.pdf.

1.7 CONTRACT MEASURE(S)

The Miami-Dade County Community Business Enterprises (CBE) and Disadvantage Business Enterprise (DBE) contract participation provisions are as follows:

2 AGREEMENTS – 16% CBE AND 15% DBE MEASURES PER AGREEMENT

DUE TO THE INCLUSION OF BOTH PTP AND FEDERAL FUNDING, BOTH A COMMUNITY BUSINESS ENTERPRISE (CBE) AND DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL HAVE BEEN ESTABLISHED. A CBE GOAL WILL APPLY ONLY WHEN A PROJECT (WORK ORDER) DOES NOT INCLUDE ANY FEDERAL FUNDS. FOR A PROJECT (WORK ORDER) FUNDED IN WHOLE OR IN PART BY FEDERAL FUNDS, THE DBE GOAL WILL APPLY.

Proposed participating CBE and DBE firms must have a valid Miami-Dade County CBE and DBE certification by the response deadline of this solicitation. If selected, participating CBE and DBE firms must have a valid CBE and DBE certification at the time of award of the contract and throughout the contract term(s). Proposers are advised that the CBE and DBE certification process takes approximately eight weeks to complete.

All required CBE and DBE documents included in the Participation Provisions Package, of this solicitation, must be completed and submitted. Failure to submit the required documentation may render the proposal non-responsive.

1.8 SCHEDULE

The anticipated schedule for this solicitation and contract approval is as follows:

NTPC available for distribution:	May 26, 2009
Pre-Submittal Project Briefing:	June 2, 2009 at 2:00 PM
Location:	Stephen P. Clark Center 111 NW 1 st Street, 18 th Floor, Conference Room 18-2 Miami, Florida, 33128
Deadline for receipt of questions:	June 5, 2009 at 5:00 P.M. (Local Time)
Deadline for receipt of proposals:	June 19, 2009 at 3:30 P.M. (Local Time)
Location:	Miami-Dade County, Clerk of the Board Stephen P. Clark Center 111 NW 1 st Street, 17 th Floor, Suite 17-202 Miami, Florida, 33128
First-Tier & Second Tier Meetings:	Anticipated for the week of July 6 and 20, 2009, respectively.
Consultant Coordinator:	Mike Ramos
Address:	111 N.W. 1 st Street, Suite 2130

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Telephone:

Miami, FL 33128

(305) 375-5215

Fax:

(305) 350-6265

E-Mail:

ramosmi@miamidade.gov

All questions in connection with this project shall be in writing and addressed to the Consultant Coordinator, with a copy filed with the Clerk of the Board. Requests for copies of all public documents may be obtained from the above referenced Consultant Coordinator.

While attendance is not mandatory, interested parties are encouraged to attend the **Pre-Submittal Project Briefing**. This meeting provides interested parties a more detailed scope of the requested services, response requirements, and provides any necessary clarifications prior to the response deadline. Proposers are encouraged to submit any questions in writing, to the Consultant Coordinator no less than **three (3)** working days in advance of the pre-submittal project briefing date.

1.9 ADDITIONAL INFORMATION/ADDENDA

Requests for additional information or clarifications must be made in writing and received by the County's A&E Consultant Coordinator for this NTPC. Subject requests must be submitted no later than the deadline for receipt of questions specified in Section 1.8, Schedule. The request must contain the OCI project number and title,

Proposer's name, name of Proposer's contact person, address, phone number, facsimile number, and e-mail address.

Electronic facsimile or e-mail requesting additional information will be received by the A&E Consultant Coordinator at the fax number or e-mail address specified in **Section 1.8** above.

The County will issue responses to inquiries and any other corrections or amendments it deems necessary in written addenda issued prior to the deadline for receipt of proposals. Proposers should not rely on any representations, statements or explanations other than those made in this NTPC or in any written addendum to this NTPC. Where there appears to be conflict between the NTPC and any Addenda issued, the last Addendum issued shall prevail.

It is the Proposer's responsibility to assure receipt of all Addenda. Proposers are required to acknowledge the number of Addenda received as part of their proposals in the Letter of Qualifications.

Proposers who obtain copies of this NTPC from sources other than the County's website risk the potential of not receiving Addenda, since their names will not be included on the Vendor List for this particular NTPC. Such Proposers are solely responsible for those risks.

1.10 NTPC AVAILABILITY

A copy of the NTPC, forms and accompanying participation provisions, as applicable may be obtained from the Office of Capital Improvements Architectural & Engineering Unit located at 111 NW 1st Street, 21st Floor, Miami, Florida 33128. The phone and fax numbers respectively for the unit are (305) 375-2307 and (305) 350-6265. A solicitation notification will be forwarded electronically to all consultants who are pre-qualified with Miami-Dade

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County and have included an e-mail address on their vendor registration form. It will also be e-mailed to those that have vendor enrolled. The NTPC and accompanying documents may be obtained online at <http://www.miamidade.gov> and click on “Procurement Solicitations” for additional information on how to do business with Miami-Dade County.

1.11 APPLICABLE LEGISLATION

The selected consultant will be required to abide by all applicable federal, state and local laws and ordinances, as amended. Among the applicable local laws and ordinances are:

FEDERAL REQUIREMENTS

- Fly America Requirements
- Buy America Requirements
- Cargo Preference Requirements
- Seismic Safety Requirements
- Energy Conservation Requirements
- Clean Water Requirements
- Pre-Award and Post Delivery Audit Requirements
- Lobbying
- Access to Records and Reports
- Federal Changes
- Clean Air
- No Government Obligation to Third Parties
- Program Fraud and False or Fraudulent Statements and Related Acts
- Termination
- Government-wide Debarment and Suspension (Non-procurement)
- Privacy Act
- Civil Rights Requirements
- Breaches and Dispute Resolution
- Disadvantaged Business Enterprises (DBE)
- State and Local Law Disclaimer
- Incorporation of Federal Transit Administration (FTA) Terms

ORDINANCES

- **03-27**--Cone of Silence
- **03-107**--Ordinance Amending Section 2-11.1 (s) of the Conflict of Interest and Code of Ethics
- **07-65**-- Sustainable Building Program

RESOLUTIONS

- **R-1049-93**--Affirmative Action Plan Furtherance and Compliance
 - **R-385-95**--Policy prohibiting contracts with firms violating the American with Disabilities Act (ADA) and other laws prohibiting discrimination on the basis of disability ADA requirements, are a condition of award, as amended by Resolution **R-182-00**
 - **R-894-05**--Independent Private Sector Inspector General (IPSIG) Services
 - **R-744-00**--Requiring the continued engagement of critical personnel in contracts for professional services for
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the duration of the project.

- **R-185-00**--Domestic Violence Leave requirements are a condition of award
- **R-273-05**-- Public Involvement Planning (PIP)

ADMINISTRATIVE ORDERS

- **3-20**--Independent Private Sector Inspector General (IPSIG) Services
- **3-26**--Ordinance amending Section 2-10.4 requiring certain agreements for Professional Architectural and Engineering Services to include Value Analysis as a part of the base scope of services.
- **3-32**--Community Business Enterprise Program
- **3-34**--Formation and Performance of Selection Committee
- **3-39**--Standard Process for Construction of Capital Improvements, Acquisition of Professional Services, Construction Contracting, Change Orders and Reporting

MIAMI-DADE COUNTY CODE

- **Section 2-1076**--Office of the Inspector General

Miami-Dade County has established the Office of the Inspector General, which is authorized and empowered to review past, present, and proposed County and Public Health Trust programs, contracts, transactions, accounts, records and programs. The Inspector General (IG) has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. The Inspector General may, on a random basis, perform audits on all County contracts pursuant to Section 2-1076(c)(8) on the County Code.

Notwithstanding the provision in the County Code related to the pre-payment of fees into a pool to fund IG services, on federally funded projects, IG services will be paid by the user department based on reasonable and allowable actual expenses in accordance with Federal cost accounting principles.

- **Section 2-8.5** --Local Preference
- **Section 2.11.1**--Conflict of Interest and Code of Ethics

Copies of the aforementioned Ordinances, Resolutions and Miami-Dade County Code may be obtained at the Clerk of the Board's Office (refer to Division 2.2 for location).

1.12 CONE OF SILENCE

Pursuant to Section 2-11.1(t) of the Miami-Dade County Code, as amended, a "Cone of Silence" is imposed upon each RFP or RFQ after advertisement and terminates at the time a written recommendation is issued. The Cone of Silence prohibits any communication regarding RFPs or RFQs between, among others:

- potential Proposers, service providers, lobbyists or consultants **and** the County's professional staff including, but not limited to, the County Manager and the County Manager's staff, the Mayor, County Commissioners or their respective staffs;
- the Mayor, County Commissioners or their respective staffs **and** the County's professional staff including, but not limited to, the County Manager and the County Manager's staff; or
- potential Proposers, service providers, lobbyists or consultants, any member of the County's professional staff, the Mayor, County Commissioners or their respective staffs **and** any member of the respective selection committee.

The provisions do not apply to, among other communications:

- oral communications with the staff of the Vendor Assistance Unit, the responsible Procurement Agent or Contracting Officer, provided the communication is limited strictly to matters of process or procedure already contained in the solicitation document;
- oral communications at pre-proposal conferences, oral presentations before selection committees, contract negotiations during any duly noticed public meeting, public presentations made to the Board of County Commissioners during any duly noticed public meeting; or
- communications in writing at any time with any county employees, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP or RFQ documents.

When the Cone of Silence is in effect, all potential vendors, service providers, bidders, lobbyists and consultants shall file a copy of any written correspondence concerning the particular RFP or RFQ with the Clerk of the Board, which shall be made available to any person upon request. The County shall respond in writing (if County deems a response necessary) and file a copy with the Clerk of the Board, which shall be made available to any person upon request. Written communications may be in the form of e-mail, with a copy to the Clerk of the Board at CLERKBCC@MIAMIDADE.GOV.

This language is only a summary of the key provisions of the Cone of Silence. Please review Section 2-11.1(t) of the Miami-Dade County for a complete and thorough description of the Cone of Silence.

1.13 LOCAL PREFERENCE

The evaluation and ranking of proposals is subject to Sections 2-10.4 and 2-8.5 of the Miami-Dade County Code, which, except where Federal and State law mandates to the contrary, provides that a preference be given to local businesses. A local business, for the purposes of this Section, shall be defined as a Proposer which meets all of the following:

1. A business that has a valid occupational license, issued by Miami-Dade County at least one year prior to bid or proposal submission, that is appropriate for the goods, services or construction to be purchased;
2. A business that has physical business address located within the limits of Miami-Dade County from which the vendor operates or performs business (Post Office Boxes are not verifiable and shall not be used for the purpose of establishing said physical address.); and
3. A business that 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 either of the following objective criteria as of the proposal submission date stated in the solicitation:
 - (a) retention or expansion of employment opportunities in Miami-Dade County, or
 - (b) vendor contributes to the County's tax base by paying either real property taxes or tangible personal property taxes to Miami-Dade County, or
 - (c) some other verifiable and measurable contribution to the economic development and well-being of Miami-Dade County.

For architectural and engineering professional service solicitations, if two firms, one local and one non-local are within 5% of each other's ranking, the local firm will proceed to negotiations with the County. In the case of a two-tier evaluation process, the local preference shall also apply at the conclusion of the first-tier to allow eligible local proposers within 5% of the top ranked firms selected to advance to the second-tier evaluation to also participate in the second-tier review. Local preference is only applicable to the Prime firm. If the County extends local preferences to other Counties, those Counties will participate in local preference considerations. The Proposer shall complete, sign and submit Miami-Dade County OCI Form No. 3 "Local Business Preference Affidavit"

1.14 CONFIDENTIAL INFORMATION

The Proposer or Bidder shall not submit any information in response to this solicitation which the Proposer or Bidder considers to be a trade secret or confidential. The submission of any information to the County in connection with this solicitation shall be deemed conclusively to be a waiver of any trade secret or other protection, which would otherwise be available to the Bidder or Proposer. In the event that the Proposer submits information to the County in violation of this restriction, either inadvertently or intentionally, and clearly identifies that information in the bid or proposal as protected or confidential, the County shall endeavor to redact and return that information to the Bidder or Proposer as quickly as possible, and if appropriate. The County will then evaluate the balance of the bid or proposal. The redaction or return of information pursuant to this clause may render a bid or proposal non-responsive.

1.15 CONFLICT OF INTEREST RELATED TO SECTION 2-11.1 OF THE CODE OF MIAMI-DADE COUNTY

If any consultant has any questions regarding conflicts of interest, the question(s) shall be submitted by the Prime Consultant prior to the submittal date, to the Miami-Dade County Commission on Ethics and Public Trust (Ethics Commission), 19 West Flagler Street, Suite 820, Miami, FL 33130, Attention: Robert Meyers, Executive Director, for evaluation as to any possible conflicts of interest, and copied to Mike Ramos, A&E Consultant Selection Coordinator, OCI, at ramosmi@miamidade.gov. Determinations by the Ethics Commission shall be rendered prior to the negotiation authorization recommendation being issued to the County Mayor or County Mayor's designee and shall be deemed final. Any Prime Consultant, sub-consultants, or members found to have a conflict of interest will render the Prime Consultant's submittal non-responsive.

1.16 SUSTAINABLE BUILDING PROGRAM

The primary mechanism for determining compliance with the program shall be the U. S. Green Building Council's LEED Rating System. All construction projects are required to meet the standards delineated in Ordinance 07-65. Compliance shall be determined by completing a formal certification process with the U.S. Green Building Council, or as otherwise directed by the County's Sustainability Manager.

- New Construction: All new construction projects shall be required to attain "Silver" or higher level rating under the LEED-NC Rating System.
- Major Renovations & Remodels: All major renovations/remodels shall attain "Certified" or higher level rating under the LEED-NC Rating System.
- Non-major Renovations/Remodels: All non-major renovations/remodels begun shall attain "Certified" or higher level rating under the appropriate LEED Rating System such as LEED-NC, LEED-EB or LEED-CI.
- Renovations, remodels, and other building upgrades not meeting the above criteria are encouraged to

incorporate the maximum number of LEED-approved green building practices as are feasible from a practical and fiscal perspective; however, LEED certification will not be required.

1.17 VENDOR REGISTRATION

To be recommended for award the County requires that vendors complete a Miami-Dade County Vendor Registration Package. Effective July 1, 2008, a new Vendor Registration Package, including a Uniform Affidavit Packet (Affidavit form), must be completed by vendors and returned to the Department of Procurement Management (DPM), Vendor Assistance Unit, within fourteen (14) days of notification of the intent to recommend for award. In the event the Vendor Registration Package is not properly completed and returned within the specified time, the County may in its sole discretion, award to the next lowest responsive, responsible Proposer. The Proposer is responsible for obtaining the Vendor Registration Package, including all affidavits by downloading from the DPM website at www.miamidade.gov or from the Vendor Assistance Unit at 111 N.W. 1st Street, 13th Floor, Miami, FL 33128.

1.18 PUBLIC ENTITY CRIMES

Pursuant to Paragraph 2(a) of Section 287.133, Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal for a contract to provide any goods or services to a public entity; may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work; may not submit proposals on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and, may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 for Category Two (\$10,000) for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

1.19 LOBBYIST CONTINGENCY FEES

- A) In accordance with Section 2-11.1(s) of the Code of Miami-Dade County, after May, 16, 2003, no person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee.
- B) A contingency fee is a fee, bonus, commission or non-monetary benefit as compensation which is dependent on or in any way contingent upon the passage, defeat, or modification of: 1) any ordinance, resolution, action or decision of the County Commission; 2) any action, decision or recommendation of the County Manager or any County board or committee; or 3) any action, decision or recommendation of any County personnel during the time period of the entire decision-making process regarding such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission or a County board or committee.

DIVISION 2.0 PROPOSAL REQUIREMENTS

2.1 FORMAT AND CONTENTS

- Proposers should carefully follow the format and instructions outlined herein. LOQs must be submitted in paper format only. One original paper LOQ including the signature of the firm's authorized representative is required. Please refer to Section 2.2 for the amount of copies to be submitted. **EACH PROPOSAL SHALL CONSIST OF THE FOLLOWING DOCUMENTS TO BE SUBMITTED IN THE FOLLOWING ORDER:**

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- Letter of Qualification (two (2) page document)
- Resumes (two (2) page resume for all assigned personnel)
- Form 6 – Reference - Prime Consultant's Reference for Similar Type Projects
- Form 7 – Reference - A&E Sub-Consultant's Reference for Similar Type Projects
- Form 8 – Reference - Non A&E Sub-Consultant's Reference for Similar Type Projects
- Table of Organization
- Form 3 – Local Preference Affidavit
- Form 5 – Lobbyist Registration Form
- Completed CBE forms and/or documentation, as applicable
- Completed DBE forms and/or documentation, as applicable

Every firm or team of firms, whether a sole respondent, a prime consultant firm, or a sub-consultant firm, **MUST BE RESPONSIVE TO ALL** applicable items contained in the following sections. Proposers shall **NOT MODIFY** any of the forms provided and **MUST SUBMIT** in their proposal the completed forms listed below. Failure to provide all of the requested information may deem your proposal non-responsive.

EACH PROPOSAL (ORIGINAL AND COPIES) SHALL BE BOUND AND CONSIST OF THE FOLLOWING.

1. LOQ

LOQ instructional sheet is provided with the LOQ form together with a sample of said document. This form together with all other OCI applicable forms are available on Miami-Dade County's web page at the following link: http://www.miamidade.gov/oci/AandE_forms.asp

Proposers are advised that changes to the proposed team composition, such as adding, deleting or replacing a firm(s), or individual subconsultant(s) after the response deadline specified herein, will only be allowed at the discretion of Miami-Dade County. In no circumstances shall a change be allowed which results in a proposer gaining a competitive advantage over the other proposers.

THE COUNTY, AT ITS SOLE DISCRETION, MAY DEEM RESPONDENTS WHO DO NOT ADHERE TO THE LOQ TWO (2) PAGE MAXIMUM NOT IN COMPLIANCE. NOTE THAT THIS MAY RESULT IN THE TEAM'S DISQUALIFICATION FROM FURTHER EVALUATION.

2. Two (2) Page Resume for All Assigned Personnel.

Resumes must be submitted for all assigned personnel participating on the project and denoted in the LOQ. Resumes must be paginated and must include the assigned personnel's name at the top of each page.

Additional assigned personnel which do not adequately fit in the space provided in the LOQ may be added on an additional sheet to be appended to the LOQ.

3. Form 6 – References - Prime Consultant's References for Similar Type Projects

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4. Form 7 – References - A&E Sub-Consultant's References for Similar Type Projects
5. Form 8 – References - Non A&E Sub- Consultant's References for Similar Type Projects
6. **Table of Organization (TO):** A TO is required to be submitted by the Prime. The TO shall include the following information:
 1. Identify all the firms on the team as listed on LOQ with their Federal Employer Identification Number (FEIN). **PLEASE BE ADVISED THAT MIAMI-DADE COUNTY CONSIDERS EVERY COMPANY HAVING DIFFERENT FEINs, A SEPARATE LEGAL ENTITY, FOR PURPOSES OF SATISFYING THE APPLICABLE REQUIREMENTS OF THIS SOLICITATION**
 2. List all assigned personnel and professional services including Miami-Dade County's Technical Certification categories for each team member, in connection with this project.
7. **Local Business Preference Affidavit (Form 3)** shall be completed and provided by the prime claiming local preference in Miami-Dade County. Proposers must complete, sign and notarize the form and attach applicable documents. Local preference is only applicable to the prime firm.
8. **Lobbyist Registration (Form 5)** shall be submitted listing all members of the presentation team who will be participating in Second-Tier (oral presentations) for the proposal. An amended Lobbyist Registration Form must be submitted to the Clerk of The Board (COB) two (2) days prior to the Second-Tier (oral presentations) if additional individuals will be speaking at the subject meeting. The amended form should be titled as AMENDED and should denote those members that have been substituted and/or added with an asterisk. Please make sure to submit the AMENDED form to both OCI and the COB within the above stated time frame. Applicable fees may be required.

Pursuant to the Miami-Dade County's Ethics Commission Rules and Procedures, Section I, subsection 9.7, Selection Committee Registration Requirements, please be advised of the following:

- a. Any person who appears as a representative for an individual or firm for an oral presentation before a County certification, evaluation, selection, technical review or similar committee shall list on an affidavit provided by the county, all individuals who may make presentation. The affidavit shall be filed with the Clerk of the Board at the time the response is submitted.
- b. The individual or firm must submit a revised affidavit for any additional team members with the Clerk of the Board at least two (2) days prior to the oral presentation. Any person not listed on the revised affidavit or who is not a registered lobbyist will not be permitted to participate in the oral presentation.
- c. All additional team members, who are lobbyists, as defined herein, must file a principal authorization form (for the individual or entity) with the Clerk of the Board of County Commissioners prior to the oral presentation.

9. CBE forms
10. DBE forms

FAILURE TO PROVIDE THE INFORMATION REQUIRED BY MIAMI-DADE COUNTY MAY RESULT IN THE NEGATIVE EVALUATION OF THE TEAM OR AT MIAMI-DADE COUNTY'S SOLE DISCRETION, DISQUALIFICATION OF THE TEAM.

PLEASE ENSURE THAT EACH ONE OF YOUR REFERENCES HAS BEEN ADVISED THAT THEY MAY BE CONTACTED BY OCI STAFF OR DESIGNEE TO VERIFY THE INFORMATION PROVIDED IN ANY OF THE FOLLOWING FORMS, AS APPLICABLE:

OCI FORM 6 – REFERENCE – PRIME CONSULTANTS'S REFERENCE FOR SIMILAR TYPE PROJECTS

OCI FORM 7 – REFERENCE – A&E SUB-CONSULTANT'S REFERENCES FOR SIMILAR TYPE PROJECTS

OCI FORM 8 – REFERENCE – NON A&E SUB-CONSULTANT'S REFERENCES FOR SIMILAR TYPE PROJECTS

OCI FORM 6 EQ – PRIME CONSULTANT'S EXPERIENCE AND QUALIFICATIONS

OCI FORM 7 EQ – A&E SUB-CONSULTANT'S EXPERIENCE AND QUALIFICATIONS

OCI FORM 8 EQ – NON A&E SUB-CONSULTANT'S EXPERIENCE AND QUALIFICATIONS

PURSUANT TO A COMMISSION ON ETHICS AND PUBLIC TRUST OPINION DATED MARCH 15, 2005, RESPONDENTS REQUESTING PROFESSIONAL REFERENCES FROM MIAMI-DADE COUNTY EMPLOYEES MUST SUBMIT SAID REQUEST IN WRITING, TO THE ATTENTION OF SUBJECT COUNTY EMPLOYEE, AND COPY THE CLERK OF THE BOARD (COB). NOTE THAT THE COB MAY BE REACHED EITHER VIA E-MAIL AT CLERKBCC@MIAMIDADE.GOV, OR FACSIMILE AT (305) 375-2484.

PURSUANT TO SECTION 2-11.1(P) OF THE MIAMI-DADE COUNTY CODE, COUNTY EMPLOYEES MAY NOT PROVIDE PERSONAL LETTERS OF RECOMMENDATION FOR PROFESSIONAL SERVICES FOR ANY PERSON OR FIRM FOR SUBJECT PROJECT.

THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE MAY IMPOSE THE LOSS OF ELIGIBILITY TO PARTICIPATE IN COUNTY CONTRACTS FOR A SPECIFIED PERIOD OF TIME, NOT TO EXCEED FIVE (5) YEARS, FOR AN APPLICANT, ITS INDIVIDUAL OFFICERS, ITS SHAREHOLDERS WITH SIGNIFICANT INTERESTS, AND ITS AFFILIATED BUSINESSES FOR VIOLATIONS OF OR NON-COMPLIANCE WITH ADMINISTRATIVE ORDER 3-39, INCLUDING THE FALSIFICATION OF INFORMATION PROVIDED IN A PROPOSAL AND/OR CONSULTANT SELECTION DOCUMENTS.

2.2 SUBMITTAL REQUIREMENTS FOR INITIAL SUBMISSION AND SECOND-TIER ADDITIONAL INFORMATION, WHEN APPLICABLE.

Interested firms must submit their proposal in **SEALED ENVELOPES OR CONTAINERS**. All sealed envelopes and/or containers must clearly state on the envelope and/or container the name and number of the project, including the consultant's name, address and telephone number. Each sealed envelope or container shall include **ONE (1) ORIGINAL PAPER PROPOSAL INCLUDING THE SIGNATURE OF THE FIRM'S AUTHORIZED REPRESENTATIVE AND EIGHT (8) COPIES.** **PROPOSAL COPIES MUST BE SUBMITTED IN PAPER FORMAT.**

All sealed envelopes and containers shall be delivered to the following location:

**Miami-Dade County
Clerk of the Board
Stephen P. Clark Center
111 NW 1st Street, Suite 17-202
Miami, Florida 33128
Attention: Mike Ramos
Re: Project No. E09-DERM-01 PTP**

Please note that pursuant to §119.07(3) (m) of the Florida Statutes, all proposals received will become part of the public record ten (10) days after the response deadline.

To preclude a late respondent from having an advantage, economic or otherwise, over the other respondents, all submittals shall be delivered to the Clerk of the Board in Suite 17-202, no later than the response deadline. The Clerk of the Board will stamp each submittal with the date and time of receipt. This stamp shall constitute definite evidence of such date and time. **All proposals received and time stamped by the Clerk of the Board prior to the proposal submittal deadline shall be accepted as timely submitted. The circumstances surrounding all proposals received and time stamped by the Clerk of the Board after the proposal submittal deadline will be evaluated by the procuring department, in consultation with the County Attorney's Office, to determine whether the proposal will be accepted as timely.**

The responsibility for submitting a proposal to the Clerk of the Board on or before the stated time and date is solely and strictly the responsibility of the Proposer. Miami-Dade County is not responsible for delays caused by any mail, package or couriers service, including the U.S. mail, or caused by any other occurrence.

BE ADVISED THAT ANY AND ALL SEALED PROPOSAL ENVELOPES OR CONTAINERS RECEIVED AFTER THE SPECIFIED RESPONSE DEADLINE MAY NOT BE CONSIDERED.

2.3 POSTPONEMENT/CANCELLATION

The County may, at its sole and absolute discretion, reject any and all, or parts of any and all proposals; re-advertise this solicitation; postpone or cancel, at any time, this solicitation process; or waive any irregularities in

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this solicitation or in the proposals received as a result of this solicitation.

2.4 COSTS INCURRED BY PROPOSERS

All expenses involved with the preparation and submission of proposals to the County, or any work performed in connection therewith, shall be borne by the Proposer(s). No payment will be made for any responses received, nor for any other effort required of or made by the Proposer(s) prior to commencement of work as defined by a contract approved by the Board of County Commissioners.

DIVISION 3.0 EVALUATION/SELECTION PROCESS

3.1 INTRODUCTION

The proposals will be evaluated by a CSC appointed by the County Mayor or County Mayor’s designee. The Committee will be comprised of appropriate County personnel from multiple departments and members of the community, as deemed necessary, with the appropriate experience and/or knowledge, striving to ensure that the Committee is balanced with regard to both ethnicity and gender.

3.2 SELECTION PROCESS

Proposals will be evaluated based on a two-tier selection process, when applicable, comprising of the evaluation of the submitted LOQ in accordance with the guidelines established in A.O. 3-39. A summary of the evaluation process to be used in this solicitation is set forth below.

3.3 PROPOSAL EVALUATION

The CSC will evaluate responsive, responsible proposals based on the criteria listed below.

A proposer may receive the maximum points (100 points) or a portion of this score, per CSC member, depending on the merit of its proposal, as determined by the CSC in accordance with the following criteria:

<u>FIRST-TIER EVALUATION CRITERIA</u>	<u>MAX. POINTS</u>
1A. Qualifications of firms including the team members assigned to the project	50
2A. Knowledge and past experience of similar type projects	20
3A. Past performance of the firms	20
4A. Amount of work awarded and paid by the County	5
5A. Ability of team members to interface with the County	5

Criteria 4A’s point value will be applied to the teams based on the amount of dollars awarded and paid to the A/E firms which are part of the proposing team.

This category will be evaluated based on the amount of total dollars awarded and paid by Miami-Dade County and all payments received for Miami-Dade County projects, inclusive of privately funded for each prime consultant and sub-consultant firm(s) on the team, for a period which includes the previous three (3) years from the submittal date of a specific solicitation.

The actual net paid dollars will be calculated at 100%, for both the prime and sub-consultants on a team. The net paid dollar value of services performed, as a prime consultant shall exclude the sub-consultant agreement or fees associated with the subject professional services performed.

Each team's total dollars awarded and paid shall be provided to the selection committee members for their review and evaluation. **Committee members may consider the teams' least dollar values when assigning point values from 1 (more total dollars) to 5 (less total dollars), for this category.**

UPON CONCLUSION OF THE FIRST-TIER EVALUATION PROCESS, PROPOSERS ARE ADVISED THAT ONE OF THE FOLLOWING CAN BE UTILIZED BY THE CSC:

- 1. THE CSC MAY UPON CONCLUSION OF THE FIRST-TIER EVALUATION, RECOMMEND TO THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE THAT A CONTRACT BE NEGOTIATED WITH THE HIGHEST RANKED RESPONSIVE AND RESPONSIBLE PROPOSER(S) FROM THE FIRST-TIER EVALUATION CRITERIA.**
- 2. THE CSC MAY UPON CONCLUSION OF THE FIRST-TIER EVALUATION, SHORT-LIST AND REQUIRE ADDITIONAL DOCUMENTATION FROM THE SHORT-LISTED FIRMS WITH NO ORAL PRESENTATIONS AND EVALUATION BASED UPON THE SECOND-TIER EVALUATION CRITERIA LISTED BELOW.**
- 3. THE CSC MAY UPON CONCLUSION OF THE FIRST-TIER EVALUATION, SHORT-LIST AND REQUIRE ADDITIONAL DOCUMENTATION FROM THE SHORT-LISTED FIRMS WITH THE REQUIREMENT OF ORAL PRESENTATIONS AND EVALUATION BASED UPON THE SECOND-TIER EVALUATION CRITERIA LISTED BELOW.**

SHORT-LISTED RESPONDENTS WILL BE REQUIRED TO SUBMIT ADDITIONAL DOCUMENTATION TO INCLUDE THE FOLLOWING:

- A NARRATIVE DENOTING HOW THE SHORT-LISTED RESPONDENTS WILL MEET THE FOLLOWING CRITERIA:**
 - 1. Knowledge of project scope**
 - 2. Qualifications of team members assigned to the project**
 - 3. Ability to provide required services within schedule and budget**
- And any additional information, which the CSC deems necessary to further evaluate the short-listed firms.**

SHORT-LISTED FIRMS WILL BE NOTIFIED BY OCI STAFF REGARDING THE DUE DATE, LOCATION AND TIME FOR ADDITIONAL DOCUMENTATION REQUIRED, AND DATE, TIME AND LOCATION OF THE ORAL PRESENTATIONS, IF APPLICABLE. PLEASE SEE SECTION 2.2 ENTITLED "SUBMITTAL REQUIREMENTS".

SECOND-TIER EVALUATION CRITERIA

MAX POINTS

1B.	Knowledge of project scope	50
2B.	Qualifications of team members assigned to the project	40
3B.	Ability to provide required services within schedule and budget	10

Subsequent to full consideration of local preference and tiebreakers at both the first and second-tiers, the CSC will make its final recommendation to the County Mayor or County Mayor's designee that a contract be negotiated with the highest ranked responsive and responsible proposer(s). The three (3) highest-ranking teams will be recommended to the County Mayor or County Mayor's designee, in order of preference, for his review and concurrence, with the objective of effecting an equitable distribution of contracts among qualified firms. Upon the County Mayor or County Mayor's designee's approval, the County shall enter into negotiations with the recommended proposer(s).

NEGOTIATIONS:

Miami-Dade County reserves the right to enter contract negotiations with the selected Proposer or Proposers. If the County and the Proposer(s) do not agree to terms of a Professional Services Agreement, the County may elect to terminate negotiations and begin negotiating with the second best ranked Proposer and so forth. This process will continue until a contract has been executed, or, all submittals have been rejected. No Proposer shall have any claims and/or rights against the County arising from such negotiation and/or the qualification process.

**CARLOS ALVAREZ
COUNTY MAYOR
MIAMI-DADE COUNTY, FLORIDA**



**MIAMI-DADE COUNTY – OFFICE OF CAPITAL IMPROVEMENTS (OCI)
ARCHITECT-ENGINEER LETTER OF QUALIFICATIONS (LOQ)**

(I) - PROJECT INFORMATION

OCI Project No.: **E08-DERM-01 PTP** Measures Goal ☒ Set-Aside CBE 16% DBE 15% No. of Addenda Received:
Project Name: **Environmental Cleanup, Compliance and Related Services for Miami-Dade Transit Department (MDT) and other County
Facilities funded with Federal and/or Transit surtax funds.**

Firm No. 1

(II) - PRIME CONSULTANT INFORMATION

Name:	FEIN:	E-mail:
Business Address:	Principal:	Phone: () -
Contact Person's Name and Title:	Project Manager:	Fax: () -
Assigned Personnel:		

(III) - PROPOSED A&E SUB-CONSULTANTS

Firm No.	Firm Name	FEIN	Assigned Personnel
2			
3			
4			
5			
6			
7			
8			

(IV) - A&E TECHNICAL CERTIFICATION REQUIREMENTS

A&E Technical Category		Prime	Sub-
10. 05	Environmental Engineering – Contamination Assessment and Monitoring (PRIME)		
10. 06	Environmental Engineering – Remedial Action Plan Design (PRIME)		
10. 07	Environmental Engineering – Remedial Action Plan Implementation/Operation/Maintenance (PRIME)		
16. 00	General Civil Engineering (PRIME)		
17. 00	Engineering Construction Management (PRIME)		
9. 01	Soils, Foundations and Materials Testing – Drilling, Subsurface Investigations and Seismographic Services		
15. 01	Surveying and Mapping – Land Surveying		

(V) - PROPOSED NON-A&E SUB-CONSULTANTS

a	Firm Name:	FEIN:	Phone: () -
	Address:		
	Assigned Personnel:		
	Assigned Services:		
b	Firm Name:	FEIN:	Phone: () -
	Address:		
	Assigned Personnel:		
	Assigned Services:		

(VI) - ABILITY OF TEAM MEMBERS TO INTERFACE WITH THE COUNTY	

(VII) - RESUMES FOR ASSIGNED PERSONNEL
Attach two (2) page resumes for Assigned personnel identified on this LOQ.

(VIII) - PRIME CONSULTANT ACKNOWLEDGEMENT

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

Authorized Prime Consultant's Representative: _____ Title: _____
(Print Name)

Signature Authorized Representative: _____ Date: _____

FOR MIAMI-DADE COUNTY – OCI USE ONLY

DO NOT WRITE IN THIS SECTION

A&E TECHNICAL CERTIFICATION REQUIREMENTS

[illegible]

FOR MIAMI-DADE COUNTY – OCI USE ONLY

DO NOT WRITE IN THIS SECTION

OCI FORMS AND OTHER DOCUMENTATION

Forms	Verification				Additional Comments
OCI Form 6 Reference	Yes	☐	No	☐	
OCI Form 6 E&Q	Yes	☐	No	☐	N/A ☐
OCI Form 7 Reference	Yes	☐	No	☐	N/A ☐
OCI Form 7 E&Q	Yes	☐	No	☐	N/A ☐
OCI Form 8 Reference	Yes	☐	No	☐	N/A ☐
OCI Form 8 E&Q	Yes	☐	No	☐	N/A ☐
Table of Organization	Yes	☐	No	☐	
OCI Form 3 – Local Preference	Yes	☐	No	☐	
OCI Form 5 – Lobbyist Registration	Yes	☐	No	☐	
Completed CBE Forms and/or documentation	Yes	☐	No	☐	
Completed DBE Forms and/or documentation	Yes	☐	No	☐	

OFFICE OF CAPITAL IMPROVEMENTS (OCI)
LETTER OF QUALIFICATIONS (LOQ) - INSTRUCTIONAL SHEET

PURPOSE

Miami-Dade County (County) will utilize this Letter of Qualifications (LOQ) to obtain information from architecture and engineering (A&E) firms about their qualifications. A&E firms will be short-listed on the basis of their professional qualifications pursuant to Section 287.055, Florida Statutes, Chapter 2, Sections 2-8.1 (as amended by Ordinance (05-15), Section 2-10.4 of the Miami-Dade County Code, and Administrative Order 3-39. The Competitive Selection Committee (CSC) or Standing Selection Committee (SSC) will utilize the information provided in this LOQ, to evaluate and short-list respondents according to the evaluation criteria set forth in the Notice to Professional Consultants (NTPC). **ALL RESPONDENTS ARE REQUIRED TO COMPLETE THE TWO (2) PAGE LOQ; THE COUNTY, AT ITS SOLE DISCRETION, MAY DEEM RESPONDENTS WHO DO NOT ADHERE TO THE LOQ TWO (2) PAGE MAXIMUM NOT IN COMPLIANCE. NOTE THAT THIS MAY RESULT IN THE TEAM'S DISQUALIFICATION FROM FURTHER EVALUATION.**

GENERAL INSTRUCTIONS

***THE FOLLOWING FONT ELEMENTS MUST BE UTILIZED WHEN COMPLETING ANY AND ALL OCI PROPOSAL DOCUMENTS, AS LISTED IN DIVISION 2, SECTION 2.1 FORMAT AND CONTENTS OF THE NTPC: FONT TYPE - TIMES NEW ROMAN, FONT STYLE – REGULAR, FONT SIZE – A MINIMUM OF NINE (9) POINT.**

(I) Project Information

Includes the general Project Information, such as project number, name, and applicable measures established for Community Business Enterprise (CBE) participation provisions. The information in this section will be provided by OCI. Prime consultants will indicate the number of addenda received for the solicitation, as applicable. See sample LOQ attached to this instructional sheet.

(II) Prime Consultant Information

Includes the Prime Consultant information, such as name of the firm leading the team, its Federal Employee Identification Number (FEIN), e-mail address, business address, principal name, contact person's name and title, project manager, assigned personnel, phone and fax numbers. Note that proposers may utilize additional sheets of paper in order to denote assigned personnel that exceeds the space provided in subject section, provided that the same format is applied and that the number sequence is adhered to. See sample LOQ attached to this instructional sheet.

(III) Proposed A&E Sub-Consultants

Includes the proposed A&E Sub-consultants information, such as name of the team members, their FEINs, and assigned personnel. Note that proposers may utilize additional sheets of paper in order to denote assigned personnel that exceeds the space provided in subject section, provided that the same format is applied and that the number sequence is adhered to. Teaming restrictions set forth in the NTPC may apply, and should be considered when selecting the team members. See sample LOQ attached to this instructional sheet.

(IV) A&E Technical Certification Requirements

Includes the A&E Technical Certification Categories required for subject solicitation. The information in the first column will be provided by OCI. It is the responsibility of the prime consultant to fill out the second and third columns utilizing the numbers assigned to each of the team members as denoted in Section II - Prime Consultant Information, and Section III- Proposed A&E Sub-Consultants Information, according to the professional services each firm will provide for the project. If additional A&E Technical Certifications will be utilized, the prime consultant will be required to input such technical certification number and corresponding name of the A&E technical certification category as well as the team member number from Section II - Prime Consultant Information, and Section III - Proposed A&E Sub-Consultants Information.

(V) Proposed Non A&E Sub-Consultants

Includes the proposed non A&E Sub-consultants information, such as name of the team members and FEINs. In addition, the following information must be provided: phone number, including the area code, address, assigned personnel for the firm, and assigned services. Note that proposers may utilize additional sheets of paper in order to denote assigned personnel that exceeds the space provided in subject section, provided that the same format is applied and that the number sequence is adhered to.

(VI) Ability of Team Members to Interface with the County

Allows the prime consultant to provide a brief description of its communication capabilities, proximity with the project, commitment to satisfy the County's requirements and familiarity with County guidelines. See sample LOQ attached to this instructional sheet.

(VII) Resumes for Assigned Personnel

Attach two (2) page resumes for assigned personnel identified on the LOQ. Resumes must be paginated and must include the assigned personnel's name at the top of each page. Note that additional assigned personnel which do not adequately fit in the space provided in the LOQ may be added on an additional sheet to be appended to the LOQ. Such resumes must adhere to the **NTPC Division 2.0 Proposal Requirements – Section 2.1 Format and Contents – item #2** which states “**Resumes must be submitted for all assigned personnel participating on the project and denoted in the LOQ. Resumes must be paginated and must include the assigned personnel's name at the top of each page.**”

(VIII) Prime Consultant Acknowledgement

An authorized representative of the firm must sign and date the completed LOQ. Signing attests that the Information provided is current and factual. Provide the name and title of the authorized representative who signed and dated the LOQ.

(*) RESPONDENTS ARE ADVISED TO PROVIDE THE INFORMATION NECESSARY TO COMPLETE THE LOQ. THE COUNTY, AT ITS SOLE DISCRETION, MAY DEEM RESPONDENTS WHO DO NOT ADHERE TO THE LOQ TWO (2) PAGE MAXIMUM NOT IN COMPLIANCE. NOTE THAT THIS MAY RESULT IN THE TEAM'S DISQUALIFICATION FROM FURTHER EVALUATION.



MIAMI-DADE COUNTY – OFFICE OF CAPITAL IMPROVEMENTS (OCI)
ARCHITECT-ENGINEER LETTER OF QUALIFICATIONS (LOQ)

(I) - PROJECT INFORMATION

OCI Project No.: **E08-SEA-03** Measures 15% Goal ☐ Set-Aside ☐ CBE ☒ DBE ☐ No. of Addenda Received: 8
Project Name: Port of Miami 2035 Master Plan

Firm No. 1

(II) - PRIME CONSULTANT INFORMATION

Name: SAMCOR Engineering, Inc. FEIN: 00-00000 E-mail: samcorac@southmct.com
Business Address: 111 SW 14TH Street - Miami, Florida 33130 Principal: Marcus Samuels, P.E. Phone: (305) 555-0022
Contact Person's Name and Title: Jose Cruz, P.E. Project Manager: Emily Jones, P.E. Fax: (305) 555-2200
Assigned Personnel: Nubia Saez, P.E., Rodrigo Perez, P.E., Luisa Costas, P.E., Elizabeth Jimenez P.E.

Firm (III) - PROPOSED A&E SUB-CONSULTANTS

No.	Firm Name	FEIN	Assigned Personnel
2	MICJO Engineering	00-00001	José Rodriguez, P.E.
3	Cruz Environmental Engineering	00-00002	Samantha Heatham, P.E.
4	Glick Engineering, A Professional Corporation	00-00003	Migna Vignati, P.E.
5			
6			
7			
8			

(IV) - A&E TECHNICAL CERTIFICATION REQUIREMENTS

A&E Technical Category	Prime	Sub-
16.00 GENERAL CIVIL ENGINEERING (PRIME)	1	3
5.01 PORT AND WATERWAY SYSTEMS – ENGINEERING DESIGN	1	2
5.05 PORT AND WATERWAY SYSTEMS – CARGO TERMINAL DESIGN		3
5.06 PORT AND WATERWAY SYSTEMS – CARGO TERMINAL EQUIPMENT DESIGN		4
5.09 PORT AND WATERWAY SYSTEMS – ENVIRONMENTAL DESIGN		3, 4
5.10 PORT AND WATERWAY SYSTEMS – TRANSPORTATION SYSTEM DESIGN		2, 3, 4
5.11 PORT AND WATERWAY SYSTEMS – CONSTRUCTION MANAGEMENT		4
10.01 ENVIRONMENTAL ENGINEERING – STORMWATER DRAINAGE DESIGN ENGINEERING SERVICES		2

No. (V) - PROPOSED NON-A&E SUB-CONSULTANTS

a	Firm Name: Involvement Media Relations Group FEIN: 00-00008 Phone: (305) 555-2384 Address: 2525 NW 11 TH Avenue - Miami, Florida 33131 Assigned Personnel: Sara Marin, President Assigned Services: Public Involvement
b	Firm Name: FEIN: Phone: () - Address: Assigned Personnel: Assigned Services:

(VI) - ABILITY OF TEAM MEMBERS TO INTERFACE WITH THE COUNTY

The SAMCOR/SEAPORT communications plan will integrate the County's staff and the SAMCOR project team to promote the communication goals needed to achieve a well balanced schedule and key work elements. Put Teams proximity to the project made possible by the participation of local firms will ensure that communications and accessibility and optimized. Our firm's commitment to the project is base on client satisfaction. we will committee our best resources to meet the County's requirements in order to ensure the success of this project. In addition, our team's key personnel will guarantee the success of this endeavor, as all have had previous experience with the County's guidelines.

(VII) - RESUMES FOR ASSIGNED PERSONNEL

Attach two (2) page resumes for Assigned personnel identified on this LOQ.

(VIII) - PRIME CONSULTANT ACKNOWLEDGEMENT

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

Authorized Prime Consultant's Representative: Marcus Samuels Title: Principal
(Print Name)

Signature Authorized Representative: _____ Date: 12-14-2008

FOR MIAMI-DADE COUNTY – OCI USE ONLY**DO NOT WRITE IN THIS SECTION****A&E TECHNICAL CERTIFICATION REQUIREMENTS**

TC #	Team	Pre Q		TC		Additional Comments
16.00		Yes ☐	No ☐	Yes ☐	No ☐	
5.01		Yes ☐	No ☐	Yes ☐	No ☐	
5.05		Yes ☐	No ☐	Yes ☐	No ☐	
5.06		Yes ☐	No ☐	Yes ☐	No ☐	
5.09		Yes ☐	No ☐	Yes ☐	No ☐	
5.10		Yes ☐	No ☐	Yes ☐	No ☐	
5.11		Yes ☐	No ☐	Yes ☐	No ☐	
10.01		Yes ☐	No ☐	Yes ☐	No ☐	
		Yes ☐	No ☐	Yes ☐	No ☐	
		Yes ☐	No ☐	Yes ☐	No ☐	
		Yes ☐	No ☐	Yes ☐	No ☐	
		Yes ☐	No ☐	Yes ☐	No ☐	
		Yes ☐	No ☐	Yes ☐	No ☐	
		Yes ☐	No ☐	Yes ☐	No ☐	
		Yes ☐	No ☐	Yes ☐	No ☐	

FOR MIAMI-DADE COUNTY – OCI USE ONLY**DO NOT WRITE IN THIS SECTION****OCI FORMS AND OTHER DOCUMENTATION**

Forms	Verification				Additional Comments
OCI Form 6 Reference	Yes ☐	No ☐			
OCI Form 6 E&Q	Yes ☐	No ☐	N/A ☐		
OCI Form 7 Reference	Yes ☐	No ☐	N/A ☐		
OCI Form 7 E&Q	Yes ☐	No ☐	N/A ☐		
OCI Form 8 Reference	Yes ☐	No ☐	N/A ☐		
OCI Form 8 E&Q	Yes ☐	No ☐	N/A ☐		
Table of Organization	Yes ☐	No ☐			
OCI Form 3 – Local Preference	Yes ☐	No ☐			
OCI Form 5 – Lobbyist Registration	Yes ☐	No ☐			
Completed CBE Forms and/or documentation	Yes ☐	No ☐	N/A ☐		
Completed DBE Forms and/or documentation	Yes ☐	No ☐	N/A ☐		



MIAMI-DADE COUNTY – OFFICE OF CAPITAL IMPROVEMENTS (OCI)
OCI FORM 6 – REFERENCE: PRIME-CONSULTANT REFERENCE
FOR PREVIOUS SIMILAR TYPE PROJECT

List previous similar type project, in which the Prime Consultant listed in the table of organization has performed work, with a minimum of one (1) project within a ten (10)-year period from the submittal date of this solicitation. Please include a brief description of the project.

Reference Project Name/Address:

Name(s) and role(s) of Prime Consultant personnel working on this reference project:

Reference Project Description:

Scope of Services Provided:

Professional Fees: \$

Project Start Date: /

Project Completion Date: /

Project Construction Cost: \$

Construction Start Date: /

Construction Completion Date: /

Reference Company Name:

Reference Name:

Reference Phone Number:

Fax Number:

E-mail:

Prime Consultant may use the space below to expand on the scope of services provided for this project:



**MIAMI-DADE COUNTY – OFFICE OF CAPITAL IMPROVEMENTS (OCI)
OCI FORM 7 – REFERENCE: A&E SUB-CONSULTANT REFERENCE
FOR PREVIOUS SIMILAR TYPE PROJECT**

List previous similar type project, in which each A&E Sub-Consultant listed in the table of organization has performed work, with a minimum of one (1) project within a ten (10)-year period from the submittal date of this solicitation. Please include a brief description of the project.

A&E Sub-Consultant's Name:

Name(s) and role(s) of A&E Sub-Consultant personnel working on this reference project:

Reference Project Name/Address:

Reference Project Description:

Scope of Services Provided:

Professional Fees: \$

Project Start Date: /

Project Completion Date: /

Project Construction Cost: \$

Construction Start Date: /

Construction Completion Date: /

Reference Company Name:

Reference Name:

Reference Phone Number:

Fax Number:

E-mail:

A&E Sub-Consultant may use the space below to expand on the scope of services provided for this project:



**MIAMI-DADE COUNTY – OFFICE OF CAPITAL IMPROVEMENTS (OCI)
OCI FORM 8 – REFERENCE: NON A&E SUB-CONSULTANT REFERENCE
FOR PREVIOUS SIMILAR TYPE PROJECT**

List previous similar type project, in which each Non A&E Sub-Consultant listed in the table of organization has performed work, with a minimum of one (1) project within a ten (10)-year period from the submittal date of this solicitation. Please include a brief description of the project.

Non A&E Sub-Consultant's Name:

Name(s) and role(s) of Non A&E Sub-Consultant personnel working on this reference project:

Reference Project Name/Address:

Reference Project Description:

Scope of Services Provided:

Professional Fees: \$

Project Start Date: /

Project Completion Date: /

Project Construction Cost: \$

Construction Start Date: /

Construction Completion Date: /

Reference Company Name:

Reference Name:

Reference Phone Number:

Fax Number:

E-mail:

Non A&E Sub-Consultant may use the space below to expand on the scope of services provided for this project:

**MIAMI-DADE COUNTY OCI
FORM NO. 3**

LOCAL BUSINESS PREFERENCE AFFIDAVIT

Proposals submitted for this solicitation will be reviewed by the Evaluation/Selection Committee for a local business preference in accordance with Sections 2-8.5 and 2-10.4 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 occupational license, issued by Miami-Dade County at least one year prior to proposal submission that is appropriate for the goods, services or construction to be purchased.

Proposer shall attach a copy of said occupational license(s) hereto. (Note: Current and past year licenses may need to be submitted as proof that Proposer has had the license 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 physical business address

3. 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: _____

Federal Employer Identification Number: _____

Address: _____

City/State/Zip: _____

Telephone: (____) _____ 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: _____

Date: _____

STATE OF _____

COUNTY OF _____

SUBSCRIBED AND SWORN TO (or affirmed) before me on _____,
(Date)

by _____ He/She is personally known to me or has presented
(Affiant)

_____ as identification.
(Type of Identification)

(Signature of Notary)

(Serial Number)

(Print or Stamp Name of Notary)

(Expiration Date)

Notary Public _____
(State)

Notary Seal

MIAMI-DADE COUNTY OCI FORM NO. 5

1. PROJECT TITLE: _____
2. OCI PROJECT NO.: _____ DEPARTMENT: _____
3. FIRM/PROPOSER'S NAME: _____

ADDRESS: _____ ZIP: _____

BUSINESS TELEPHONE: _____ **FAX:** _____

- 4. List All Members of Presentation Team Who Will Participate in the Oral Presentation**

[illegible]

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 recommendation of County personnel regarding this solicitation 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 _____ (Name and Title of Signatory, Printed or Typed)

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____

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

who is personally known to me or who has produced _____ as identification, and who did/did not take an oath.

(Signature of Notary Public Taking Acknowledgment)

(Name of acknowledger typed, printed or stamped)

(Title or Rank) (Serial Number, if any)

(ATTACH ADDITIONAL COPIES OF THESE SHEETS IF NECESSARY)

Exhibit “A”
Community Business Enterprise (CBE)
Provisions

**MIAMI-DADE COUNTY
FLORIDA**

DEPARTMENT OF SMALL BUSINESS DEVELOPMENT

**COMMUNITY BUSINESS ENTERPRISE PROGRAM FOR
ARCHITECTURAL, LANDSCAPE ARCHITECTURAL, ENGINEERING,
SURVEYING AND MAPPING PROFESSIONAL SERVICES
(CBE-A/E)**

(ORDINANCE 01-103 as amended AND A.O. 3-32)

PARTICIPATION PROVISIONS

**There are two (2) Contract Measures:
First Tier Set-Aside and Subconsultant Goal**

THE CBE-A/E MEASURE(S) APPLICABLE TO THIS PROJECT:

**Set-Aside
Subcontractor Goal 16%**

**DEPARTMENT OF SMALL BUSINESS DEVELOPMENT
111 N.W. 1st Street, 19th FLOOR
MIAMI, FLORIDA 33128
PHONE: (305) 375-3111 FAX: (305) 375-3160**

March 2009

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Ordinance 01-103, as amended and Administrative Order 3-32 can be obtained from the Clerk of the Board located at the Stephen P. Clark Building, 111 N.W. 1 Street, Suite 17-202, Miami, Florida.

A. DEFINITIONS

The definitions in this section apply only to these Participation Provisions, hereinafter referred to as "Provisions".

1. Agreement means an agreement proposed by the County, Fire, or Public Health Trust staff, or approved by the County Commission, Fire or Public Health Trust for architectural, landscape architectural, engineering, or surveying and mapping professional services.
2. Available or Availability means to have, prior to proposal submission, the ability to provide professional services under an agreement or subconsultant agreement by having reasonably estimated, uncommitted capacity and expertise; all licenses, permits, registrations, insurances and certifications; that are reasonably required to perform the agreement or subconsultant agreement consistent with normal industry practice; and the ability to otherwise meet all the proposal specifications.
3. Bonding Assistance may include providing assistance in preparing and completing bond packages as well as providing funding to be used for bonding purposes.
4. Business Day means a regular weekday (Monday through Friday) normally starting at 8:00 a.m. and finishing at 5:00 p.m., excluding Saturdays and Sundays and excluding all legal holidays recognized by the Federal, State or Miami-Dade County governments.
5. Calendar Day means a twenty-four (24) hour period covering all days of the week (Monday through Sunday, including all holidays), starting at 12:00 a.m. and finishing at 11:59 p.m.
6. CBE-A/E Program is the Community Business Enterprise Program for architectural, engineering, landscape architectural, surveying and mapping professionals.
7. Commercially Useful Function means contractual responsibility for the execution of a distinct element of the work of an agreement by a firm and the carrying out of the contractual responsibilities by actually performing, managing, and supervising the work involved. Acting as a broker is not considered a commercially useful function. The determination of whether an activity is a commercially useful function shall include: the evaluation of the amount of work subconsulted; normal industry practices; the skills, qualifications, or expertise of the firm to perform the work; whether the firm's own personnel perform, manage, and/or supervise the work involved; and other relevant factors.
8. Community Business Enterprise (CBE-A/E) means a firm providing architectural,

landscape architectural, engineering, or surveying and mapping professional services, including a design-build firm, which has an actual place of business in Miami-Dade County and whose three (3) year average annual gross revenues do not exceed two million (\$2,000,000) dollars for first tier CBE-A/Es, four million five hundred thousand (\$4, 500,000) dollars for second tier CBE-A/Es in the case of architectural services, or six Million (\$6,000,000) dollars for second tier CBE-A/Es in the case of landscape architectural services, engineering, or surveying and mapping services. A CBE-A/E will graduate out of the Program once it has exceeded these second tier CBE-A/E size limits based on its three-year average annual gross revenues. As part of the process, CBE-A/Es must go through a technical certification process, which will determine the technical certification categories. A firm's eligibility to participate in the CBE-A/E program shall be based on the cumulative adjusted gross revenues of the applicant firm in combination with that of all of the firm's affiliates as provided in Appendix A pursuant to the Miami-Dade County Ordinance number 01-103 (as amended). Representations as to gross revenues shall be subject to audit.

9. Completed Fiscal Year means a taxable year including any short period. Taxable year and short period have the meaning attributed to them by the IRS.
10. Construction means the building, renovating, retrofitting, rehabbing, restoration, painting, altering, or repairing of a public improvement.
11. SBD means Miami-Dade County Department of Small Business Development.
12. Debar means to exclude a consultant, its individual officers, its shareholders with significant interests, its qualifying agent or its affiliated businesses from County agreements, whether as a prime consultant or subconsultant, for a specified period of time, not to exceed five (5) years.
13. Design-Build Contract means a single contract with a design-build firm for the design and construction of a public construction project.
14. Design-Build Firm means a partnership, corporation, or other legal entity with the following characteristics:
 - a. A partnership or joint venture, having at least one partner in compliance with either of the following two requirements:
 - i. Is certified under Section 489.119, Florida Statutes, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or
 - ii. Is certified under Section 471.023, Florida Statutes, to practice engineering; certified under Section 481.219 to practice architecture; or certified under Section 481.319 to practice landscape architecture.

- b. An individual or corporation in compliance with the following two requirements:
 - i. Is certified under Section 489.119, Florida Statutes, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; and
 - ii. Is certified under Section 471.023, Florida Statutes, to practice engineering; certified under Section 481.219 to practice architecture; or certified under Section 481.319 to practice landscape architecture.
- 15. DPM means Miami-Dade County Department of Procurement Management.
- 16. Firm means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, landscape architecture, design-build, and/or land surveying and mapping services.
- 17. Graduation means the CBE-A/E has exceeded the specific size limits stated for the Program and thus will no longer be eligible for participation in the Program.
- 18. Gross Revenues is defined to include all revenue in whatever form received or accrued from whatever source, including from the sales of products or services, interest, dividends, rents, royalties, fees, or commissions, reduced by returns and allowances. However, the term revenues excludes proceeds from sales of capital assets and investments, proceeds from transactions between a firm and its domestic and foreign affiliates, amounts collected for another by a travel agent or real estate agent, and taxes collected for remittance to a taxing authority.
- 19. Joint Venture means an association of two or more CBE-A/Es. Joint ventures shall be subject to the size limitations set forth in Ordinance 01-103 (as amended).
- 20. Multiple Projects Contract is a contract for a "project" which constitutes a grouping of minor or substantially similar study of activities or substantially similar construction, rehabilitation or renovation activities as defined in Sec. 2-10.4(1)(e)(I) and (2) of the Code of Miami-Dade County.
- 21. Net Worth for the purposes of the size limits is defined as total assets minus total liabilities, of owners.
- 22. Owned means having all the customary incidents of ownership, including the right of disposition, and the right or obligation to share in all risks and profits commensurate with the degree of ownership interest.
- 23. Pre-Qualification Certification is the certification process required of all firms providing architectural, engineering, landscape architectural, land surveying and mapping professional services. It consolidates technical certification, affirmative

action plan certification, and vendor registration and affidavit execution, into one application process.

24. Professional Services are those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of Florida, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.
25. Project Specific Awards are contracts for professional services between Miami-Dade County and a firm whereby the firm provides professional services to the agency for work of a specified nature for a fixed capital study or planning activity.
26. Prompt Payment is the intent of the County that all firms providing professional services to the County shall receive payments promptly in order to maintain sufficient cash flow.
 - a. Contracts with CBE-A/E set-asides or subconsultant goals shall require that billings from consultants under prime professional services agreements with Miami-Dade County, Fire or the Public Health Trust shall be promptly reviewed and payment made by the County, Fire or Trust on those amounts not in dispute within fourteen (14) calendar days of receipt of such billing by the County, Fire, or the Trust.
 - b. The Department of Small Business Development may investigate reported instances of late payments to CBE-A/Es.
 - c. The County Manager shall establish an administrative procedure for the resolution of written complaints pertaining to underpayment of professional services.
27. Proposal means a proposal, letter of interest, letter of participation or offer by any proposer in response to any kind of invitation, request or public announcement to submit such proposal, letter of interest, letter of participation or offer to perform the agreement.
28. Proposer means any firm that submits a proposal to provide professional services.
29. Qualifier means the individual who qualified the firm license holder as required by Florida Statute.
30. Review Committee or RC means the committee established by the County Manager to review proposed projects for the application of contract measures.
31. Review Committee Process involves the County Manager or his or her designee's establishment of an administrative procedure for the review of each proposed County

agreement to which Ordinance 01-103 (as amended), Administrative Order 3-32 and these Provisions apply, including the establishment of a committee to recommend whether CBE-A/E measures should be applied.

32. Set-aside means reservation for competition solely among first tier CBE-A/Es of given prime County agreements for architectural, landscape architectural, engineering, or surveying and mapping professional services.
33. Subconsultant Goal means a proportion of a prime agreement value stated as a percentage to be subconsulted to first and/or second tier CBE-A/Es to perform a commercially useful function.
34. Suspension means temporary debarment for a period not to exceed two (2) years.
35. Technical Certification means a certification approved by the Miami-Dade County Technical Certification Committee that allows a firm to submit proposals on, and receive award of, County agreements for architectural, engineering, landscape architecture, or surveying and mapping services.

B. GENERAL INFORMATION

Except where federal or state laws or regulations mandate to the contrary, these Provisions shall require the review of all project specific contracts, design-build contracts and multiple contracts for architecture, landscape architecture, engineering, and surveying and mapping professional services funded in whole or in part with County funds to determine the appropriateness of applying measures as set forth in Ordinance 01-103 (as amended) and Administrative Order 3-32.

These Provisions shall apply to all departments and agencies of the County, Fire and the Public Health Trust. These Provisions shall apply to every agreement to which a CBE-A/E set-aside or subconsultant goal is applied. The phrase "CBE-A/E contract measure(s)" means to apply the contract measure to this agreement as indicated on the cover sheet. Only the contract measure in the CBE-A/E program indicated on the cover sheet applies.

NOTE: THESE PROVISIONS ARE IN ADDITION TO FEDERAL REQUIREMENTS GOVERNING DISADVANTAGED BUSINESS ENTERPRISES.

1. The proposer shall fully comply with these Provisions which implement Miami-Dade County's Ordinance 01-103 (as amended) and Administrative Order 3-32, respectively.
2. Miami-Dade County shall not award an agreement to any proposer which it determines fails to comply with the applicable requirements of these Provisions.
3. Forms necessary for submittal of information pertaining to these Provisions are included in the appendix. Additional copies may be obtained by contacting the

Compliance Monitor at the Department of Small Business Development (SBD), 111 N.W. 1st Street, 19th Floor, Miami, Florida 33128 or by telephone (305) 375-3111, facsimile (305) 375-3160.

C. CERTIFICATION

1. SBD is the County agency responsible for certifying applicants, decertifying and recertifying CBE-A/Es, and maintaining the Certification List. SBD shall maintain and publish at least monthly an updated list of CBE-A/Es, identifying each listed CBE-A/E based on each SIC/NAICS category, and each Technical Certification Category.
2. Proposers must utilize the most current certification list in complying with these Provisions. A current certification list may be obtained by contacting the Miami-Dade County Department of Small Business Development at 111 N.W. 1st Street, 19th Floor, Miami, Florida 33128 or by telephone at (305) 375-3111, facsimile (305) 375-3160. A copy of the certification application and list are also available on SBD's Web Page through Miami-Dade County's Internet Portal at <http://www.miamidade.gov/sba/>.
3. A CBE-A/E must have a Pre-Qualification certification and a valid CBE-A/E certification in effect at the time of proposal submittal. For successful proposers, certification must be maintained from the time of proposal submittal throughout the duration of the agreement. With the exception of provisions described in the CBE-A/E Ordinance for graduation from the CBE-A/E program, loss of CBE-A/E certification may lead to removal of the firm from continued participation in the CBE-A/E program. CBE-A/Es shall allow site visits by SBD staff to determine continuing compliance with certification requirements.

D. JOINT VENTURES

Only joint ventures approved by SBD in accordance with Administrative Order 3-32 are eligible to participate as joint ventures in the CBE-A/E program. Joint ventures must be lawfully established. All members of the joint venture must be certified as CBE-A/Es before the joint venture can be approved. Joint ventures can participate under the CBE-A/E program on contracts with CBE-A/E set-asides or subconsultant goals.

Joint ventures must submit, prior to proposal submission, a Joint Venture Agreement containing the following information:

1. A description of the financial contribution of each member;
2. A list of the personnel and equipment used by each member;
3. A detailed breakdown of the responsibility of each member and the work to be performed by each member;

4. An explanation of how the profits and/or losses will be distributed;
5. The bonding capacity of each member;
6. A description of any management or incentive fees for any of the members;
7. A statement of the percentage of the joint venture that is owned and controlled by the qualifying member(s) and the basis for claiming such percentage, and
8. A copy of any required State certificates or registrations.

E. CONTRACT MEASURES

Project specific and multiple project agreements for the purchase of architectural, landscape architectural, engineering, or surveying and mapping services, shall be reviewed for the application of agreement set-asides or subconsultant goals on such purchases.

1. Set-Aside Agreements

a. Respondent's Responsibilities for Agreement Set-Asides:

- i. In order to submit a proposal on a set-aside agreement, the proposer (and all sub-consultants) must be certified as first-tier CBE-A/Es prior to proposal submission date. A CBE-A/E awarded a set-aside agreement shall not transfer to a non-CBE-A/E or a second-tier CBE-A/E, through subconsulting or otherwise, any part of the actual work of the agreement unless the proposal documents expressly and specifically permit such transfer as consistent with normal industry practice or the CBE-A/E requests and receives prior to agreement award, an approval letter from SBD.
- ii. A first tier CBE-A/E that performs the work of a set-aside agreement with its own forces may count such work towards reducing the CBE-A/E set-aside applied to the agreement by a maximum of one hundred (100) percent.
- iii. Respondents on agreement set-asides must submit completed "Letter(s) of Agreement" (Form CBE 105) at the time of proposal submission. Respondents who fail to submit the required Letter(s) of Agreement shall be considered non-responsive.
- iv. Defective Letter(s) of Agreement that are incomplete or inaccurate upon notification by the Department of Small Business Development may be corrected within 48 hours from notification by the department. Examples of defects include, but are not limited to, improperly executed letters, the

listing of unidentifiable CBE-A/Es and percentage miscalculations that are not mere clerical errors apparent on the face of the Letter of Agreement.

- b. The following shall constitute a violation of these Provisions as they relate to an agreement that is set-aside:
 - i. Submission of Letter(s) of Agreement of first-tier CBE-A/E subconsultants that the respondent knew or should have known is incomplete or inaccurate;
 - ii. After proposal submission due date, deviations from the Letter of Agreement without the written approval of the Compliance Monitor;
 - iii. The utilization of a non-certified or a second-tier CBE-A/E.
 - iv. A first-tier CBE-A/E serving as a conduit for set-aside CBE-A/E work awarded to a firm as a first-tier CBE-A/E but which is being performed by a non-CBE-A/E or a second-tier CBE-A/E firm;
 - v. Not obtaining or retaining first-tier CBE-A/E certification while performing work on a set-aside designated for first-tier CBE-A/E firms;
 - vi. Failure to submit "Architecture & Engineering Utilization Reports";
 - vii. Failure to comply with first-tier CBE-A/E certification requirements including not maintaining a place of business in Miami-Dade County, not reporting organizational and operational changes, providing inaccurate or false information, and other certification related violations;
 - viii. Modifications to the terms and/or prices of payment to a first-tier CBE-A/E without prior approval from SBD; or
 - ix. Unjustified failure to enter into a written subconsultant agreement with a first-tier CBE-A/E after listing the firm on a "Letter of Agreement."

2. Subconsultant Goals

The purpose of a subconsultant goal is to have portions of the work under the prime consultant performed by available subconsultants that are certified CBE-A/Es for agreement values totaling not less than the percentage of the prime agreement value set out in the proposal form.

- a. Respondent's Responsibilities for Subconsultant Goals:
 - i. Respondents must submit a completed Letter of Agreement (Form CBE 105) at the time of proposal submission identifying all CBE-A/Es to

be utilized to meet the subconsultant goal, the professional service designation of work each will perform, and the percentage of such work. The Letter of Agreement constitutes a written representation by the respondent that, to the best of the respondent's knowledge, the CBE-A/E/s listed is/are qualified and available to perform as specified. The Letter of Agreement is a commitment by the respondent that, if awarded the agreement, it will enter into written subconsultant agreements with the identified CBE-A/E/s for the scope of work at the percentage set forth in the Letter of Agreement.

- ii. Respondents who fail to submit the required Letter of Agreement at the time of proposal submission shall be considered non-responsive.
- iii. Defective Letters of Agreement that are incomplete or inaccurate upon notification by the Department of Small Business Development may be corrected within 48 hours from notification by the department. Examples of defects include, but are not limited to, improperly executed letters, the listing of unidentifiable CBE-A/E/s and percentage miscalculations that are not mere clerical errors apparent on the face of the Letter of Agreement.
- iv. A successful respondent that is a CBE-A/E or a CBE-A/E joint venture may perform up to one hundred percent (100%) of a CBE-A/E subconsultant goal with its own forces.
- v. Expenditures to subconsulting CBE-A/E/s shall be counted toward meeting specified subconsultant goals as follows:
 - (1) One hundred percent (100%) of the expenditures to a CBE-A/E that performs a commercially useful function in the supply of services required for the fulfillment of the agreement;
 - (2) One hundred percent (100%) of the expenditures to CBE-A/E/s that subconsult work further to non-CBE-A/E/s, only if the proposal documents expressly and specifically permit such subconsulting as consistent with normal industry practice, or if the respondent or CBE-A/E requests and receives prior to agreement award an approval letter from SBD;
 - (3) One hundred percent (100%) of the expenditures to CBE-A/E/s that perform actual work with their own forces;
 - (4) None of the expenditures to a CBE-A/E that acts essentially as a conduit to transfer funds to a non-CBE-A/E unless the proposal documents expressly and specifically permit such transfers as consistent with normal industry practice or the respondent or CBE-A/E requests and receives prior to agreement award an approval

letter from SBD; and

- (5) Only expenditures to CBE-A/Es made under a written subconsultant agreement executed by both the prime consultant and the CBE-A/E shall be counted towards meeting the subconsultant goal.
- vi. Respondents whose proposals do not meet the specified goal, in order to remain eligible, must submit to the Contracting Officer no later than 4:00 p.m. on the second business day following proposal submission, evidence proving the lack of available CBE-A/Es to afford effective competition to provide the services to meet the goal. To prove lack of availability, respondents must submit the following:
- (1) Unavailability Certificates (Form CBE 103) either completed and signed by all of the CBE-A/Es certified to perform the scopes of work or completed and signed by the respondent explaining the contacts with all of the CBE-A/Es certified to perform the scopes of work, statements or actions of the CBE-A/Es showing unavailability, and the reason(s) why the CBE-A/Es' signature could not be obtained;
 - (2) A listing of any proposals received from a CBE-A/E, the scope of work, percentage of work and the respondent's reasons for rejecting each proposal;
 - (3) A statement of the respondent's contacts with SBD for assistance in determining available CBE-A/Es;
 - (4) A description of the respondent's process for soliciting and evaluating proposals from CBE-A/Es, including copies of telephone logs detailing time, date and name of contacts with potential subconsultants;
 - (5) Respondents may establish a CBE-A/E as unavailable if its proposal is not reasonably competitive with comparable proposals of non-CBE-A/E s for the same scope of work. To establish a CBE-A/E as unavailable if its proposal is not considered reasonably competitive, the prime consultant must furnish SBD with copies of all proposals received from all firms, both CBE-A/Es and non-CBE-A/Es, for each specific scope of work for which they are claiming that the proposal is not reasonably competitive. A CBE-A/E's proposal will be considered reasonably competitive if its proposal, for the same scope of work, is within 25% of the proposal of comparably sized non-CBE-A/E firms;
- b. Respondents whose proposals do not meet the specified goal, and who do not

prove lack of availability as indicated in 2. (a.) (vi.) above are not in compliance with these Provisions. The following shall constitute non-compliance with these Provisions as it relates to an agreement which has a CBE-A/E subconsultant goal:

- i. The utilization of a non-certified CBE-A/E;
 - ii. A CBE-A/E serving as a conduit for CBE-A/E work awarded to a firm as a CBE-A/E but which is being performed by a non-CBE-A/E firm;
 - iii. A prime consultant not meeting CBE-A/E subconsultant goal requirements;
 - iv. Not obtaining or retaining CBE-A/E certification while performing work designated for CBE-A/E firms;
 - v. Failure to submit Architecture & Engineering Utilization Reports;
 - vi. Deviations from the Letter of Agreement without prior approval from SBD;
 - vii. Termination of the CBE-A/E's agreement without prior approval from SBD;
 - viii. Reduction of the scope of work of a CBE-A/E subconsultant without prior approval from SBD;
 - ix. Modifications to the terms and/or prices of payment to a CBE-A/E without prior approval from SBD; or
 - x. Unjustified failure to enter into a written subconsultant agreement with a CBE-A/E after listing the firm on a Letter of Agreement.
- c. County Responsibilities for Agreements Set-Asides and Subconsultant Goals:
- i. SBD shall review the Letter/s of Agreement, and Unavailability Certificates to determine compliance with the agreement set-aside, or subconsultant goal stated in the proposal documents. The Compliance Monitor may meet with a respondent before recommending that the Contracting Officer determine non-compliance. This written recommendation shall be forwarded to the respondent and the Contracting Officer.
 - ii. In the event that the Contracting Officer receives a recommendation of non-compliance from the Compliance Monitor, he or she may conduct a meeting or hearing at which the respondent shall be afforded an

opportunity to present data supporting its compliance with the goal. The Contracting Officer shall consider the evidence and make a determination as to compliance.

F. DESIGN-BUILD CONTRACTS

The design portion of the design-build contract is subject to the procedures outlined in these Provisions.

G. PROMPT PAYMENT

It is the County's intent that all firms, including CBE-A/Es providing professional services to the County, shall receive payments promptly in order to maintain sufficient cash flow.

1. Prime Consultant Responsibilities

- a. A prime consultant shall include in its billing to Miami-Dade County, Fire or the Public Health Trust copies of those portions of the billings from CBE-A/E subconsultants utilized to meet the subconsultant goal applicable to the agreement which the prime consultant approves and whose cost is included in the payment amount requested from Miami-Dade County, Fire or the Public Health Trust.
- b. Prime consultant agreements to which a CBE-A/E subconsultant goal has been applied shall require that billings from CBE-A/Es be promptly reviewed and payment made to such CBE-A/Es on those amounts not in dispute within two (2) business days of receipt of payment therefore. The foregoing notwithstanding, the prime consultant shall pay billings from CBE-A/E subconsultants with whom they are in direct privity that are not in dispute within the timeframe recommended by the CBE-A/E Advisory Board and implemented by Administrative Order 3-32 as approved by the Board of County Commissioners.
- c. The prime consultant on an agreement to which a CBE-A/E subconsultant goal has been applied shall inform SBD, the Contracting Officer, and the CBE-A/E subconsultant, in writing, of those amounts billed by the CBE-A/E which are in dispute, and the specific reasons why they are in dispute, within seven (7) calendar days of submittal of such billing by the CBE-A/E subconsultant to the prime consultant.
- d. Failure of the prime consultant to comply with the applicable requirements of Section (G)(1)(c) above shall result in the prime consultant's forfeiture of the right to use the dispute as justification for not paying the CBE-A/E subconsultant and payment shall be forthcoming from the prime consultant.

2. County Responsibilities

- a. Proposal documents for agreements with CBE-A/E agreement set-asides, or subconsultant goals shall require that billings from subconsultants under prime consultant agreements with Miami-Dade County, Fire or the Public Health Trust that are a CBE-A/E agreement set-aside or which contain a subconsultant goal shall be promptly reviewed and payment made by the County, Fire or Trust on those amounts not in dispute within fourteen (14) calendar days of receipt of such billing by the County, Fire or the Trust.
 - b. SBD may investigate reported instances of late payment to CBE-A/Es.
3. Finance Department Responsibilities

The Finance Department shall review billings from prime consultants under prime consultant agreements with Miami-Dade County, Fire, or the Public Health Trust that are a CBE-A/E agreement set-aside or which contain a subconsultant goal and make payment on those amounts not in dispute within fourteen (14) calendar days of receipt of billing.

H. AGREEMENT COMPLIANCE AND MONITORING

1. Compliance Review
 - a. The Compliance Monitor shall review respondent's submission for compliance with these Provisions on every agreement to which a CBE-A/E agreement set-aside, or subconsultant goal has been applied. The purpose of this review shall be for the Compliance Monitor to consider whether to recommend the respondent's proposal is determined to be in compliance or non-compliance with the requirements of these Provisions. The Compliance Monitor may consider relevant information from any person in making this decision. The Compliance Monitor may require the respondent to produce information deemed pertinent and appropriate and may obtain further information from whatever sources the Compliance Monitor deems appropriate.
 - b. The Compliance Monitor shall notify the respondent in writing stating the facts and the reasons on which the non-compliance is based. The respondent may request a meeting within five (5) business days from the date of the notification of non-compliance. The respondent shall supply further relevant information as required by the Compliance Monitor. No new or altered Letter of Agreement will be accepted.
 - c. The Compliance Monitor shall make a written recommendation to the Contracting Officer, which shall include a statement of the facts and reasons for which the non-compliance is based.
 - d. Following receipt of a recommendation of non-compliance from the

Compliance Monitor, the Contracting Officer shall review the Compliance Monitor's recommendation of respondent's non-compliance with these Provisions. The Contracting Officer shall notify the respondent of such non-compliance. The respondent may request a meeting within five (5) business days from the date of notification of non-compliance with the Contracting Officer if the Contracting Officer was not present at the first meeting referenced in Subsection (1)(b) above. The respondent shall supply further relevant information as required by the Compliance Monitor. No new or altered Letter of Agreement will be accepted.

- e. The Contracting Officer, in conjunction with the Compliance Monitor, may conduct an informal meeting with the respondent. Other parties may be invited to offer information relevant to the issue of the respondent's non-compliance.
- f. The Contracting Officer shall provide a written determination of the respondent's compliance with these Provisions, along with a recommendation whether to award the agreement to the respondent, to the County Manager. A copy of such recommendation shall be sent to the respondent. Such recommendation shall not affect the power of the Board of County Commissioners to reject the respondent's bid for any other reason or to take such action on the recommendation of the Contracting Officer as the Board deems appropriate.
- g. Consideration of other proposals. If the Contracting Officer or Compliance Monitor deems it advisable in the interest of expediting the award of the agreement, the procedures set forth in this subsection may be carried out with respect to the proposals of one or more additional respondents at the same or different time with each such proceeding to be separately conducted.
- h. Failure of respondent to participate. The respondent will be bound by the proceedings under this subsection to which they have been given required notice without regard to their participation or lack of participation. A lack of participation upon receiving notices and requests pursuant to these Provisions shall not be grounds for reconsideration of any action taken in the proceedings.
- i. Miami-Dade County shall not award an agreement to any respondent which, in its determination, fails to comply with the applicable requirements of these Provisions. Nothing herein shall relieve any respondent from any of the terms, conditions or requirements of the contract or modify Miami-Dade County's rights as reserved in the agreement document.

2. Post-Award Compliance and Monitoring

- a. Approval of Subconsultant Agreements

The Successful Respondent shall submit to the Contracting Officer, for approval, written subconsultant agreements corresponding in all respects to the Successful Respondent's Letter of Agreement. The Successful Respondent shall enter into a written subconsultant agreement with each listed CBE-A/E subconsultant and shall thereafter neither terminate any such subconsultant agreement, nor reduce the scope of work to be performed by, or decrease the price to be paid to the first tier CBE-A/Es thereunder, without in each instance obtaining prior written approval of the Contracting Officer. The Contracting Officer shall not give a final written determination without a recommendation from the Compliance Monitor.

b. Access to Records

Successful respondents and CBE-A/Es shall permit the County to have access during normal business hours to books and records relating to the respondent's compliance with the agreement set-aside, or subconsultant goal applied to the agreement or relating to CBE-A/E compliance with certification requirements. Such books and records include but are not limited to corporate documents, charters, organizational filings, tax filings, registrations, licenses, stock registrations, partnership agreements, contracts, subcontracts, joint venture agreements, telephone logs, checking accounts, journals, ledgers, correspondence, pension and benefits documents, and documents and records between the respondent or the CBE-A/E and other entities. This right of access shall be granted for one year after completion of the work or full payment of the agreement obligation, whichever comes last, or for one year after the expiration of CBE-A/E certification.

c. Access to Job Site

Successful respondents and CBE-A/Es shall permit the County to have access to project locations during normal business hours in order to conduct visual inspections and employee interviews.

d. Monthly/Quarterly Reporting

The successful respondent on a project that is a CBE-A/E agreement set-aside or on a project with CBE-A/E subconsultant goals shall submit monthly a Architecture & Engineering Utilization Report to the Compliance Monitor through the Contracting Officer on or before the tenth working day following the end of the month the report covers. The Compliance Monitor shall give standard reporting forms to the successful respondent. The Architecture & Engineering Utilization Report is to be completed by the successful respondent. Where a subconsultant goal has been imposed, the Architecture & Engineering Utilization Report shall include information on CBE-A/Es utilized to meet such subconsultant goal. Failure to comply with the reporting requirements may result in the imposition of contractual sanctions or

administrative penalties by the County.

e. Deviations from the Letter of Agreement

- i. In the event that, during the performance of an agreement, the CBE-A/E is not able to provide the services specified on the Letter of Agreement, the successful respondent must locate a CBE-A/E to substitute for the unavailable CBE-A/E, unless the respondent can prove the lack of an available CBE-A/E to provide the services to be provided by the prior CBE-A/E. The successful respondent must receive approval for substitution from SBD by submitting a request in writing addressed to the Director of SBD through the Contracting Officer. The request must include a revised Letter of Agreement to include the substitute CBE-A/E. The Compliance Monitor will review the request and make a recommendation regarding the substitution to the Contracting Officer. A successful respondent that cannot secure a substitute CBE-A/E must provide a written statement to the Compliance Monitor and Contracting Officer that includes a list of the names, addresses, and telephone numbers of all CBE-A/Es contacted, and the date of contact for each CBE-A/E. All certified CBE-A/Es certified in the appropriate professional service area under the technical certification categories must be contacted in order to prove lack of an available CBE-A/E.
- ii. The Compliance Monitor shall be responsible for monitoring the performance of the successful respondent regarding compliance with agreement set-asides, or subconsultant goals applied to the agreements. The Compliance Monitor may, at his or her discretion, investigate deviations in the utilization of CBE-A/Es from that described on the Schedule of Participation, and make recommendations regarding compliance to the Contracting Officer. The Contracting Officer shall not make a final determination without a recommendation regarding compliance from the Compliance Monitor. Deviations from the goal stated in the agreement that shall be monitored include, but are not limited to:
 - (1) Termination of a CBE-A/E's subconsultant agreement;
 - (2) Reduction in the scope of work to be performed by a CBE-A/E;
 - (3) Modifications to the terms of payment or price to be paid to a CBE-A/E; or
 - (4) Failure to enter into a subconsultant agreement with a CBE-A/E being utilized to meet a subconsultant goal.
- iii. Excuse from entering into subconsultant agreements:

If, prior to execution of a subconsultant agreement required by these Provisions, the successful respondent submits a written request to the Contracting Officer demonstrating to the satisfaction of the Contracting Officer that, as a result of a change in circumstances beyond his/her control of which he/she was not aware and could not reasonably have been aware until subsequent to the date of the award of the agreement, a CBE-A/E who is to enter into such subconsultant agreement has unreasonably refused to execute the subconsultant agreement, or is not available, the successful respondent shall be excused from executing such subconsultant agreement. The procedures of paragraphs (v.) and (vi.) below shall apply to this paragraph.

iv. Termination of Subconsultant Agreements:

If, after execution of a subcontract required by these Provisions the successful respondent submits a written request to the Contracting Officer and demonstrates to the satisfaction of the Contracting Officer that, as a result of a change in circumstances beyond his/her control of which he/she was not aware and could not be reasonably have been aware until subsequent to the date of execution of such subconsultant agreement, a CBE-A/E, who entered into such subconsultant agreement has committed a material breach of the subconsultant agreement, the successful respondent shall be entitled to exercise such rights as may be available to him/her to terminate the subconsultant agreement. The procedures of paragraphs (v.) and (vi.) below apply to this paragraph.

v. County's Determination of Respondent's Excuse or Termination:

If the successful respondent at any time submits a written request to the Contracting Officer under the prior two paragraphs, the Contracting Officer as soon as practicable, shall determine whether the Successful Respondent has made the requisite demonstration, and shall not determine that such a demonstration has not been made without first providing the successful respondent, upon notice, an opportunity to present pertinent information and arguments. The procedures of paragraph (vi.) below apply to this paragraph.

vi. Alternative Subconsultant Agreements:

- (1) If the successful respondent is excused from entering into a subconsultant agreement or rightfully terminates a subconsultant agreement under this Administrative Order and without such subconsultant agreement, the Successful Respondent will not achieve the level of CBE-A/E participation upon which the agreement was awarded, the Successful Respondent shall make every reasonable effort to propose and enter into an alternative

subconsultant agreement or subconsultant agreements for the same work to be performed by another available CBE-A/E as appropriate, for a subconsultant agreement price or prices totaling not less than the subconsultant agreement price under the excused or terminated subconsultant agreement, less all amounts previously paid thereunder.

- (2) The Successful Respondent must submit to the Compliance Officer a revised Letter of Agreement to include the substitute CBE-A/E.
- (3) A successful respondent that cannot secure a substitute CBE-A/E must provide a written statement to the Compliance Monitor and Contracting Officer that includes a list of the names, addresses, telephone numbers, and the date of contact for each CBE-A/E. All CBE-A/Es certified within the appropriate professional service area under the technical certification categories must be contacted.
- (4) The Compliance Monitor may require the successful respondent to produce such information as the Compliance Monitor deems appropriate and may obtain further information from other sources. The Compliance Monitor shall make his/her recommendation under this paragraph to the Contracting Officer and forward a copy to the respondent.
- (5) The Contracting Officer will consider objections to the Compliance Monitor's recommendation only if such written objections are received by the Contracting Officer within five (5) calendar days from the successful respondent's receipt of the Compliance Monitor's recommendation. The Contracting Officer with or without a hearing, and as he/she in his/her discretion may determine, will reply to the successful respondent's written objection within ten (10) days of receipt of these objections.

I. SANCTIONS FOR AGREEMENT VIOLATIONS

Proposal and agreement documents shall provide that, notwithstanding any other penalties or sanctions provided by law, a respondent's violation of or failure to comply with the CBE-A/E Ordinance, Administrative Order and these Provisions may result in the imposition of one or more of the following sanctions:

1. The suspension of any payment or-part thereof until such time as the issues concerning compliance are resolved;
2. Work stoppage;

3. Issuance of fines of up to two (2%) percent of the contract amount, said fines to be deducted from invoices;
4. Termination, suspension, or cancellation of the agreement in whole or part;
5. In the event a respondent or CBE-A/E attempts to comply with the provisions of this ordinance through fraud, misrepresentation, or material misstatement, or is found after a hearing to have discriminated in violation of Article VII of Chapter II A of the Miami-Dade County Code, the County shall, whenever practicable, terminate the agreement or require the termination or cancellation of the subconsultant agreement for the project on which the respondent or CBE-A/E committed such acts. In addition, and as a further sanction, the County Manager or his or her designee may impose any of the above-stated sanctions on any other agreements or subconsultant agreements the respondent or CBE-A/E has on County projects. In each instance, the respondent or CBE-A/E shall be responsible for all direct and indirect costs associated with such termination or cancellation including attorney's fees and costs. The respondent or CBE-A/E may also be subject to debarment.
6. In the event that a respondent fails to achieve the CBE-A/E measures after the agreement completion, the respondent will be required to make up the CBE-A/E deficit for an amount equal to double the amount of the CBE-A/E measure deficiency. The procedures for making up the CBE-A/E deficit are as follows:
 - a. Upon completion of a County agreement with CBE-A/E measures, the compliance monitor for SBD, in accordance with County Code governing the CBE-A/E program, will obtain the final Architecture & Engineering Utilization Report and determine if the respondent has met the CBE-A/E measures.
 - b. If the respondent has not met the CBE-A/E measures, the compliance officer will notify the respondent in writing of the CBE-A/E deficit.
 - c. If the respondent is found in non-compliance with the CBE-A/E measures, the compliance officer may issue a letter of non-compliance requesting that the respondent make up the CBE-A/E deficit on an existing or future County agreement for double the amount of the deficit on the agreement in question. The respondent will also be required to submit a plan indicating any current or future County agreements in which the CBE-A/E deficit will be remedied.
 - d. The respondent must respond to SBD in writing within ten (10) business days from the date of the non-compliance letter. The respondent must acknowledge receipt of the non-compliance letter and provide a plan to make up the CBE-A/E measure.
 - e. The compliance monitor will review the plan for approval.
 - f. When an agreement is identified in which the CBE-A/E measure deficit will be

remedied, the respondent will provide Letter(s) of Agreement for the CBE-A/E firm(s) that will be utilized in making up the deficit.

- g. The respondent will remain in a non-compliance status until the CBE-A/E make-up goal has been achieved.
- h. Failure of the respondent to make up the CBE-A/E measure when opportunities are available on existing or future County agreements will result in the sanctions or the imposition of other penalties, or as referenced in Sections I. and J.

Some of the agreement violations that may result in the imposition of the sanctions listed in Section I. above include, but are not limited to, the following:

- i. A CBE-A/E serving as a conduit for CBE-A/E work awarded to a final as a CBE-A/E but which is being performed by a non-CBE-A/E firm;
- ii. A prime consultant not meeting CBE-A/E Program subconsultant goal requirements;
- iii. Not obtaining or retaining CBE-A/E certification while performing work designated for CBE-A/E firms;
- iv. Failure to submit Architecture & Engineering Utilization Reports;
- v. Failure to comply with CBE-A/E certification requirements, including not-maintaining a place of business in Miami-Dade County, not reporting organizational and operational changes, providing inaccurate or false information, and other certification related violations;
- vi. Failure to maintain certification;
- vii. Deviations from the Letter of Agreement without prior approval from SBD;
- viii. Termination of the CBE-A/E's agreement without prior approval from SBD;
- ix. Reduction of the scope of work of a CBE-A/E subconsultant agreement without prior approval from SBD;
- x. Modifications to the terms and/or prices of payment to a CBE-A/E without prior approval from SBD; or
- xi. Unjustified failure to enter into a written subconsultant agreement with a

CBE-A/E after listing the firm on a Letter of Agreement to meet a subconsultant goal.

J. ADMINISTRATIVE PENALTIES

1. DEBARMENT

- a. The County may debar a CBE-A/E or a non-CBE-A/E for violation of, or non-compliance with, the provisions of the County Code governing the CBE-A/E Program and implementing proposal documents.
- b. Causes for debarment are as noted in Section 10-38 of the Code. These include but are not limited to, a preponderance of evidence that the CBE-A/E has forfeited a bond or defaulted on financial assistance, either of which was provided under the CBE-A/E program; or if any individual or corporation, partnership or other entity, or any individual officer, shareholder with a significant interest, director or partner of such entity, qualifying agent or affiliated business of such entity attempts to comply with these Provisions through fraud, misrepresentation, or material misstatement.

2. DECERTIFICATION

Violations of certification requirements are addressed in Section II of this Administrative Order 3-32.

K. APPEALS PROCESS

1. This appeals process does not apply to appeals of decisions made pursuant to proposal documents implementing the CBE-A/E program when such proposal documents provide procedures for appeals of such decisions.
2. Upon a denial of certification, a decertification, a determination of non-compliance with the requirements of provisions of the County Code governing the CBE-A/E program, or implementing proposal documents, which decision will be final unless appealed, the Compliance Monitor shall notify the affected party, in writing, setting forth the reasons for the determination and advising of this appeals process.
3. The affected party may appeal the determination by filing a written appeal with the Director of SBD within thirty (30) days of receipt of the notice.
4. SBD shall forward all written appeals to the RC. The RC or a committee thereof appointed by the chairperson shall hear all appeals and forward recommendations regarding the appeal to the County Manager.
5. Decisions by the County Manager shall be final unless the County Commission agrees in its sole discretion upon request by the affected party to review the County

Manager's decision.

L. APPENDICES

1. Forms
 - a. Letter of Agreement (CBE 105)
 - b. Certificate of Unavailability (CBE 103)
 - c. Architecture & Engineering Utilization Report



Letter of Agreement

Community Business Enterprise Program

From: _____
Name of Proposer / Design-Builder

In response to Miami-Dade County's Project Number _____, the undersigned hereby agrees to utilize the Community Business Enterprise (CBE) firm listed below, performing the stated work at the stated percentage, if awarded the contract. The undersigned further certifies that the firm has been contacted and properly apprised of the projected work assignment(s) to be performed upon execution of the contract with Miami-Dade County. Further, by signing this Letter of Agreement the undersigned consents to be bound by all the Provisions of the CBE Ordinance No. 01-103 as amended.

Name of Firm: _____
(Proposed Community Business Enterprise Subconsultant)

Name of Proposer (CBE meeting the goal)	CBE-A/E Certification No.	CBE-A/E Certification Exp.	Type of Work to be Performed (Technical Certification Categories)	Percentage Amount of Design Fee

Name of Subconsultant	CBE-A/E Certification No.	CBE-A/E Certification Exp.	Type of Work to be Performed (Technical Certification Categories)	Percentage Amount of Design Fee

I certify that the representations contained in this form are to the best of my knowledge true and accurate

Proposer's / Design Builder Signature Proposer's / Design-Builder's Name/Title (Print) (Date)

THIS SECTION MUST BE COMPLETED BY THE CBE SUBCONSULTANT

ACKNOWLEDGMENT BY THE PROPOSED COMMUNITY BUSINESS ENTERPRISE FIRM

The undersigned has reasonably uncommitted capacity sufficient to provide the required services, all licenses and technical certifications necessary to provide such services, the ability to provide such services consistent with normal industry practice, and the ability to otherwise meet the proposal specifications.

CBE Subconsultant Signature

Date

CBE Subconsultant Name (Print)

Title

Name of CBE Firm

CERTIFICATE OF UNAVAILABILITY

I, _____, _____
Name Title
of _____ certify that on _____
Firm Name Date

I contacted the _____
CBE-A/E

to obtain a bid for work items to be performed on Miami-Dade County Contract No. _____

Work Items Sought	Form of proposal sought

Signature

Print Name

Title

I, _____ was offered the above opportunity to submit a proposal.
CBE-A/E

I am unavailable to perform the above work at the above specified time due to:

I am aware that Miami-Dade County Administrative Order provides that: “Any CBE-A/E that fails to bid at a minimum the lesser of three (3) or 50 percent of the available projects, in its primary certified service area, during the certification year may be decertified or denied recertification.

Signature

CBE Certification Number

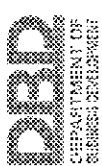
Print Name

Expiration Date

Title



ARCHITECTURE & ENGINEERING UTILIZATION REPORT



☐ MONTHLY REPORT (PARTS 1A & 1B) ☐ FINAL REPORT (PARTS 1A, 2 & 3) ☐ CBE MEASURE

PARTS 1A & 1B This part is to be completed by the Prime Consultant and forwarded to the User Department

This report is required by Miami Dade County. Failure to comply may result in MDC commencing proceedings to impose sanctions on the successful bidder, in addition to pursuing any other available legal remedy. Sanctions may include the suspension of any payment or part thereof, termination or cancellation of the contract, and the denial to participate in any further contracts awarded by MDC. Pursuant to Florida Statutes (F.S.) 837.06, whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of their official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. 755.082, F.S. 755.083 and F.S. 755.084.

A		REPORTING PERIOD		CONTRACT NAME		CONTRACT NO.	
FROM:				PROJECT LOCATION		START DATE	
TO:				USER DEPARTMENT			
CBE MEASURE:				DEPT. PROJ. MGR/CONTACT PERSON		PHONE	
PRIME CONSULTANT				CONTRACT AWARD		FACSIMILE	
		DATE		AGREEMENT AMOUNT		CHANGE ORDER MODIFICATION AMOUNT	
NAME OF FIRM						ADDITIONAL SERVICES AMOUNT	
ADDRESS				SCHEDULED COMPLETION DATE		PERCENTAGE OF CONTRACT COMPLETED	
TELEPHONE		FACSIMILE		PROJECT MANAGER (PRIME CONTR.)			
AMOUNT REQUISITIONED THIS PERIOD		\$		DATE REQUISITIONED		DID LAST PMT EQUAL REQUISITION AMOUNT?	
TOTAL AMOUNT REQUISITIONED TO DATE		\$				YES ☐	
LAST PAYMENT BY MIAMI DADE COUNTY (MDC)		\$		DATE OF LAST PMT BY MDC		NO ☐	
TOTAL AMOUNT PAID BY MDC		\$		WAS LAST PMT WITHIN 14 DAYS OF PRIME REQUISITION?		IF NO PLEASE EXPLAIN	
				YES ☐			
				NO ☐			

B											
SUBCONSULTANTS' DATA											
NAME OF SUBCONSULTANT	GOAL % (IF APPLICABLE)	DESCRIPTION OF WORK	SIGNED AGREEMENT	AGREEMENT AMOUNT	AMOUNT SUB REQUISITIONED THIS PERIOD	DATE OF REQUISITION (FROM SUB)	AMT REQUISITIONED TO DATE	LAST PAYMENT AMT	LAST PAYMENT DATE	WAS LAST PMT. WITHIN 14 DAYS OF MDC PAYMENT TO PRIME? Y/N	AMT PAID TO DATE
AUTHORIZED SIGNATURE OF PRIME CONSULTANT										TITLE	DATE

ARCHITECTURE & ENGINEERING UTILIZATION REPORT - FINAL ONLY

PART 2

This part is to be completed by the Subconsultants and forwarded to the Prime Consultant.

SUBCONSULTANTS							
NAME OF SUBCONSULTANT	TOTAL AGREEMENT AMOUNT	FINAL SUB REQUISITION AMOUNT	TOTAL PAID TO DATE TO SUBCONSULTANT	TOTAL SUB REQUISITIONED TO DATE	PROMPT PAYMENT ISSUES (Y/N)	DATE OF WORK COMPLETION	GOAL (%) IF APPLICABLE
AUTHORIZED SIGNATURE OF SUBCONSULTANT							

PART 3

This part is to be executed by the Prime Consultant and forwarded to the User Department.

SIGNATURE OF AFFIANT (PRIME CONSULTANT)

TITLE

Sworn before me: This day of , 2002

PRINTED NAME OF AFFIANT

DATE

NOTARY PUBLIC

COUNTY USE

This part is to be completed by the User Department at the time of Final Requisition to DBD.

AUTHORIZED SIGNATURE OF PROJECT/CONTACT PERSON

PRINT NAME

DATE

Exhibit “B”
Disadvantaged Business Enterprise (DBE)
Requirements

MIAMI-DADE COUNTY
ENVIRONMENTAL CLEAN-UP
E09-DERM-01
DBE/EEO REQUIREMENTS

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- 21. Qualified
- 22. Recipient
- 23. Regular Dealer
- 24. Small Business Concern
- 25. Socially and Economically Disadvantaged Individuals
- 26. Schedule for Participation
- 27. Sub-recipient
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SECTION I. EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

A. EQUAL EMPLOYMENT OPPORTUNITY

In connection with the execution of this contract, the contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, disability, ancestry, marital status, pregnancy, sexual orientation, veteran's status, or national origin. The contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, disability, marital status, pregnancy, sexual orientation, veteran's status, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeships. Contractor further agrees to

insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by MDC setting forth the provisions of this Equal Opportunity clause.

B. DISCRIMINATION PROHIBITED

The Contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or any other remedy as MDC deems appropriate. (49 CFR Part 26.13(b))

C. NONDISCRIMINATION

The Contractor will comply with all regulations of the U. S. Department of Transportation, all applicable provisions of the Civil Rights act of 1964, Executive Order 11246 of September 24, 1964 as amended by Executive Order 11375 Executive Order 11625 of October 13, 1971, the Age Discrimination in Employment Act effective June 12, 1968, the rules regulations and relevant orders of the Secretary of Labor; Chapter 760 (Florida Civil Rights Act of 1992, as amended); Dade County Ordinance 75-46 and Articles 3 and 4 of Chapter 11a of the Code of Miami-Dade County which prohibit discrimination because of race, sex, color, national origin, religion, age, disability, ancestry, marital status, pregnancy, sexual orientation, or veteran's status of any individual.

D. DISABILITY NONDISCRIMINATION.

It is hereby declared to be the national policy that elderly persons and persons with disabilities have the same right as other persons to utilize mass transportation and services; that special efforts shall be made in the planning and design of mass transportation facilities and services so that the availability to elderly persons and persons with disabilities of mass transportation which they can effectively utilize will be assured; and that all Federal programs offering assistance in the field of mass transportation (including the programs under this chapter) should contain provisions implementing this policy. (49 U.S.C. Part 5301(d)) Further, each contractor agrees to insert a similar provision and requirement in each subcontract it awards in the conduct of this project or contract.

SECTION II: DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

A. DEFINITIONS: As used in this Disadvantaged Business Enterprise (DBE) Contractor Participation Provision ("Provision"), the following terms shall have the following meanings (the definitions shall not apply outside of this Provision where inconsistent with those contained elsewhere in the bid documents):

1. Affidavit of Continuing Eligibility – Form certifying that a DBE firm continues to meet the program requirements, at the time of submittal
2. Affirmative Action - Positive activities undertaken to eliminate discrimination and effects of past discrimination and to ensure nondiscriminatory practices in the future.
3. Proposer - An individual, firm, partnership, corporation, joint venture, or combination thereof submitting a bid for construction work.
4. Board - Board of County Commissioners, Miami-Dade County, Florida.
5. Challenge - A formal filing by a third party to rebut the presumption that a particular individual is socially and economically disadvantaged.
6. Commercially Useful Function - Work performed by a DBE firm in a particular transaction that, in light of industry practices and other relevant considerations, has a necessary and useful role in the transaction, i.e., the firm's role is not a superfluous step added in an attempt to obtain credit toward goals. If, the County believes that a firm (even though an eligible DBE) does not perform a commercially useful function in the transaction, no credit toward the goal may be awarded.
7. Contracts Compliance Office - A person designated by the director of the contracting department to assist and to make recommendations with respect to compliance with this Provision.
8. Contract - A legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them; the Contract, executed by MDC and the successful proposer, of which this Provision is a part. For the purposes of this program, a lease is considered to be a contract.
9. Contract Goal- DBE contractor participation goal established by the Board for this Contract solicitation.

10. Contract Price- the total bid price of the successful proposer as awarded by the Board.

11. Contracting Officer- The Director of the contracting agency or his/her designee.

12. Contracting Opportunity- Any decision by the County or contractor to institute a procurement action to obtain a product or service commercially (as opposed to intergovernmental actions).

13. Disadvantaged Business Enterprise or DBE - A "for-profit" small business concern--

a. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged as defined in 49 CFR Part 26.5, or in the case of a corporation, in which at least 51 percent of the stock of which is owned by one or more such individuals; and

b. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged owner(s).

14. DBE Certification Letter - A letter from a certifying agency within the state of Florida, evidencing that a firm has been certified as a DBE pursuant to 49 CFR Part 26.

15. DBE Directory- a listing of certified DBE Contractors on MDC web portal, aiming at supplying contractors with available DBE firms.

16. Goal- The numerically expressed objective for this Contract solicitation which proposers are required to make good faith efforts to achieve; a numerical percentage that is not rigid and inflexible and which can be reasonably attained by means of applying every reasonable and sufficient effort to utilize DBE Contractors in the performance of work under this project and in accordance with the terms and requirements of this provision.

17. Letter of Certification- Letter from any certifying member of the Florida Uniform Certification Program (UCP), indicating that the Contractor has met the requirements of the DBE program, prior to or at the time of proposal submittal and pursuant to the guidelines of 49 CFR Part 26.

18. Manufacturer- An individual (or individuals) who owns, operates, or maintains a factory or establishment that produces on

the premises the components, materials, or supplies obtained by the County, Contractor, or Transit Vehicle Manufacturer.

19. MDC- Miami-Dade County, Dade County or the County as referred to in the Contract Documents.

20. Primary Recipient- A grantee who receives DOT financial assistance and passes all or some of the assistance on to a sub-recipient.

21. Qualified- a Contractor is qualified to do specific work if it meets all of the following criteria:

- a. It has obtained or is able to obtain any and all licenses required to do such work;
- b. It has the minimum necessary experience, organization, and facilities to do such work;
- c. It is able to comply with the performance schedule reasonably needed for such work;
- d. It does not have an unsatisfactory record of integrity, judgment and performance;
- e. It is able to meet the applicable equal employment opportunities requirements; and
- f. It is not otherwise ineligible to perform such work under applicable laws and regulations.

22. Recipient- means any entity, public or private, to which financial assistance from the U. S. Department of Transportation (DOT) is extended whether directly or through another recipient, through the programs of the Federal Transit Administration (FTA), the Federal Highway Administration (FHWA), or the Federal Aviation Administration (FAA), or who has applied for such assistance.

23. Regular Dealer means a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock if it owns or operates distribution

equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this definition.

24. A Small Business Concern, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, is defined in section 3 of the Small Business Act and in Small Business Administration regulations implementing the Act (13 CFR Part 121). Additionally, a small business concern cannot exceed the cap on average annual gross receipts specified in 49 CFR 26.65(b).

25. Socially and Economically Disadvantaged Individual - means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

a. Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.

b. Any individual in the following groups, members of which are presumed to be socially and economically disadvantaged:

(1) "Black Americans," which includes persons having origins in any of the black racial groups of Africa;

(2) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American or other Spanish or Portuguese culture or origin, regardless of race;

(3) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

(4) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U. S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

(5) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(6) Women;

(7) Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (SBA), at such time as the SBA designation becomes effective.

26. Schedule of Participation by DBE Contractors - a schedule, in the form annexed to this Provision, containing certain information with respect to work to be performed by DBE Contractors.

27. Sub-recipient- Any entity that receives Federal financial assistance from FTA through a primary recipient.

28. Successful proposer - the proposer to which the Contract is awarded.

29. Transportation Improvement Program (TIP) means an annual or biennial listing of capital and operating assistance projects proposed for funding by FTA.

30. Unavailable- a Contractor is unavailable to do specific work if:

a. It has that knowledge of the terms and specifications of the Contract needed to formulate intelligently a proposal to do such work or to decline intelligently an opportunity to formulate such a proposal; and

b. It does not intend, or is unable, to make a proposal because of lack of interest, inability to meet the reasonable and ordinary demands connected with doing such work, unwillingness to meet the specifications for such work, unwillingness to work on this project or in this geographic area, or such other reason as is determined by MDC to be sufficient.

31. Unified Planning Work Program (UPWP) - A listing of planned projects proposed for funding by FTA.

32. U.S. Department of Transportation Regulations - the final rules and regulations published in the Federal Register, entitled PART 26--PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS.

33. DBE Contractor Identification Statement- a statement, in the form annexed to this Provision, to be signed by and containing information on a DBE Contractor.

B. UTILIZATION OF DBE CONTRACTORS:

1. Affirmative Action Obligation

All projects, with or without Federal Funding.

a. Policy. MDC is committed to carry out the DBE Program and of meeting the objectives stated in the program, including nondiscrimination in the award and administration of DOT assisted contracts in MDC's transit programs; creating a level playing field on which DBEs can compete fairly; and ensuring that MDC's DBE program is narrowly tailored in accordance with applicable law. Consequently, the DBE requirements of 49 CFR Part 26 apply to this project.

b. DBE Obligation. Each proposer agrees to ensure that DBE Contractors, as defined in 49 CFR Part 26 and this Provision, are given the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal Funds provided under this project. In this regard all proposers shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 and this Provision to ensure that DBE Contractors have the opportunity to compete for and perform contracts. Proposers shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

All determinations of compliance or non-compliance of the proposers with the requirements of this Provision, and of the appropriate consequences of non-compliance, shall be final and binding, except for administrative reconsideration from an adverse decision by MDC as provided in Section 26.53. All determinations shall be final and the result is not administratively appealable to the U.S. Department of Transportation. Nothing in this Provision shall be construed to diminish the legal responsibility or authority of MDC.

2. Stated Goal

A "Stated Goal" is a portion of the total contract dollar amount that a contractor is expected to expend with a minimum number of certified DBE firms. For this contract, the Stated Goal for participation by DBE firms is **percent (%)**.

3. DBE Proposer

A Proposer which is itself a DBE Contractor may achieve the stated goal by performing work with its own forces at a value of at least equal to the percentage goal, subject to compliance with the

applicable requirements of Section II.B.(1) and (2) of this Provision and any other requirements pursuant to 49 CFR Part 26.

4. Title VI Compliance (Civil Rights Act of 1964)

During the performance of this contract, the contractor itself, or its assignees or successors in interest (hereinafter referred to as the "contractor"), agrees as follows:

a. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

b. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, religion, color, sex, age, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, age, or national origin.

d. Information and Reports: The contractor shall provide all information, including copies of subcontracts at any tier and reports required by the regulations or directives issued pursuant thereto, and shall permit access to its books; records; accounts; subcontracts at any tier; other sources of information and its facilities as may be determined by Miami-Dade County (MDC) or the Federal Transit Administration (FTA) to be pertinent to ascertain compliance with such regulations, orders and instructions. Given the possibility of information required from a contractor may be in the exclusive possession of another party who may fail or refuse to furnish such information, the

contractor shall make every effort to make this requirements part of its subcontracts to ensure compliance.

e. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, MDC shall impose such contract sanctions as it or the FTA may deem appropriate, including, but not limited to:

- (1) Withholding of payments to the contractor under the contract until the contractor complies, and/or
- (2) Cancellation, termination or suspension of the contract, in whole or in part.

f. Incorporation of Provisions: The contractor shall include the provisions of paragraph II. B (4) (a) through (f) of this section in all subcontracts, including procurements of materials and leases of equipment, at any tier, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurements as MDC or the FTA may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request MDC to enter into such litigation to protect the interests of MDC, and, additionally, the contractor may request the services of the Attorney General in such litigation to protect the interests of the United States.

C. REQUIREMENTS AND PROCEDURES PRIOR TO CONTRACT AWARD

1. Proposal Submittal

a. At the time of submittal, all proposals shall include an executed Certification of Assurance.

A proposal that fails to include Certificate of Assurance shall be deemed non-responsive.

2. Submittal Prior to Negotiation

The selected proposer(s), as a condition of responsiveness, shall submit to MDC two days prior to negotiation for each proposed DBE, the following documents:

- (1) Letter of Certification

(2) A completed Schedule for Participation

(3) A Letter of Intent

(4) A copy (without attachments) of the most recent Affidavit of Continuing Eligibility submitted to the certifying agency

A Selected Proposer which does not submit the four forms listed above may be found non-responsive; therefore, disqualified from consideration for this project.

3. Submittals during Contract Negotiations

The selected proposer(s), as a condition of responsiveness, shall submit to MDC prior to contract award the documents and information set out in sub-paragraphs II.C(2) (a) and II.C (2) (b) herein.

a. Evidence of insurability of all listed DBE Contractors as required by the contract documents and by law and regulations, if applicable.

b. Good Faith Effort.

(1) When MDC establishes a DBE goal on a DOT-assisted contract, it requires a proposer, at the time of submittal and as a condition of responsiveness, to make good faith efforts to meet the goal. The proposer shall meet this requirement in either of the following two ways:

(a) Documenting sufficient commitment, utilizing the Schedule for Participation and Letter of Intent to minimally equal to the Stated Goal; or

(b) If the commitment on the Schedule for Participation and Letter of Intent is less than the Stated Goal, the selected proposer shall show adequate documented good faith efforts. This means that the proposer must show that it took all necessary and reasonable steps to achieve a DBE goal which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful. The Schedule for Participation and the Letter of Intent, along with affidavits from DBE certifying their unavailability may serve a complementary role in that endeavor, even if the proposer

did not succeed in obtaining enough DBE participation to meet the Goal.

(2) In any situation in which MDC has established a contract goal, MDC will use the good faith efforts mechanism spelled out in 49 CFR Part 26, Appendix A. MDC will make a fair and reasonable judgment whether a proposer that did not meet the goal made adequate good faith efforts. MDC will consider the quality, quantity and intensity of the different kinds of efforts that the proposer has made. The efforts employed by the proposer should be those that one could reasonably expect a proposer to take if the proposer were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE Contract Goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. MDC emphasizes that the determination concerning the sufficiency of the proposer's good faith efforts is a judgment call: meeting quantitative formulas is not required.

(3) MDC does not require that a proposer meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, providing the proposer makes an adequate good faith efforts showing. MDC will give fair and serious consideration to bona fide good faith efforts.

(4) The following is a list of types of actions which the proposer should consider as part of its good faith efforts to obtain DBE participation. The list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

(a) Soliciting through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The proposer must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The proposer must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

(b) Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when

the prime contractor might otherwise prefer to perform these work items with its own forces.

(c) Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

(d) (i) Negotiating in good faith with interested DBEs. It is the proposer's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

(ii) A proposer using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a proposer's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the proposer of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

(e) Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

(f) Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

(g) Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

(h) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

(5) In determining whether a proposer has made good faith efforts, MDC may take into account the performance of other proposers in meeting the Contract goal. For example, when the apparent successful proposer fails to meet the contract goal, but other proposers meet it, MDC may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful proposer could have met the goal. If the apparent successful proposer fails to meet the goal, but meets or exceeds the average DBE participation obtained by other proposers, MDC may view this, in conjunction with other factors, as evidence of the apparent successful proposer having made good faith efforts.

(6) Good Faith Efforts (Invitation for Bid/Request for Proposal). Good faith efforts, under the Invitation for Bid (IFB) method of procurement, to be considered must have been carried out prior to bid opening. Under a Request for Proposal (RFP) or similar method, good faith efforts must have been accomplished prior to receipt of best and final offers. MDC may request any other information as may be required to determine the listed DBE contractor's qualification.

(7) Agreements between a proposer and a DBE Contractor in which the DBE Contractor promises not to provide subcontracting quotations to other proposers are prohibited. The listing of a DBE Contractor by a proposer on its Schedule shall constitute a representation by the proposer that such DBE Contractor is Qualified and Not Unavailable, and a commitment by the proposer that if it is awarded the contract, it will enter into a subcontract with such minority contractor for the portion of the work and at the price set forth in its submittal subject to the terms of this Provision.

4. Selection Criteria to Ensure that Prime Contracts Are Awarded to Proposers that Meet the DBE Goal or Demonstrate Good Faith Efforts to Meet the DBE Goal.

a. If any one proposer meets or exceeds the Contract Goal, MDC may take into consideration whether proposers who failed to meet the Goal failed to exert sufficient reasonable efforts to meet the Goal and are, therefore, ineligible to be awarded the contract.

b. MDC reserves the right to award the Contract to a proposer prior to making a final determination as to the DBE status or qualification of a firm listed on the proposer's Schedule. If the DBE status of a firm listed on the proposer's Schedule is disapproved after contract award, the proposer shall remain bound by procedures under Section II.D.

5. DBE Participation shall be counted toward meeting the DBE Goal as follows:

a. Once a firm is determined by MDC to be an eligible DBE, the dollar value of the work performed by the DBE is counted toward the DBE Goal, except as limited by paragraph II.C.2 (c) (2) through II.C.2.c.(4). (49 CFR 26.55(a).

b. MDC shall count toward the DBE Goal a portion of the total dollar value of a contract with a joint venture equal to the percentage of the ownership and control of the DBE partner(s) in the joint venture. (26.55(b))

c. MDC shall count toward the DBE Goal only expenditures to DBEs that perform a commercially useful function in the work of a contract. (26.55(c))

(1) A DBE is considered performing a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing and supervising the work involved. To determine whether a DBE is performing a commercially useful function, the proposer shall evaluate the amount of work subcontracted, industry practices, and other relevant factors.

(2) Consistent with normal industry practices, a DBE may enter into subcontracts. If a DBE Contractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices,

the DBE shall be presumed not to be performing a commercially useful function.

d. MDC shall count toward DBE goals expenditures for materials and supplies obtained from DBE suppliers and manufacturers, provided that the DBEs assume the actual and contractual responsibility for the provisions of the materials and supplies.

(1) MDC shall count toward DBE goals the entire expenditure to a DBE manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale).

(2) MDC shall count toward DBE goals 60 percent of the expenditures to DBE suppliers that are not manufacturers provided that the DBE supplier performs a commercially useful function in the supply process.

6. Determination of Compliance

The total price for work to be performed by DBE contractors as indicated in the Proposer's Schedule of Participation by DBE Contractors is required to be sufficient to fulfill the stated goal, unless the Proposer shall demonstrate adequate good faith efforts as provided in II.C.2.c.

7. Award of Contract

MDC shall not award a contract to any Proposer which it determines fails to comply with the applicable requirements of these provisions. Nothing herein shall relieve any Proposer or any Contractor performing any work under the Contract from any of the terms, conditions or requirements of the Contract or modify the Owner's rights as reserved in the Contract Documents.

8. Procedures for Determination of Compliance

The selected proposer shall cooperate with the DBE Contracts Compliance Office during the determination of compliance process as described below:

a. Investigation and Recommendation by DBE Contracts Compliance Office.

In the event that the Proposer has not met the stated goals, but has submitted the good faith efforts, the Proposer may be required to meet with the DBE Contracts Compliance Office at the Miami Dade Transit Agency, 701 N. W. First Court, Suite 17th

Floor, Miami, FL 33136, phone 786/469-5481, or such other place as the Contracts Compliance Office may designate.

The purpose of this meeting shall be for the Contracts Compliance Office to consider whether to recommend that the proposer's proposal be determined to be in compliance with the requirements of this Provision or to recommend award not be made to the proposer. At this meeting, the proposer will have an opportunity to present information and arguments pertinent to its compliance with the applicable requirements. Upon request of the Contracts Compliance Office, the proposer shall produce in writing at this meeting the information required in II.C.2.c, including the following:

(1) A detailed statement of the efforts made to contact and to negotiate with DBE Contractors, including:

(a) The names, addresses and telephone numbers of DBE Contractors who were contacted;

(b) A description of the information provided to DBE Contractors regarding the plans and specifications for portions of the work to be performed; and

(c) A detailed statement of the reasons why additional prospective agreements with DBE Contractors, if needed to meet the stated goal, were not reached;

(2) A detailed statement of the efforts made to select portions of the work proposed to be performed by DBE Contractors in order to increase the likelihood of achieving the stated goal;

(3) As to each DBE Contractor contacted but which the proposer considered to be not qualified, a detailed statement of the reasons for the proposer's conclusion;

(4) As to each DBE Contractor contacted but which the proposer considered to be unavailable, either

(a) A written statement from the DBE Contractor that it is unavailable, or

(b) A statement from the proposer that the DBE Contractor refused to give such written certification after reasonable request, and a detailed statement from the proposer of the reasons for the proposer's conclusion that the DBE Contractor was unavailable (the DBE Contractor

Unavailability Statement may be used for this purpose where appropriate);

(5) Attendance at a pre-bid meeting, if any, scheduled by the proposer to inform DBEs of subcontracting opportunities under a given solicitation;

(6) Advertisements in general circulation media, trade association publications, and minority-focus media for at least 20 days before bids or proposals are due concerning subcontracting opportunities (if the interval between MDC advertising is so short that 20 days are not available, then publication for a shorter reasonable time is acceptable).

(7) Efforts made to assist the DBEs contacted that needed assistance in obtaining bonding or insurance required by the proposer or MDC; and

(8) Written notification to DBEs that their interest in the contract is solicited.

The Contracts Compliance Office may require the proposer to produce such additional information as the Contracts Compliance Office deems appropriate and may obtain whatever other and further information from whatever other sources he deems appropriate.

Not later than fifteen (15) days after given notice of his initial meeting with the proposer, the Contracts Compliance Office shall make a written recommendation to the Contracting Officer (CO) which shall include a statement of the facts and reasons upon which it is based.

b. Determination by MDC.

Following receipt of the Contracts Compliance Office's recommendation, the CO shall send to the proposer a Notice of Opportunity to meet with the CO, enclosing a copy of the Contracts Compliance Office's recommendation. Such Notice shall indicate the date, time and place at which the proposer may, if it so requests in writing, meet with the CO and have an opportunity to present pertinent arguments and information relating to the recommendation by the Contracts Compliance Office regarding the proposer's compliance with this Provision. The CO may request such further information from the proposer as it deems appropriate, and may rely upon any factual conclusion reported by the Contracts Compliance Office which is not contradicted by the proposer. The CO may

also conduct informal conferences, to which the proposer shall be invited, in which other parties invited by the CO may offer information relevant to the issues on which its recommendation to the Board will be based.

As soon as practicable, the CO shall make a determination, in writing and setting forth the facts and reasons upon which it is based, whether the bid of such proposer complies with the requirements of this Provision or recommending to the Board that the Contract is not awarded to the proposer. A copy of such determination shall be sent to the proposer. Such determination shall not affect the power of the Board to reject the proposer's proposal for any other reason or to take action on the recommendation of the CO it deems appropriate.

c. Consideration of Other Bids.

If MDC deems it advisable in the interests of expediting the award of the Contract, the procedures set forth in this Section II (C) may be carried out concurrently or separately with respect to bids from one or more additional proposers, with each such proceeding to be conducted separately.

d. Failure of proposer to participate.

The proposer will be bound by proceedings under this Provision to which it has been given required notice without regard to its participation or lack of participation in them. Its lack of participation, upon receiving notices and requests pursuant to this Provision, shall not be grounds for reconsideration of any actions taken in the procedure.

9. Substitution of DBE Contractors for those Listed in the Schedule for Participation

A proposer may change information required by this provision from that provided in its Schedule of Participation of DBE Contractor only when directed to do so by the CO. The CO may make such a direction if it determines in the course of any proceeding conducted pursuant to Section II.C.3., that

a. Although listed by a proposer in good faith, a Contractor appearing on the proposer's Schedule is not a DBE Contractor, is not qualified or is unavailable and that

b. If the work scheduled to be performed by said Contractor or its equivalent is not performed by a DBE Contractor, the

proposer will not achieve the level of participation listed on its Schedule.

Upon receiving such a direction, the proposer shall make every reasonable effort to replace a contractor listed in its Schedule with a qualified DBE Contractor to perform, for not less than the lesser of the same price or the price necessary to achieve the level of participation listed in its Schedule, the same work or other work not appearing on the Schedule included with its proposal submission. For the purpose of determining the proposer's compliance with this Provision, the revised list of DBE Contractors shall be considered. However, a failure by a proposer to make the efforts required by the preceding paragraph prior to Contract award shall be grounds for a determination by the Board that the contract not is awarded to the proposer. If a proposer is awarded the Contract and it fails to make such efforts upon notice by MDC, MDC shall subject the proposer to sanctions as provided in Section II.D.4.

D. REQUIREMENTS AND PROCEDURES SUBSEQUENT TO CONTRACT AWARD

1. Proposal, Execution, and Compliance with Subcontracts

a. As a condition precedent to receiving Notice to Proceed, within 30 days of Award, the successful contractor shall enter into subcontracts with the proposed DBE in accordance with: (1) these Provisions and all other applicable laws and regulations, and (2) the proposed agreements listed on the proposer's Schedule for Participation, and if applicable, all substitutions authorized under these Provisions.

b. Upon entering such subcontracts, the successful proposer shall neither thereafter terminate any such subcontract, nor reduce the scope of the work to be performed by, or decrease the price to be paid to, the DBE Contractor thereunder, without in each instance receiving the prior written approval of the CO.

c. MDC retains the right to approve or disapprove any subcontract with a DBE Contractor proposed under this Provision for the same reasons and in the same manner that MDC may approve or disapprove any other subcontract proposed to it. If MDC disapproves a subcontract required to be proposed under this Provision for reasons relating to its form, the contractor shall propose for approval another subcontract with the same DBE Contractor, for the same work and at the same price, in a form acceptable to MDC. If MDC

disapproves a subcontract required to be proposed under this Provision for any other reason, the contractor shall be excused from proposing that subcontract and shall be subject to the provisions of Section II.D.2 below.

2. Substitution of Subcontractors

a. Excuse from Entering Subcontracts.

If prior to execution of a subcontract required by this Provision, the contractor submits a written request to the CO and demonstrates to the satisfaction of the CO that, as a result of a change in circumstances beyond its control of which it was not aware and could not reasonably have been aware until subsequent to the date of award of the Contract, a DBE Contractor which is to enter into such subcontract has become not Qualified, or that the DBE Contractor has unreasonably refused to execute the subcontract, the contractor shall be excused from executing such subcontract.

b. Rightful Termination of Subcontracts.

If, after execution of a subcontract required by this Provision, the contractor submits a written request to the CO and demonstrates to the satisfaction of the CO that, as a result of a change in circumstances beyond its control of which it was not aware and could not reasonably have been aware until subsequent to the date of execution of such subcontract, a DBE Contractor which entered into such subcontract has become not Qualified or has committed and failed to remedy a material breach of the subcontract, the contractor shall be entitled to exercise such rights as may be available to it to terminate the subcontract.

c. Determination of Excuse of Rightful Termination.

If the contractor, at any time, submits a written request to the CO, under the provisions of either Section II.D.1 or Section II.D.2, the CO, as soon as practicable, shall determine whether the contractor has made the requisite demonstration, and shall not determine that such a demonstration has not been made without first providing the contractor upon notice, an opportunity to present pertinent information and arguments.

d. Alternative Subcontracts.

If the contractor is excused from proposing a subcontract under Section II.D.1 or from executing a subcontract under Section II.D.2(a), or rightfully terminates a subcontract under Section II.D.2.b. and without such subcontract the contractor will not achieve the stated level of DBE participation on which the contract was awarded, the contractor shall make every reasonable effort to propose and enter into an alternative subcontract or subcontracts for the same work to be performed by another Qualified DBE Contractor or Contractors for a contract price or prices totaling not less than the contract price under the excused or terminated subcontract, less all amounts previously paid thereunder. The contractor shall be deemed to satisfy the requirements of this Section II.D.2.d if:

(1) It shall propose and enter each such alternative subcontract for the same work; or

(2) It demonstrates to the satisfaction of the CO that it has made every reasonable effort to contact and negotiate with DBE Contractors in an attempt to subcontract such work, but that it was unable to subcontract the work because DBE Contractors were

(a) Not Qualified;

(b) Unavailable; or

(c) Although Qualified and not Unavailable, unwilling or unable to propose a price for such work equal to or less than the greater of the price originally scheduled for such work (less all amounts previously paid therefor), or the price stated in another bona fide proposal, of which such DBE Contractors had knowledge, submitted by another contractor to which the contractor proposes to subcontract such work; or

(3) It shall propose and enter into subcontracts with another qualified DBE Contractor or Contractors, for prices totaling the price originally scheduled for such work (less all amounts previously paid therefor) for the performance of other work not included in its Schedule as it may be modified according to this Provision.

In any situation covered by this Section II.D.2., the Contracts Compliance Office shall promptly meet with the contractor and provide it an opportunity to demonstrate compliance with these requirements. The Contracts Compliance Office shall,

as promptly as practicable, recommend to the CO whether the contractor should be determined to be in compliance with these requirements.

The Contracts Compliance Office may require the contractor to produce such information as the Contracts Compliance Office deems appropriate and may obtain whatever other and further information from whatever sources the Contracts Compliance Office deems appropriate. A copy of the Contracts Compliance Office's recommendation shall be promptly hand delivered or sent by registered mail to the contractor. The Contracts Compliance Office shall not make his recommendation under this paragraph without giving the contractor notice and an opportunity to present pertinent information and arguments. MDC will consider objections to the Contracts Compliance Office's recommendation only if such written objections are received by the CO within five (5) calendar days from the contractor's receipt of the Contracts Compliance Office's recommendation. The CO with or without a hearing, as he in his discretion may determine, will reply to the contractor's written objection within ten (10) working days of receipt of these objections.

3. Continued Compliance

MDC shall monitor the compliance of the contractor with the requirements of this Provision during the course of the work to be performed under the Contract. The contractor shall permit MDC to have access to the job site and to necessary records, and to examine such information as appropriate for the purpose of investigating and determining compliance with this Provision, including, but not limited to, manning tables, records of expenditures, change orders, observations at the job site, and contracts between the contractor and other parties entered into during the life of the Contract.

4. Sanctions for Violations

If at any time MDC has reason to believe that the contractor is in violation of its obligations under this Provision, or has otherwise failed to comply with this Provision, MDC may, in addition to pursuing any other available legal remedy, commence proceedings to impose sanctions on the contractor. Such sanctions may include, but are not limited to, one or more of the following:

- a. The suspension of any payment or part thereof due the contractor until such time as the issues concerning the contractor's compliance are resolved;
- b. The termination or cancellation of the Contract in whole or in part unless the contractor is able to demonstrate within a reasonable time its compliance with the terms of this Provision; and
- c. The denial to the contractor of the right to participate in any further contracts awarded by MDC for a period of not longer than three (3) years. No such sanction shall be imposed by MDC upon the contractor except pursuant to a hearing conducted by the CO.

5. Prime Contractor DBE Reporting Requirements.

The Prime Contractor shall submit monthly payment activity reports on the 20th day after the end of the month for which the report is being submitted, using the Monthly Progress Report form or similar format, for payments activity to all subcontractors on the project, including DBE. Such report must be accompanied by proof of payment, which may be telecopy of canceled checks made to the subcontractor or notarized affidavit from an authorized representative of the subcontractor certifying the date of receipt of the payments; the amount of money received; and the work done.

6. Prompt Payment.

(1) Pursuant to 49 CFR part 26.29 and 26.37, prime contractors shall pay subcontractors, including DBE'S, for satisfactory performance of their contracts no later than 30 calendar days after the date on which the payment request or a proper invoice is stamped received. Further, the prime contractor will return retainage payments to the subcontractor, including DBE firms, within 30 days of the subcontractor's satisfactory completion of work.

(2) The following correct information constitutes a proper invoice and is required as payment documentation:

- a. Name of Subcontractor;
- b. Invoice date;
- c. Invoicing period;
- d. MDT Contract number;

- e. Subcontractor's invoice number; account number; and/or any other identifying number agreed by contract;
- f. Description and nature of work completed;
- g. Taxpayer Identification Number (TIN);
- h. Bank Information; and/or EFT and Financial EDI Statements
- i. Contact person's name, title and Telephone Number.
- j. Other substantiating documentation, information required by contract.

(3) An invoice shall be deemed to be received on the receipt date stamped on the invoice by the contractor. If the contractor fails to annotate the invoice with a date of receipt, the date placed on the invoice by the subcontractor shall control.

(4) The Prime Contractor shall make timely payment on a payment request or invoice without regard as to whether MDT has tendered payment and/or reimbursement to the Prime contractor.

(5) The Prime Contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed, and upon which a payment request or proper invoice was submitted and received. Nothing herein shall prohibit a prime contractor or subcontractor from disputing, pursuant to the terms of the contract, all or any portion of a payment alleged to be due to another party.

(6) In the event of a payment dispute, the contractor and subcontractor may withhold the disputed portion of any such payment, if the contractor, or subcontractor notifies the party whose payment is disputed, in writing, of the amount in dispute and the actions required to cure the dispute. The undisputed portion shall be paid timely.

(7) The Prime and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payments disputes, including but not limited to mediation, arbitration and/or an MDT's Ombudsperson.

(8) In cases of disputes, proceedings to resolve the dispute shall be commenced not later than 20 days after the date on which the payment request or proper invoice was received by the contractor and shall be concluded by final decision not later than 30 days after the date on which the payment request or proper

invoice was received by the contractor. Such procedures shall not be subject to chapter 120, and such procedures shall not constitute an administrative proceeding which prohibits a court from deciding de novo any action arising out of the dispute. If the dispute is resolved in favor of the Prime Contractor, then interest charges shall begin to accrue 15 days after the final decision. If the dispute is resolved in favor of the subcontractor, then interest shall begin to accrue as of the original date the payment became due.

(9) The prime contractor may reject a payment request or invoice within 10 business days after the date on which the payment request or invoice is stamped as received. The rejection must be written and must specify the deficiency in the payment request or invoice and the action necessary to make the payment request or invoice proper.

(10) If a payment request or an invoice is rejected under subsection (9) and the subcontractor submits a corrected payment request or invoice which corrects the deficiency specified in writing by the prime, the corrected payment request or invoice must be paid or rejected on the later of Ten (10) business days after the date the corrected payment request or invoice was stamped as received.

(11) All payments due under this section and not made within the period specified by this section shall bear interest at the rate of 1.5% per month, or the rate specified by contract whichever is greater.

(12) Late payment interest penalties shall be paid without regard to whether the subcontractor has requested payment of such penalty, and shall be accompanied by a notice stating the amount of the interest penalty, the number of day late and the rate used. Interest payment of less than one dollar need not be paid. In the event of a dispute, interest penalties under this clause will not continue to accrue.

(13) The Prime and subcontractor in their business judgment and of their own volition may negotiate reasonable cash discounts, or any other means of payment reduction for early payments, if the parties can agree to mutually advantageous terms.

(14) A provision in an agreement between a subcontractor and a contractor is void and unenforceable to the extent that it purports to waive or preclude the rights, remedies, or requirements set forth in this subsection; or that it purports to limit it or preclude any liability of the prime contractor to the

subcontractor or of the subcontractor to the contractor, arising under this subsection.

APPENDIX OF FORMS

Certification of Assurance Form

Schedule for Participation

DBE Subcontractor Letter of Intent

Affidavit of No-Change

Subcontractors Monthly Progress Payments

DBE Contractor Identification Statement

Prime and Subcontractors Information Form

MIAMI-DADE COUNTY
ENVIRONMENTAL CLEAN-UP
E09-DERM-01

CERTIFICATION OF ASSURANCE

The undersigned hereby gives assurance to Miami-Dade County of having identified certified Disadvantaged Business Enterprise firm(s) to achieve the Stated Goal as follows:

Professional Services _____ percent
(Engineering, legal, accounting, etc.)

Authorized Signature

Print Name

Title

Date

**MIAMI-DADE COUNTY
SCHEDULE FOR PARTICIPATION**

Instructions for Contractors: List your DBE firms and sign.

DBE FIRM (1):

Name _____

Type of Work to Be Performed: _____

Percentage and Dollar Amount of Total Bid Committed: _____% \$ _____

Proposed Commencement Date:_____ Proposed Completion Date:_____

DBE Firm (2):

Name _____

Type of Work to Be Performed: _____

Percentage and Dollar Amount of Total Bid Committed: _____% \$ _____

Proposed Commencement Date:_____ Proposed Completion Date:_____

DBE Firm (3):

Name _____

Type of Work to Be Performed: _____

Percentage and Dollar Amount of Total Bid Committed: _____% \$ _____

Proposed Commencement Date:_____ Proposed Completion Date:_____

DBE Firm (4):

Name _____

Type of Work to Be Performed: _____

Percentage and Dollar Amount of Total Bid Committed: _____% \$ _____

Proposed Commencement Date:_____ Proposed Completion Date:_____

The undersigned certifies that it is committed to hire the above firms to do the work listed above on project _____, as part of it obligations under said project, and agrees to make the DBE & EEO Requirements of said project part of any tier of its subcontracts.

LETTER OF INTENT FROM DBE SUBCONTRACTOR, SUPPLIER AND/OR CONSULTANT

To: _____ and Miami-Dade County
(Name of Prime Contractor)

From: _____
(Name of DBE Firm)

The undersigned DBE is prepared to perform the following described services and/or supply the following described goods, in connection with the following project/contract for a total dollar amount of \$_____ and certifies that, upon the execution of a contract with the Prime Contractor, it will not subcontract any part of such contract to any firm, at any tier, without obtaining prior written consent from Miami-Dade County, through the Prime Contractor; it further certifies that it has received from Prime Contractor a true copy of the Affirmative Action provisions, which must include the Davis Bacon requirements and wage determinations, if applicable.

Prime Contractor _____ Project Name _____

DBE ASSIGNMENTS:

Item No.	Work to be performed	Dollar Amount Per Bid Form
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

Item/Supply Description	Quantity	Dollar Amount
_____	_____	_____
_____	_____	_____

Authorized Signature

Title

Print Name

Date

MIAMI-DADE COUNTY

DBE AFFIDAVIT OF NO CHANGE

I, _____, swear¹ (or affirm) that there have been no changes in (name of firm) _____ circumstances affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR Part 26 and 13 CFR Part 121. I swear (or affirm) there have been no material changes in the information provided with (name of firm) _____ application for certification, except for any changes about which I have provided written notice to Miami-Dade County, pursuant to 49 CFR § 26.83(i).

I swear that I am socially disadvantaged because I have been subjected to racial or ethnic prejudice or cultural bias, or have suffered the effects of discrimination, because of my identity as a member of one or more of the groups identified in 49 CFR § 26.5, without regard to my individual qualities. I further swear (or affirm) that my personal net worth does not exceed \$750,000.00, and that I am economically disadvantaged because my ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially and economically disadvantaged.

I specifically swear (name of firm) _____ continues to meet the Small Business Administration (SBA) business size criteria and the overall gross receipts cap of 49 CFR Part 26 and (name of firm) _____'s average annual gross receipts (as defined by SBA rules) over the previous three fiscal years do not exceed \$16.6 million. I will provide size and gross receipts documentation to support this affidavit, immediately upon Miami-Dade County's request.

Signature _____ *Date* _____

On this ___ day of _____, 2004, before me appeared (name) _____, to me personally known, who, being duly sworn, did execute the foregoing affidavit and did state that he or she was properly authorized by (name of firm) _____, to execute the affidavit and did so as his or her free act and deed.

(SEAL/STAMP)

Notary Public _____ Commission Expires _____

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment or both.



SUBCONTRACTORS MONTHLY PROGRESS REPORT

Report For:	CONTRACT NUMBER _____ PROJECT NAME _____
	CONTRACTOR NAME _____ CONTRACT AMOUNT \$ _____
	DBE GOAL _____ % PAID TO PRIME CONTRACTOR TO DATE \$ _____

DBE FIRMS	SEX	ETHNIC	TYPE OF WORK/SERVICE	MONTHLY PAYMENT	PAYMENT TO DATE	CONTRACT AMOUNT

PAYMENTS TO NON-DBES	TYPE OF SERVICE	AMOUNT

I certify that the above information is true and accurate to the best of my knowledge and understand that if I misrepresent or falsify such information, I may be subject to civil and or criminal prosecution under Title 18 United State Code Section 1001.

DBE CONTRACTOR IDENTIFICATION STATEMENT
MDT DBE Participation Program

1) Name of DBE Contractor _____

2) Year business established _____

3) Address and telephone number _____

4) DBE Type: Women _____ Black _____ Hispanic _____ Other (specify) _____

All DBEs must show ownership percentage by gender-- Male _____ % Female _____ %

5) Name of principal officer _____

6) Principal type of work _____

7) Name of persons involved in management of firm and positions held:

	NAME	RACE	SEX	POSITION/TITLE
A.	_____	_____	_____	_____
B.	_____	_____	_____	_____
C.	_____	_____	_____	_____
D.	_____	_____	_____	_____
E.	_____	_____	_____	_____

If additional space is needed, please use another sheet.

8) For a Corporation or Professional Association (PA): Identify those who own five percent or more of the firm's stock or five percent or more share of a Professional Association.

	NAME	RACE	SEX	OWNERSHIP PERCENTAGE	YEARS OF OWNERSHIP	VOTING PERCENTAGE
A.	_____	_____	_____	_____	_____	_____
B.	_____	_____	_____	_____	_____	_____
C.	_____	_____	_____	_____	_____	_____
D.	_____	_____	_____	_____	_____	_____

If additional space is needed, please use another sheet.

(Continued on Page 2)

Page 2
DBE CONTRACTOR IDENTIFICATION STATEMENT

MDT DBE Participation Program

9) For a Proprietorship, indicate the DBE status and gender of the proprietor:

Black Male _____ Black Female _____ Hispanic Male _____ Hispanic Female _____
Other Male (Specify) _____ Other Female (Specify) _____

10) Does the firm have an 8(a) Certification issued by the Small Business Administration under Section 8(a) of the Small Business Act as amended (15 U.S.C. 637 (a))?

NO _____ YES _____, Certified as an 8(a) Contractor (date) _____

11) Date certified as a DBE _____ Cert. No. _____ Expires _____.

12) The undersigned agrees to provide other relevant information concerning ownership and control if requested to do so by MDC or its representative.

Signature of Official of DBE Company

Title of Official

Date

**MIAMI-DADE COUNTY
PRIME AND SUBCONTRACTORS INFORMATION FORM**

INSTRUCTIONS: To be completed by the prime and by all subcontractors that submitted a bid on the project.

Bid Description: _____ Bid No. _____

Percentage of DBE Goal _____%

BIDDER INFORMATION

Firm Name _____ F.E.I.N.* _____

Street _____ Suite No. _____

City _____ State _____ Zip Code _____

Prime Bidder? Yes _____ No _____ If No, enter name of Prime _____

Year Founded _____ Annual Gross Receipts: Under \$500k _____ Over \$500k _____

Phone No. _____ FAX No. _____ Email _____

SPECIALTY

USE APPROPRIATE TWO-DIGITS SBA STANDARD INDUSTRIAL CLASSIFICATION CODE (SIC):

Construction: Building--SIC 15 ___ Heavy--SIC 16 ___ Specialty Trades--SIC 87 ___

Professional Services (Architectural, Engineering, Accounting, etc.) SIC 87 ___

Goods, Equipment and Non-professional Services _____

MIAMI-DADE COUNTY CERTIFIED DBE:

Certificate Expiration Date: ____/____/____ Ethnicity _____ Gender _____

AFFIDAVIT

I certify that I am an authorized representative of above named firm.

Signature Name Title Date

For MDC Use Only: Was the subject bid awarded to this bidder? Yes _____ No _____

Authorized Signature

Print Name and Title

Date

Name of Contractor

Exhibit “C”
Federal Provisions

FEDERAL REQUIREMENTS AND PROVISIONS

This Procurement is subject to a financial assistance contract between Miami-Dade County (MDC) and the U.S. Department of Transportation. By reason of such participation, the Bidder (the terms "Bidder", "Proposer" and "Contractor" are used interchangeably) is required to agree to the following provisions:

No Government Obligation to Third Parties

The Purchaser (MDC) and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

Program Fraud and False or Fraudulent Statements and Related Acts

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies", 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. 5307, the Government reserves the right to impose the penalties of 18 U.S.C. 1001 and 49 U.S.C. 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Incorporation of Federal Transit Administration (FTA) Terms

The general contract provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the contract provisions. All contractual provisions required by DOT, as set forth in the latest version of FTA Circular 4220, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any MDC requests, which would cause MDC to be in violation of the FTA terms and conditions.

Federal Changes

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement (Form FTA MA (2) dated October, 1995) between Purchaser (MDC) and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Interest of Members of, or Delegates to, Congress:

No member of, or delegates to, the Congress of the United States shall be admitted to any share or part of this contract or to any benefit arising therefrom (41 U.S.C. 22).

Conflict of Interest:

No employee, officer, or agent of MDC shall participate in the selection or in the award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- a. The employee, officer or agent;
- b. Any member of his immediate family, also including brothers and sisters;
- c. His or her partner; or
- d. An organization which employs, or is about to employ any of the above, has a financial or other interest in the firm selected for award.

MDC's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contracts, potential contractors, or parties of subcontracts.

Seismic Safety

The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The Contractor also agrees to ensure that all work performed under this contract also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

Recycled Products/Recovered Materials

The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

Audit and Inspection of Records:

The Contractor agrees that MDC, the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, be permitted to inspect all work, materials, payrolls, and other data and records with regard to the project, and to audit the books, records, and accounts with regard to the project. Further, Contractor agrees to maintain all required records for at least three years after MDC make final payments and all other pending matters are closed.

Cargo Preference:

The Contractor agrees:

- A. To utilize privately owned United States-flag commercial, vessels to ship at least 50 percent of the gross tonnage (computes separately for dry bulk carriers, dry cargo loners, and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to this section, to the extent such vessels are available at fair and resalable rates for United States flag commercial vessels.
- B. To furnish within 20 working days following the date of loading for shipments originating within the United States, or within 30 working days following the date of loading for shipment originating outside the United States, a legible copy of a rated, "onboard" commercial ocean bill of lading in English for each shipment of cargo described in Paragraph 1 above to the Recipient (through the prime Consultant in the case of subConsultant bill of lading) to the Division of National Cargo, office of Market Development, Maritime Administration, 400 Seventh Street S.W., Washington D.C. 20590, marked with appropriate identification of the Project.
- C. To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this Agreement.

Energy Conservation:

The Contractor shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC Section 6321 et. seq.).

Clean Air Act, Federal Water Pollution Control Act, Buy America Act and Americans with Disabilities Act (ADA) Requirements:

The Contractor agrees to comply with all applicable standards, orders, or requirements issued under section 306 of the clean air act (42 USC 1857 (h), section 508 of the clean water act (33 USC 1368), executive order 11738, and environmental protection agency regulations (40 CFR, part 15) which prohibit the use under nonexempt federal contracts, grants or loans, of facilities included on the EPA list for violating facilities. The Contractor shall report violations to FTA and to the USEPA assistant administrator for enforcement (EN0329). The Contractor hereby certifies that he will comply with the requirements of section 165 (a) of the surface transportation assistance act of 1982 and the regulations in 49 CFR 661. Each Contractor shall complete the "Buy America" certificate in attachment "C". The Contractor further certifies that he will comply with the requirements of the Americans with Disabilities Act.

Fly America Requirements:

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their subcontractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

The Contractor further agrees to comply with the following Federal requirements:

Federal Requirements

- (1) Fly America Requirements
- (2) Buy America Requirements
- (3) Cargo Preference Requirements
- (4) Seismic Safety Requirements

- (5) Energy Conservation Requirements
- (6) Clean Water Requirements
- (7) Pre-Award and Post Delivery Audit Requirements
- (8) Lobbying
- (9) Access to Records and Reports
- (10) Federal Changes
- (11) Clean Air
- (12) Davis-Bacon Act
- (13) No Government Obligation to Third Parties
- (14) Program Fraud and False or Fraudulent Statements and Related Acts
- (15) Termination
- (16) Government-wide Debarment and Suspension (Non-procurement)
- (17) Privacy Act
- (18) Civil Rights Requirements
- (19) Breaches and Dispute Resolution
- (20) Disadvantaged Business Enterprises (DBE)
- (21) State and Local Law Disclaimer
- (22) Incorporation of Federal Transit Administration (FTA) Terms

For more information on the aforementioned federal requirements please visit the following website:

<http://www.fta.dot.gov/library/admin/BPPM/appA1.html>

Submittal of Federal Affidavits

The Bidder shall submit the following federal affidavits with the bid package:

- Buy America Certificate
- Certification Regarding Debarment, Suspension and Other Responsibility Matters
- Lobbying Certification
- Statement for Loan Guarantees and Loan Insurance
- Disclosure of Lobbying Activities

Failure of the bidder to complete and submit the above mentioned forms with the bid package may render the bid non-responsive.

MIAMI-DADE COUNTY
BUY AMERICA
CERTIFICATE OF COMPLIANCE

The Bidder hereby certifies that it will comply with the requirements of 49 U.S.C.5323 (j)(1), Section 165(a) of the Surface Transportation Assistance Act of 1982, as amended, and the applicable regulations in 49 CFR part 661.

Firm Name _____

Date _____

Signature _____

Printed Name _____

Title _____

MIAMI-DADE COUNTY
BUY AMERICA
CERTIFICATE OF NON-COMPLIANCE

The Bidder hereby certifies that it cannot comply with the requirements of 49 U.S.C.5323 (j)(1), Section 165(a) of the Surface Transportation Assistance Act of 1982, as amended, but it may qualify for an exception to the requirements pursuant to Section 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act of 1982 and regulations in 49 CFR 661.7.

Firm Name _____

Date _____

Signature _____

Printed Name _____

Title _____

Certification Regarding Debarment, Suspension and Other Responsibility Matters

Lower Tier Covered Transactions (Third Party Contracts equal to or over \$100,000)

Instructions for Certification

1. By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out in "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" in Exhibit FED-DB1.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, MDC may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to MDC if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections or rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact MDC for assistance in obtaining a copy of these regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by MDC.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," and the certification form, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List issued by U. S. General Service Administration.

8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, MDC may pursue available remedies including suspension and/or debarment.

“Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction”

- (1) The prospective Lower Tier Participant certifies, by submission of this bid or proposal, that neither it nor its “principals” as defined at 49 C. F. R. 29.105(p) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) If the prospective Lower Tier Participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

EXHIBIT FED-DB1

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND
VOLUNTARY EXCLUSION

(LOWER TIER COVERED TRANSACTION)

(To be submitted with a Bid or Offer equal to or exceeding the small purchase threshold for Federal assistance programs, currently \$100,000).

The prospective Lower Tier Participant certifies, by submission of this bid or proposal, that neither it nor its "principals" as defined at 49 C.F.R. 29.105(p) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

If the prospective Lower Tier Participant is unable to certify to the statement above, it shall attach an explanation, and indicate it has done so, by placing an "X" in the following space _____.

THE BIDDER OR OFFEROR, _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THIS CERTIFICATION AND EXPLANATION, IF ANY. IN ADDITION, THE LOWER-TIER BIDDER OR OFFEROR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND EXPLANATION, IF ANY.

Signature of
Participant's Authorized Official

Name and Title of
Participant's Authorized Official

Date

RESTRICTIONS ON LOBBYING

A. Definitions. As used in this clause,

1. “Agency”, as defined in 5 U.S.C. 552 (f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101 (1).
2. “Covered Federal action” means any of the following Federal actions:
 - (a) The awarding on any Federal contract;
 - (b) The making of any Federal grant;
 - (c) The making of any Federal loan;
 - (d) The entering into of any cooperative agreement; and,
 - (e) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan of cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

3. “Indian tribe” and “tribal organization” have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 B). Alaskan Natives are included under the definitions of Indian tribes in that Act.
4. “Influencing or attempting to influence” means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.
5. “Local government” means a unit of government in a State and, if chartered, established, or otherwise recognized by a state for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.
6. “Officer or employee of an agency” includes the following individuals who are employed by an agency:
 - (a) An individual who is appointed to a position in the Government under title 5, U.S. Code, including a position under a temporary appointment.

- (b) A member of the uniformed services as defined in section 101 (3), title 37, U.S. Code;
 - (c) A special Government employee as defined in section 202, title 18, U.S. Code; and,
 - (d) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, U.S. Code appendix 2.
-
- 7. “Person” means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.
 - 8. “Reasonable compensation” means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.
 - 9. “Recipient” includes all contractors and subcontractors at any tier in connection with a Federal contract. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.
 - 10. “Regularly employed” means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employees who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.
 - 11. “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

B. Prohibition

1. Section 1352 of title 31, U.S. code provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. The prohibition does not apply as follows:
 - (a) Agency and legislative liaison by own employees.
 - (1) The prohibition on the use of appropriated funds, in paragraph B.1. of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.
 - (2) For purposes of paragraph B.2. (a) (1) of this section, providing any information specifically requested by an agency or Congress is allowable at any time.
 - (3) For purposes of paragraph B.2. (a) (1) of this section, the following agency and legislative liaison activities are allowable at any time only where they are not related to a specific solicitation for any covered Federal action:
 - A. Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities and,
 - B. Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.
 - (4) For purposes of paragraph B.2. (a) (1) of this section, the following agency and legislative liaison activities are allowable only where they are prior to formal solicitation of any covered Federal action:

- A. Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;
- B. Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and,
- C. Capability presentations by persons seeking awards from an agency pursuant to the provisions of the small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(5) Only those activities expressly authorized by paragraph B.2.(a) of this section are allowable under paragraph B.2.(a).

(b) Professional and technical services by own employees.

- (1) The prohibition on the use of appropriated funds, in paragraph B.1. of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract or an extension, continuation, renewal, amendment, or modification of a Federal contract if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract or for meeting requirement imposed by or pursuant to law as a condition for receiving that Federal contract.
- (2) For purposes of paragraph B.2. (b)(1) of this section, “professional and technical services” shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by professional (such as a licensed lawyer) or a technical person (such as a license accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client’s proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communication with the intent

to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(3) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(4) Only those services expressly authorized by paragraph B.2.(b) of this section are allowable under paragraph B.2.(b).

(c) Reporting for Own Employees

No reporting is required with respect to payments of reasonable compensation made to regularly employee officers or employees of a person.

(d) Professional and technical services by other than Own Employees.

(1) The prohibition on the use of appropriated funds, in paragraph B.1. of this section, does not apply in the case of any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action, if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract.

(2) For purposes of paragraph B.2 (d) (1) of this section, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as license accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of this or her client's

proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

- (3) Requirements imposed by or pursuant to law as condition for receiving covered Federal award include those required by law or regulation, or reasonably expect to be required by law or regulation; and any other requirements in the actual award documents.
- (4) Persons other than officers or employees of a person requesting or receiving a covered Federal action include Contractors and trade association.
- (5) Only those services expressly authorized by paragraph B.2.(d) of this section are allowable under paragraph B.2.(d).

C. Disclosure

- 1. Each person who request or receives from an agency a Federal contract shall file with that agency a certification, set forth in this Exhibit 4, that the person has not made, and will not make, any payment prohibited by paragraph B. of this clause.
- 2. Each person who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, Standard Form-LLL, "Disclosure of Lobbying Activities," if such person has made or has agreed to make any payment using unappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph B. of this clause if paid for with appropriated funds.
- 3. Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraph C.2. of this section. An event that materially affects the accuracy of the information reported includes:
 - (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

- (b) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,
 - (c) A change in the officer(s) employee(s), or member(s) contacted to influence or attempt to influence a covered Federal action.
4. Any person who requests or receives from a person referred to in paragraph C.1. of this section a subcontract exceeding \$100,000 at any tier under a Federal contract shall file a certification, and a disclosure form, if required, to the next tier above.

LOBBYING CERTIFICATION

Certification for Contracts, Grants, Loans and Cooperative Agreements (To be submitted with each bid or offer exceeding \$100,000)

The Contractor certifies, to the best of its knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an Federal department or agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal Grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed Reg 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P. L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352, (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. [Note: Pursuant to 31 U.S.C. 1352(C)(1)-(2) (A), any person who makes a prohibited expenditure or fails to file or amend a required

certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. 3801 et seq. apply to this certification and disclosure, if any.

Signature of
Contractor's Authorized Official

Name and Title of
Contractor's Authorized Official

Date

STATEMENT FOR LOAN GUARANTEES AND LOAN INSURANCE

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature

Date

SUBSCRIBED AND SWORN TO (or affirmed) before me on _____
(Date)

by _____. He / She is personally known to me
(Affiant)

or has presented _____ as identification.
(Type of Identification)

(Signature of Notary)

(Serial Number)

(Print or Stamp Name of Notary)

(Expiration Date)

Notary Public _____
(State)

Notary Seal