



## **PENSION PLAN ADMINISTRATION SERVICES**

Sealed bids will be received at Clerk Office, of South Miami 6130 Sunset Drive, South Miami, Florida 33143, until **10 A.M. October 20, 2010** at which time they will be opened and publicly read for:

## **PENSION PLAN ADMINISTRATION SERVICES**

### **RFP NO. SM – FN 2010-11**

The Project is generally described as:

**The Pension Board of South Miami is seeking professional plan administration services from proposers who are experienced in the administration of public retirement plans. The Pension Board of South Miami of South Miami (the “Pension Board of South Miami”), hereby gives notice that proposals will be accepted from all individuals or firms interested in providing pension plan administration services in accordance with all applicable local, state and federal rules, codes, regulations and/or laws.**

Interested Bidders who wish to bid on this RFP can obtain the complete Bid package at the City of South Miami’s of South Miami website at <http://www.cityofsouthmiami.net/index.php?src=gendocs&ref=BidPosting2010&category=RFPs-and-Bids> or contact Lissette Rivera, Purchasing Manager, at 6130 Sunset Drive, South Miami, Florida 33143 or call (305) 663-6339.

The Pension Board of South Miami reserves the right to award the bid to the lowest, most responsive, responsible bidder, as determined by the Pension Board of South Miami Commission, subject to the right of the Pension Board of South Miami to reject any and all bids, to waive any irregularity in the bids or bidding procedure and subject also to the right of the Pension Board of South Miami to award bid and contract to bidders other than the low bidder.

Lissette Rivera  
Purchasing Manager

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**I. City Background**

Chapter 16, Article II, Section 16-11 of the South Miami Code of Ordinances reads as follow:

A pension plan is hereby established and placed under the management of a Pension Board of South Miami of Trustees for the purpose of provident retirement allowances for employees of the City of South Miami, Florida, and shall be known as “South Miami Pension Plan” The effective date of the plan shall be October 1, 1965.

US Bank is the custodian of the South Miami Pension Plan.

**II. Term of Contract**

The “Pension Board of South Miami” Pension anticipates this relationship to continue at the pleasure of both parties.

**III. Scope of Services**

The Pension Board of South Miami is seeking professional plan administration services from proposers who are experienced in the administration of public retirement plans.

The Pension Board of South Miami, hereby gives notice that proposals will be accepted from all individuals or firms interested in providing pension plan administration services in accordance with all applicable local, state and federal rules, codes, regulations and/or laws.

The “Pension Board of South Miami” Pension is relying on the fact that the Consultant is an expert in public pension plan administration. Services to be provided by the administrator shall include, but not be limited to, the following:

- Review all statements and documents received from:
  - Money Managers
  - Performance Monitors
  - Attorneys
  - Actuaries
  - Accountants
  - Retirees
  - Pension Board of South Miami Employees
  - Custodians
  - Others
- Review custodial statements
- Review security transaction statements

- Assist in negotiation of contracts
- Review invoices for accuracy to the Contract
- Obtain necessary information for retirement eligibility and benefits
- Calculate refunds on termination and report the appropriate tax information
- Set up and maintain files
- Perform projects as directed by the “Pension Board of South Miami”
- Obtain required information for state reports
- Prepare and file the Annual Report for compliance of the Section 185 Plan
- Correspondence as directed
- Maintain current roster of members and retirees, including status and addresses
- Maintain current beneficiary designations
- Schedule meetings
- Assure compliance with the Government in the Sunshine Law and the Public Records Act
- Prepare agendas
- Prepare and transcribe minutes
- Notice meetings, including the Pension Board of South Miami Clerk
- Benefit payments, 1099R tax reporting and record keeping;
- Any State and Federal reporting requirements
- Coordinate the Communication between the Pension Board of South Miami and the Actuary.
- Provide and coordinate with the Pension Auditor
- Maintain rules of Pension Board of South Miami decisions

**EXISTING PLAN**

The “Pension Board of South Miami” has in effect a defined benefit retirement plan, which covers General Employees and Police. A copy of the most recent Comparative Summary of Principal Valuation Results is attached.

The City of South Miami participates in the following pension plans:

	<b>SINGLE -EMPLOYER</b>		
<u>PLAN</u>	<u>DEFINED BENEFIT</u>	<u>DEFINED CONTRIBUTION</u>	<u>OTHER</u>
General Employee Pension Plan	X		
Police Employee Pension Plan	X		

OPTIONAL PLANS OFFERED: Deferred Compensation Plans

## **Proposal Due Date**

Sealed proposals including **one unbound original** and **ten (10) additional hardcopies** should be submitted prior to 10:00 a.m. EST, on Tuesday October 11, 2010, unless this time is extended by written addendum issued by the Pension Board of South Miami before that date. Proposals will not be accepted after this time. Proposals shall be addressed as follows:

City of South Miami  
Attn: Pension Board  
6130 Sunset Drive  
South Miami, FL 33143  
Phone 305-663-6339

**Submitted envelopes should be marked “Request for Proposals for Pension Plan Administrator Services.”**

## **IV. Submission of Proposals**

### **A. Request for Additional Information**

By submitting a proposal, the proposer agrees to furnish such additional information as the Pension Board of South Miami may reasonably require. This includes information which indicates financial resources as well as ability to provide the services. To the extent there are any revisions or additions to the information provided or requested in the RFP, an addendum will be sent to all firms who received the RFP. The City reserves the right to make such investigations of the qualifications of the proposer as it deems appropriate.

### **B. Proposals Binding**

All proposals submitted shall be binding on proposers for one hundred twenty (120) calendar days following opening of the proposals.

### **C. Incurred Expenses**

The City shall not be liable for any cost incurred by proposers in responding to this RFP, or in participating in oral presentations or meetings with the Pension Board of South Miami.

### **D. Proprietary Information**

In accordance with Chapter 119 of the State of Florida Statutes (Public Records Law), and except as may be provided by other applicable State and Federal Law, all proposers should be aware that the RFP's and the responses thereto are subject to public inspection and copying. However, the proposers are requested to identify specifically any information contained in their proposals, which they believe to be exempt from disclosure, citing

specifically the applicable exempting law. The City will consider a proposer's opinion regarding the applicability of Chapter 119, Florida Statutes, but shall not be obligated to concur in such opinions, and shall have no liability to a proposer for making public any information contained in a proposal. All proposals received from proposers in response to this RFP will become the property of the City and will not be returned to the proposers. In the event of contract award, all documentation produced as part of the contract will become the exclusive property of the City.

#### **E. Interviews**

The City reserves the right to interview some, all or none of the firms responding to this RFP based solely on the Pension Board of South Miami judgment as to the firm's qualifications and capabilities.

#### **F. Acceptance/Rejection/Modifications to Proposals**

The Pension Board of South Miami reserves the right to negotiate modifications to the proposals that it deems acceptable, to reject any or all proposals, to request and consider additional information from any firm, and to waive minor irregularities and technical defects. The Pension Board of South Miami reserves the right to seek new proposals when it determines that it is in its best interest to do so. The City also reserves the right not to pursue any specific financing products or transactions contemplated by this RFP.

#### **G. No Separate Proposals from Proposers Under Common Control**

Proposers under common control may only submit a single proposal. The City reserves the right to reject separate proposals from proposers under common control.

### **V. Evaluation Criteria and Selection Process**

#### **A. Evaluation Criteria**

- The Pension Board of South Miami will evaluate each firm's qualifications based upon a review of the overall proposal which will include, but may not be limited to the following criteria, and not necessarily in the following order of priority:
- Qualifications and experience of the firm and primary individuals assigned to the Pension Board of South Miami in structuring, negotiating, evaluating, and implementing a full range of public pension administration.
- Accessibility of the primary individuals assigned to the Pension Board of South Miami,

- Experience of the firm and primary individuals assigned to the Pension Board of South Miami in providing Pension Plan Administration services to airports and other governmental entities,
- Status of the firm regarding litigation and compliance with regulatory requirements, and fees

## **B. Selection Process**

Responses to this RFP will be evaluated by the Pension Board of South Miami, which may, in its discretion, seek the assistance of city Staff with respect to the evaluation. In the event the Pension Board of South Miami requests Staff to submit unranked short-lists of responsive proposers, The Pension Board of South Miami may accept, reject or change the short-lists as submitted by the city Staff. The City may schedule interviews and/or presentations with any proposers.

A ranking of all firms or short-listed firms will be determined by the Pension Board of South Miami and submitted to the City Manager approval. The City may accept the City's rankings or establish its own rankings of the candidate firms whether or not they were on the short-list.

After the Pension Board of South Miami has established and approved the final ranking, negotiations with the first ranked firm will be initiated. If those negotiations are unsuccessful, the Pension board of South Miami will then open negotiations with the next ranked firms, etc. until the successful completion of negotiations and execution of contracts.

The Pension Board of South Miami reserves the right to reject any or all proposals, to further negotiate any proposals, to request clarification of information submitted in any proposal, to request additional information from any proposer, and to waive any irregularities in any proposal. Late proposals will not be accepted and will be returned unopened.

The meetings of the Pension Board of South Miami are public meetings. Any questions regarding this RFP should be directed via electronic mail to:

Mr. Alfredo Riverol  
Finance Director  
ariverol@cityofsouthmiami.net

*Any questions should be addressed as described in this RFP. The City requests that you do not contact any Board members, City members or City staff other than the individuals listed above after issuance of this RFP until you are notified of the City's recommendation to the City, at which time the request not to contact Board members shall continue until contracts are awarded. The City reserves the right to disqualify any proposer that makes such unauthorized contacts during this process.*

### C. Tentative Schedule

Release RFP	September 27, 2010
Deadline to submit questions	October 13, 2010
Deadline for submit proposal (by 10:00 a.m.)	October 20, 2010
Recom ranking by City Pension Board Sub-Committee	October 22, 2010
Pension Board Consideration	TBA

### VI. Indemnification and Insurance Requirements

The CONTRACTOR shall procure and maintain in force during the term of this agreement the following types of insurance coverage written on standard forms and placed with insurance carriers acceptable to the City and approved by the Insurance Department of the State of Florida. The amounts and type of insurance shall conform to the following requirements:

- I. **Workers' Compensation** - The CONTRACTOR shall procure and shall maintain in force during the term of this agreement, Workers' Compensation Insurance providing statutory benefits, including those that may be required by an applicable federal statute, for all of his employees to be engaged in work on the project under this agreement. In case any class of employee engaged in hazardous work on the project under this agreement is not protected under the Workers' Compensation statute, the CONTRACTOR shall provide employer's liability insurance for all said employees.

#### Employer's Liability

N/A Limit each accident

N/A Limit disease aggregate

N/A Limit disease each employee

- II. **Commercial General Liability** - Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy filed by the Insurance Service office with limits of not less than those listed below and must include:

- General Aggregate \$1,000,000
- Products & completed operations N/A
- Personal and advertising injury N/A
- Each occurrence \$1,000,000
- Fire Damage (any one fire) N/A

III. **Business Automobile Liability** - Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy filed by the Insurance Service office with limits not less than those listed below and must include:

- N/A combined single limits each accident, for bodily injury and property damage liability. “Any Auto” Coverage is required: N/A
- Owned Vehicles
- Hired and Non-owned Vehicles
- Employer Non-ownership

IV. **Professional Liability**

- Errors and Omissions: Minimum limits of \$1,000,000 per claim
- Notice of cancellation and or restrictions: The policy must be endorsed to provide the county with thirty (30) days notice of cancellation and/or restrictions.

**Schedule Amount**

**Workers’ Compensation**

Florida Statutory coverage Statutory Limits (Workers’ Compensation) and Employer’s Liability (including \$500,000 each accident (Employer’s Liability) appropriate Federal Acts)

**Commercial General Liability**

- Premises-Operations \$1,000,000 each occurrence
- Products-Completed Operations \$2,000,000 annual aggregate for bodily injury
- Contractual Liability and property damage, combined single limit
- Independent Contractors

**Automobile Liability**

All autos-owned, hired, \$1,000,000 each occurrence, combined single or non-owned limit

**Professional Liability**

(Errors and Omissions) \$1,000,000 each claim, \$2,000,000 annual aggregate

## VII. **Format and Content of RFP Response**

**Firms submitting proposals shall disclose their qualifications to serve as a Pension Plan Administrator for the City in the format set forth below. Failure to provide requested information may result in your proposal being deemed non-responsive and therefore eliminated from further consideration.**

### **A. Title Page**

1. Show the name of proposer's agency/firm, address, telephone number, name of contact person, date and the subject: REQUEST FOR PROPOSAL FOR PENSION PLAN ADMINISTRATOR SERVICES.
2. Include a completed proposal cover sheet **Table of Contents**

Include a clear identification of the material by section and by page number.

### **B. Cover Letter and Executive Summary**

This letter should be signed by the person in your firm who is authorized to negotiate terms, render binding decisions, and commit the firm's resources.

Summarize your firm's qualifications and experience to serve as Pension Plan Administrator. This response should emphasize the strength of the firm in any relevant areas, which you feel the Pension Board of South Miami should weigh in its selection, based on the criteria set forth above.

Summarize your firm's understanding of the work to be done and make a positive commitment to perform the work in accordance with the terms of the proposal being submitted. This section should summarize the key points of your submittal. Limit to one or two pages.

### **C. Firm Overview**

State the full legal name and organizational structure of the firm. Describe the ownership structure of your firm,. State the location of the office that will be serving the Pension Board of South Miami including mailing address and telephone numbers.

- a. Name of Firm submitting the proposal.
- b. Name and title of individual responsible for proposal.
- c. Mailing address.
- d. Telephone and facsimile numbers.

#### **D. Personnel and References**

Identify the primary individuals who will provide services to the Pension Board of South Miami with regard to the day-to-day relationship with the Pension Board of South Miami and include a brief resume for each of the primary individuals including licenses and certifications held by those individuals.. Provide a list of five clients the individual has worked with in the last 36 months. Indicate the individual's experience with clients within the State of Florida and provide a brief description of the type of services provided as well as the names, titles, addresses and telephone numbers of those primarily responsible for the pension. In addition to the day-to-day relationship, please provide information regarding the firm's and individual's experience with pension administration which are similar to a plan of the City of South Miami.

#### **E. Other Relevant Pension Administration Experience**

Provide a description of your proposed primary individuals' relevant experience over the last three years with other cities that you believe are relevant to this proposed engagement..

#### **F. Disciplinary Actions**

Describe any litigation or regulatory action filed against your firm in the last five (5) years, and the resolution thereof. Provide a statement of positive assurance that your firm and its representatives are not presently being investigated or in violation of any statutes or regulatory rules,

#### **G. Cost Proposal and Reimbursement for "Out-of-Pocket" Expenses**

##### **I. Cost Proposal**

With regard to the scope of services and work products, discuss your proposed fee arrangement *based on each of the following alternatives:*

- a. With regard to the Pension Plan Administrator services described herein, other than in connection with a transaction, please propose the amount of your proposed fee on a fixed annual cost, payable monthly.
- b. With respect to additional agreed upon services that may be best performed on an hourly basis, please provide your proposed compensation on a time and expense basis, with a list of hourly billing rates for the proposed primary individuals and any proposed increases in rates during the term of the contract, and the types of reimbursable expenses with proposed charges.

**The City reserves the right to negotiate fee proposals at the time of award.**

## 2. Reimbursement of “Out-of-Pocket” Expenses

The Pension Board of South Miami shall reimburse for “Out-of-Pocket” expenses upon proper invoice rendered with appropriate receipts attached. Such expenses include long distance telephone, postage, air express charges, fax, reproduction and related costs necessarily incurred as Pension Plan Administrator. Such expenses will be paid from legally available funds of the Pension Board of South Miami. Travel expenses related to performance of the services to the Pension Board of South Miami, and approved in advance by the Pension Board of South Miami, will be reimbursed in accordance with the City’s travel policy. Any costs incurred by Pension Plan Administrator which are not specifically provided for herein shall be the expense of Pension Plan Administrator.

### G. Potential Conflict of Interest

You should advise the Pension Board of South Miami of any potential conflict known by your firm and discuss how, if selected, your firm would address any conflict concerns. You should identify all the cities for which you are currently representing. If your firm is selected as the City’s Pension Plan Administrator, during the term of the contract your firm must notify the Pension Board of South Miami when you enter into any new contracts with municipal clients.

## VIII. Terms of Agreement

The Agreement to be entered into with the successful proposers will include, but not be limited to, the following terms and conditions:

- A. The proposer shall agree that all work shall be performed regularly, diligently, and uninterrupted at such rate of progress as will ensure full completion thereof within the proposed specified time.
- B. By submitting a proposal, the proposer agrees to the terms and conditions included as part of this RFP. If a proposer takes exception to any of the terms and conditions, the nature of each exception along with alternative wording must be submitted to the City prior to the deadline to submit questions August 25, 2010.

## **Public Entity Crime Act**

By submitting a proposal, the proposer certifies that it is not on the convicted vendors list maintained by the State of Florida, Department of General Services. By submitting a proposal, a proposer acknowledges that it has been notified of the following:

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 bid, proposal, or reply on a contract to provide any goods or services to a public entity, may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals, or replies on public 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 \$25,000 for a period of 36 months from the date of being placed on the convicted vendors list.

### **Information Sources:**

<http://www.cityofsouthmiami.net/index.php?src=gendocs&ref=BidPosting2010&category=RFPs-and-Bids>

## TERMS AND CONDITIONS

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Pension Plan Administrator

### I. SCOPE OF WORK:

The Pension Board of South Miami is seeking professional plan administration services from proposers who are experienced in the administration of public retirement plans. The Pension Board of South Miami, hereby gives notice that proposals will be accepted from all individuals or firms interested in providing Pension Plan Administration services in accordance with all applicable local, state and federal rules, codes, regulations and/or laws.

### II. COMPENSATION - INVOICE AND PAYMENT FOR SERVICES:

- A. The City shall at regular intervals monitor the performance of Pension Plan Administrator to determine whether the work to be performed under the Contract has in fact been accomplished to Pension Board of South Miami satisfaction and/or completed in a timely manner, and in its sole discretion, using reasonable standards common in the industry, the Pension Board of South Miami shall make a subjective evaluation of the effectiveness and efficiency of Pension Plan Administrator performance.
- B. The Pension Board of South Miami shall be obligated to pay promptly all proper charges and costs incurred by Pension Plan Administrator for the work performed hereunder.
- C. The Consultant shall submit all invoices to: City of South Miami Pension Board, 6130 Sunset Drive., South Miami, Fl 33143.

### III. COMPLIANCE WITH LAWS AND REGULATIONS:

- A. The Pension Plan Administrator shall perform its obligations and functions hereunder in compliance with the applicable laws of the United States, the State of Florida, Miami-Dade County, and the City of South Miami, any applicable rules, regulations or directives of any agency thereof, and the applicable regulations of the City. OSHA rules and regulations shall be followed at all times. The City shall have the right (but not the obligation) to contest or challenge by any means whatsoever any law, regulation, rule or directive which in any way affects or otherwise impacts upon the Consultant's performance of its obligations and functions hereunder; the Consultant shall cooperate to the fullest extent and take whatever action (including becoming a party in any litigation) the City should reasonably request in connection with any such challenge or contest by the City.
- B. The Pension Plan Administrator shall keep current all licenses, permits and authorizations, whether Municipal, County, State or Federal, required for the

performance of its obligations and functions hereunder and shall pay promptly when due all fees therefore.

- C. The Pension Plan Administrator shall abide by all applicable State and Federal regulations pertaining to wages and hours of an employee.

#### INDEMNIFICATION AND INSURANCE:

- D. The Pension Plan Administrator shall indemnify, defend and hold completely harmless the City and the City of South Miami, Florida, ("City"), and the members (including, without limitation, members of the City's Council), officers, employees and agents of each, from and against any and all liabilities (including statutory liability and liability under Workers' Compensation Laws), losses, suits, claims, demands, judgments, fines, damages, costs and expenses (including all costs for investigation and defense thereof, including, but not limited to, court costs, paralegal and expert fees and reasonable attorneys' fees) which may be incurred by, charged to or recovered from any of the foregoing (i) by reason or on account of damage to or destruction of any property of the City, or any property of, injury to or death of any person resulting from or arising out of or in connection with the performance of this Contract, or the acts or omissions of Consultant's officers, agents, employees, sub consultants, licensees or invitees, regardless of where the damage, destruction, injury or death occurred, unless such liability, loss, suit, claim, demand, judgment, fine, damage, cost or expense was proximately caused solely by City's negligence or by the joint negligence of City and any person other than Consultant or Consultant's officers, agents, employees, sub consultants, licensees, or invitees, or (ii) arising out of or in connection with Consultant's negligent performance of, or the failure of Consultant to keep, observe or perform, any of the covenants or agreements in this Contract which are required to be kept, observed or performed by Consultant or the services performed hereunder. City agrees to give Consultant reasonable notice of any suit or claim for which indemnification will be sought hereunder, to allow Consultant or its insurer to compromise and defend the same to the extent of its interests, and to reasonably cooperate with the defense of any such suit or claim. In carrying out its obligations under this Section 4(A), Consultant shall use legal counsel reasonably acceptable to the City. The indemnification provisions of this Section 4 shall survive the expiration or earlier termination of this Contract with respect to any acts or omissions occurring during the term of the Contract.
- E. The Pension Plan Administrator shall maintain in force during the term of this Agreement sufficient insurance to protect it, the City from any and all such claims, demands, debts, fines, liabilities or causes of action, in such form and amounts, and with such proof thereof, as are acceptable to the Pension Board of South Miami and as outlined in the RFP.

#### IV. NON-RECOURSE TO MEMBERS AND EMPLOYEES OF THE CITY

No recourse under or upon any obligation, covenant or agreement contained in this Contract, or any other agreement or document pertaining to the work or services of the Pension Plan Administrator hereunder, as such may from time to time be altered or amended in accordance with the provisions hereof, or any judgment obtained against the City, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any statute or otherwise, under or independent of this Contract, shall be had against any member (including, without limitation, members of the City's Council), any officer, employee or agent, as such, past, present, or future of the City, either directly or through the City or otherwise for any claim arising out of or in connection with this Contract or the work or services conducted pursuant to it, or for any sum that may be due and unpaid by City. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, officer, employee, or agent, as such, to respond by reason of any act or omission on his or her part or otherwise for any claim arising out of or in connection with this Contract or the work or services conducted pursuant to it, or for the payment for or to City, or any receiver therefore otherwise, of any sum that may remain due and unpaid by the City, is expressly waived and released as a condition of and in consideration for the execution of this Contract and the consideration to be paid to Consultant pursuant to this Contract.

#### V. CONTRACT ADJUSTMENTS:

- A. Notwithstanding any provision herein to the contrary, the City reserves the right to modify at any time the nature, method, scope, frequency or timing of the Consultant's obligations under this Contract (Contract Adjustments) in whatever manner it determines to be reasonably necessary for the proper completion of the scope of work. Both parties agree, that should any deletions or additions to the scope of work be made, the Pension Plan Administrator compensation will be adjusted accordingly, in such amount or amounts as will be mutually agreed to by means of good faith negotiation by the City and the Pension Plan Administrator and, to the extent possible, by reference to the unit costs already established in the Proposal.
- B. Notwithstanding the foregoing, there shall be no adjustment of the compensation on account of any Contract Adjustment made necessary or appropriate as a result of the mismanagement, improper act, or other failure of the Consultant or its employees or agents or its sub consultants to properly perform its obligations and functions under this Contract.

## SUB CONSULTANTS:

- C. The Pension Plan Administrator shall perform all of its obligations and functions under this Contract by means of its own employees or by a duly qualified sub consultant; however, no sub consultant shall perform any of the Consultant obligations under this Contract unless the City approves the sub consultant in advance in writing pursuant to Section 9 below. In the event a sub consultant is employed, the Consultant shall continuously monitor the sub consultant's performance, shall remain fully responsible to insure that the sub consultant performs as required and itself perform or remedy any obligations or functions which the sub consultant fails to perform properly.
- D. This Contract shall be referred to and incorporated within any contractual arrangement between the Consultant and a sub consultant, and in such contractual arrangement, the sub consultant shall give its express written consent to the provisions of this Section 7. To the extent feasible, the provisions of this Contract shall apply to any such sub consultant in the same manner as they apply to the Consultant. However, such application shall not make any sub consultant a party to this Contract with the City, nor a third party beneficiary thereof.
- E. In the event that the Pension Plan Administrator employs a sub consultant, then City may require that invoices for all work (including invoices submitted to the Consultant for work performed by a sub consultant) be submitted to the City by the Consultant and, in such case, the City may pay all compensation to the Consultant. It shall be the sole responsibility of the Consultant to deal with a sub consultant with respect to the collecting and submission of invoices and the payment of compensation. Payment of compensation by the City to the Consultant for work performed by the sub consultant shall relieve the City of all future liability to the sub consultant and shall thereafter preclude the sub consultant from bringing any claim against the City.

## VIII. DEFAULT AND TERMINATION:

- A. Except as otherwise provided herein, in the event that:
  - (i) the Pension Plan Administrator shall fail to keep, perform and observe each and every promise, covenant and agreement set forth in this Contract, and such failure shall continue for a period of more than five (5) days after delivery to the Consultant of a written notice of such breach or default; or
  - (ii) the Pension Plan Administrator occupational or business license shall terminate or Consultant shall fail to provide the City with any bond, letter of credit or evidence of insurance as required by the Contract Documents, for any reason; or

- (iii) the Pension Plan Administrator shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement for its reorganization, or the readjustment of its indebtedness under the Federal Bankruptcy laws, or under any other law or statute of the United States or any State thereof, or shall consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or
- (iv) the Pension Plan Administrator shall have a petition under any part of the Federal Bankruptcy laws, or an action under any present or future insolvency laws or statute, filed against it, which petition is not dismissed within thirty (30) days after the filing thereof; or
- (v) The Pension Board of South Miami determines that the work performed by Consultant is not satisfactory or completed in a timely manner;

Then in its discretion, the Pension Board of South Miami shall have the right to terminate this Contract for default, which termination shall be effective twenty-four (24) hours after written notice of such termination is given to the Pension Plan Administration. The Pension Board of South Miami can, at its option, delay the effective date of termination for default until the first day of the month following the date on which written notice of such termination is given to the Consultant. The City shall specify the termination date in its written Notice of Termination. In the event that the City terminates this Contract for default, the Consultant shall be compensated by the City for costs incurred to the date of termination (but the City shall have the right to off set its damages and any amounts owed by Consultant to her City against any amount owed to Consultant), but shall not be compensated for any profits earned or claimed after the receipt of the City's Notice of Termination for default.

- B. Notwithstanding anything else herein contained, the Pension Board of South Miami may terminate this Contract in whole or in part at any time for its convenience by giving the Pension Plan Administration thirty (30) days written notice. In that event, the Consultant shall proceed to complete any part of the work, as directed by the Pension Board of South Miami, and shall settle all its claims and obligations under the Contract, as directed by the Pension Board of South Miami. The Consultant shall be compensated by the Pension Board of South Miami pursuant to the Contract to the date of termination, and shall justify its fees at the Pension Board of South Miami request, with accurate records and data.

IX. ASSIGNMENT:

Neither this Contract nor any of the Pension Plan Administration rights or obligations hereunder may be assigned or subcontracted by the Consultant without the City's prior written consent, which may be granted or withheld in the City's sole discretion. Any transfer of this Contract by merger, consolidation or liquidation, or (unless the stock of the Consultant is traded on a national stock exchange or in a generally recognized over the counter securities market) any change in ownership of or power to vote a majority of the outstanding voting stock of the Consultant from the owners of such stock or those controlling the power to vote such stock on the date hereof shall constitute an assignment of this Contract for purposes of this Section. In the event the Consultant assigns or subcontracts or attempts to assign or subcontract any right or obligation arising under this Contract without the City's prior written consent, the City shall be entitled to terminate this Contract pursuant to the provisions of Section 8 hereof.

X. NOTICES:

All notices or other writings which the Pension Board of South Miami is required or permitted to give to the Consultant shall be deemed to have been delivered if in writing and hand delivered or mailed via U.S. Certified Mail to the Consultant's address set forth in the Proposal.

All notices which the Pension Plan Administration is required or permitted to give to the City shall be deemed to have been duly given if in writing and hand delivered or mailed via U.S. Certified Mail to:

City of South Miami  
Attn: Pension Board  
6130 Sunset Drive  
South Miami, FL 33143

Either party may change its notice address by written notice to the other given as provided in this section.

XI. MISCELLANEOUS:

- A. **Integration Provision:** This Contract represents the entire agreement between the parties in relation to the subject matter hereof and supersedes all prior agreements and understandings between such parties relating to such subject matter, and there are no contemporaneous written or oral agreements, terms or representations made by any party other than those contained herein. No amendment, modification or waiver of this Contract, or any part thereof, shall be valid or effective unless in writing signed by the party or parties sought to be bound or charged therewith; and no waiver of any breach or condition of this Contract shall be deemed to be a waiver of any other subsequent breach or condition, whether of a like or different nature.

- B. **Construction and Interpretation:** The language of this Contract shall be construed according to its fair meaning, and not strictly for or against either the City or the Consultant. This Contract shall be deemed to be made, construed and performed according to the laws of the State of Florida. Any suit or proceeding initiated for the purpose of interpreting or enforcing any provision of this Contract or any matter in connection therewith shall be brought in a court of competent jurisdiction in Miami-Dade County, Florida.
- C. **Section Headings:** The sectional headings herein are for the convenience of the Pension Board of South Miami and the Pension Plan Administration, and are not to be used to construe the intent of this Contract or any part thereof, nor to modify, amplify, or aid in the interpretation or construction of any of the provisions thereof.
- D. **Use of Gender:** The use of any gender herein shall include all genders, and the use of any number shall be construed as the singular or the plural, all as the context may require.
- E. **Non-waiver:** The delay or failure of the City at any time to insist upon a strict performance of any of the terms, conditions and covenants herein shall not be deemed a waiver of that breach or any subsequent breach or default in the terms, conditions and covenants of this Contract. Pension Plan Administrator shall not be relieved of any obligation hereunder on account of its failure to perform by reason of any strike, lockout or other labor disturbance.
- F. **Conflicts:** The Pension Plan Administrator shall not during the term of the Contract knowingly hire or employ (on either a full-time or part-time basis) any employee of the City.
- G. **Nondiscrimination:** The Pension Plan Administrator, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of any sub consultant, including procurement of materials and leases of equipment.
- H. **Interpretations:** Pension Board Administration is an independent Consultant and nothing contained herein shall be construed as making the Consultant an employee, agent, partner or legal representative of the City for any purpose whatsoever. The Consultant acknowledges that it does not have any authority to incur any obligations or responsibilities on behalf of the City, and agrees not to hold itself out as having any such authority.
- I. **Books and Records:** Pension Plan Administration shall maintain complete and accurate books and records in a form consistent with good accounting practice of all matters relating to its performance of this Contract. All such books and records shall upon

reasonable notice from the City be made available during reasonable business hours, either at the Consultant's offices, if in Miami-Dade County, Florida, or at the offices of City, for inspection and copying by the City through and by its duly authorized representatives at any time for up to three (3) years after the year to which books and records pertain, or for such longer period as is necessary to resolve any disputes between the City and Consultant that were pending at the end of such three (3) year period.

- J. **No Third Party Beneficiaries:** There are no third party beneficiaries to this Contract and nothing contained herein shall be construed to create such.
- K. **No Exclusive Rights:** Nothing contained herein shall be construed to create any exclusive right for the Consultant to perform any type of services for the City, and Consultant acknowledges that the City may contract with third parties for similar or the same type of services.
- L. **Time of the Essence:** Time is of the essence for the performance of each of Consultant's obligations under this Contract.
- M. **Attorney Fees:** In the event the City brings suit against Consultant to enforce any provision of this agreement or to collect damages arising out of Consultant's breach of this Agreement, the losing party will be obligated to pay the prevailing party's costs, expenses, expert witness fees, and reasonable attorney's fees incurred in such litigation and in any appeals.

NON-COLLUSION AFFIDAVIT

Pension Plan Administration Services

STATE OF FLORIDA            )  
  )  
COUNTY OF MIAMI-DADE    )

\_\_\_\_\_ being first duly sworn, deposes and says that:

(1)     He/She/They is/are the \_\_\_\_\_  
(Owner, Partner, Officer, Representative or Agent) of

\_\_\_\_\_ the BIDDER that has submitted the attached Bid;

(2)     He/She/They is/are fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

(3)     Such Bid is genuine and is not a collusive or sham Bid;

(4)     Neither the said BIDDER nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other BIDDER, firm, or person to submit a collusive or sham Bid in connection with the Work for which the attached Bid has been submitted; or to refrain from Bidding in connection with such Work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any BIDDER, firm, or person to fix any overhead, profit, or cost elements of the Bid or of any other BIDDER, or to fix any overhead, profit, or cost elements of the Bid Price or the Bid Price of any other BIDDER, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed Work;

(5)     The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the BIDDER or any other of its agents, representatives, owners, employees or parties of interest, including this affiant.

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Witness

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

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date

ACKNOWLEDGEMENT

STATE OF FLORIDA )  
)  
COUNTY OF MIAMI-DADE )

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2007, before me, the undersigned Notary Public of the State of Florida, personally appeared (Name(s) of individual(s) who appeared before notary) \_\_\_\_\_ and whose name(s) is/are Subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public, State of Florida

NOTARY PUBLIC:

SEAL OF OFFICE:

\_\_\_\_\_  
(Name of Notary Public: Print, Stamp or type as

commissioned.)

\_\_\_\_\_ Personally known to me, or

\_\_\_\_\_ Personal identification:

\_\_\_\_\_  
Type of Identification Produced

\_\_\_\_\_ Did take an oath, or

\_\_\_\_\_ Did Not take an oath.

**PUBLIC ENTITY CRIMES AND CONFLICTS OF INTEREST**

**Pension Plan Administration Services**

Pursuant to the provisions of Paragraph (2) (a) of Section 287.133, Florida State 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 Bid on a Contract to provide any goods or services to a public entity, may not submit a Bid on a Contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases or real property to a public entity, may not be awarded to 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 Category Two of Section 287.017, Florida Statutes, for thirty six (36) months from the date of being placed on the convicted vendor list”.

The award of any contract hereunder is subject to the provisions of Chapter 112, Florida State Statutes. BIDDERS must disclose with their Bids, the name of any officer, director, partner, associate or agent who is also an officer or employee of the Pension Board of South Miami or its agencies.

**SWORN STATEMENT PURSUANT TO SECTION 287.133 (3)(a),  
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

**THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.**

I. This sworn statement is submitted to

\_\_\_\_\_ [print name of the public entity]

by

\_\_\_\_\_ [print individual’s name and title]

for

\_\_\_\_\_ [print name of entity submitting sworn statement]

whose business address is \_\_\_\_\_

and (if applicable) its Federal Employer Identification Number (FEIN) is \_\_\_\_\_ (If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: \_\_\_\_\_.)

2. I understand that a “public entity crime” as defined in Paragraph 287.133 (1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to , any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

3. I understand that “convicted” or “conviction” as defined in Paragraph 287.133 (1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any

federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

4. I understand that an "affiliate" as defined in Paragraph 287.133 (1)(a), Florida Statutes, means:

- (a) A predecessor or successor of a person convicted of a public entity crime; or
- (b) An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in any person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a "person" as defined in Paragraph 287.133 (1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. [Indicate which statement applies.]

\_\_\_\_\_ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent of July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. {attach a copy of the final order.]

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY, AND THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

\_\_\_\_\_  
[Signature]

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Personally known \_\_\_\_\_

OR Produced identification \_\_\_\_\_

Notary Public – State of \_\_\_\_\_

\_\_\_\_\_

My commission expires

\_\_\_\_\_  
(Type of identification)

(Printed, typed or stamped commissioned  
name of notary public)

Form PUR 7068 (Rev.06/11/92)

## DRUG FREE WORKPLACE

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### Pension Plan Administration Services

Whenever two or more Bids which are equal with respect to price, quality and service are received by the State or by any political subdivisions for the procurement of commodities or contractual services, a Bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie Bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business' policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under Bid a copy of the statement specified in Subsection (1).
- 4) In the statement specified in Subsection (1), notify the employees, that, as a condition of working of the commodities or contractual services that are under Bid, he employee will abide by the terms of the statement and will notify the employee of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program, if such is available in the employee's community, by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

BIDDER's Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

ACKNOWLEDGEMENT OF CONFORMANCE WITH OSHA STANDARDS

Pension Plan Administration Services

TO THE PENSION BOARD OF SOUTH MIAMI

We, \_\_\_\_\_, (Name of Contractor), hereby acknowledge and agree that as Contractors for the Pension Plan Administration Services, as specified have the sole responsibility for compliance with all the requirements of the Federal Occupational Safety and Health Act of 1970, and all State and local safety and health regulations, and agree to indemnify and hold harmless the Pension Board of South Miami of South Miami and Non-Applicable, against any and all liability, claims, damages, losses and expenses they may incur due to the failure of (subcontractor's names):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

to comply with such act or regulation.

CONTRACTOR

\_\_\_\_\_  
Witness

\_\_\_\_\_

BY: \_\_\_\_\_  
Name

\_\_\_\_\_  
Title