

AGENDA REQUEST FORM
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

REVISED

Meeting Date 12/17/13	<table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; padding: 5px; text-align: center;"> Open Agenda <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No </td> <td style="width:50%; padding: 5px; text-align: center;"> Special Order Request <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </td> </tr> </table>	Open Agenda <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Special Order Request <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Agenda Item Number EE-3
Open Agenda <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Special Order Request <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

TITLE: Request for Proposals (RFP) 14-050V Recommendation - Student Generation Rate/School Impact Fee Study

REQUESTED ACTION:
 Approve the RFP recommendation as stated on the attached award recommendation and Agreement between The School Board of Broward County, Florida, and Walter H. Keller, Inc.

<u>RFP</u>	<u>TITLE</u>	<u>LOCATION</u>	<u>AMOUNT</u>	<u>M/WBE VENDORS</u>
14-050V	Student Generation Rate/School Impact Fee Study	Facility Planning & Real Estate	\$84,995	-----

SUMMARY EXPLANATION AND BACKGROUND:
 The School Board of Broward County, Florida (SBBC), received proposals from firms to provide SBBC with student generation rate/school impact fee study. This project involves updating the Student Generation Rate/School Impact Fee Study Phase II – Final Report, prepared by Walter H. Keller, Inc., in December 2007. That study was initiated in 2004. The ordinance updating the impact fee schedule was approved by the Broward County Commission, and became effective in June 2008. Provisions of the Second Amended Interlocal Agreement for Public School Facility Planning (SILA) require that the study on student generation rates/school impact fees should be revised at least once every three years. Given the long lead-time required to complete such study, SBBC desires to begin preparations for the required update, which will need to be completed in 2014, and become effective immediately thereafter around June 2014.

Completion of project and distribution of final payment is contingent upon completion and approval of all project deliverables and adoption by the Broward County Commission.

The contract period begins December 18, 2013, and shall conclude upon the adoption of the updated Student Generation Rates and School Impact Fee Schedule by the Broward County Commission, and the subsequent effectiveness of the updated Student Generation Rates and School Impact Fee Schedule.

Board approval of this RFP recommendation does not mean the amount shown will be spent. This amount represents the estimated contract value and purchases may be made through the term of this contract from available funds already included in the ~~department's~~ capital budget.

This Agreement has been reviewed and approved as to form and legal content by the Office of the General Counsel.

SCHOOL BOARD GOALS:
 •Goal 1: High Quality Instruction
 •Goal 2: Continuous Improvement
 •Goal 3: Effective Communication

FINANCIAL IMPACT:
 All expenditures for this contract will come from the existing approved ~~department~~ capital budget. Staff will provide a report to the School Board semi-annually detailing expenditures by contract.

EXHIBITS: (List)
 1. Proposed Agreement
 2. RFP 14-050V

BOARD ACTION: <div style="text-align: center; font-size: 24pt; font-weight: bold; margin: 10px 0;">APPROVED</div> (For Official School Board Records' Office Only)	SOURCE OF ADDITIONAL INFORMATION: <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:70%;">Leslie Brown</td> <td style="width:30%;">754-321-2100</td> </tr> <tr> <td>Carol Barker</td> <td>754-321-0506</td> </tr> <tr> <td style="font-size: 8pt;">Name</td> <td style="font-size: 8pt;">Phone</td> </tr> </table>	Leslie Brown	754-321-2100	Carol Barker	754-321-0506	Name	Phone
Leslie Brown	754-321-2100						
Carol Barker	754-321-0506						
Name	Phone						

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
 Maurice L. Woods
 Chief Strategy & Operations Officer *M.L.W.*
 Office of Strategy & Operations

DEC 17 2013

Approved in Open Board Meeting on: _____

By: _____ School Board Chair

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
OFFICE OF THE SUPERINTENDENT

ROBERT W. RUNCIE
SUPERINTENDENT OF SCHOOLS

Telephone: (754) 321-2600

Facsimile: (754) 321-2701

December 13, 2013

TO: School Board Members

FROM: Maurice L. Woods *M.W.*
Chief Strategy & Operations Officer

VIA: Robert W. Runcie *RWR*
Superintendent of Schools

SUBJECT: **REVISION TO EE-3, REQUEST FOR PROPOSALS (RFP) 14-050V
RECOMMENDATION – STUDENT GENERATION RATE/SCHOOL IMPACT
FEE STUDY, FOR THE DECEMBER 17, 2013, REGULAR SCHOOL BOARD
MEETING**

Attached is the revised Agenda Request Form for EE-3, Request for Proposals (RFP) 14-050V Recommendation – Student Generation Rate/School Impact Fee Study, for the December 17, 2013, Regular School Board Meeting.

RWR/MLW/CB:ak
Attachment

c: Senior Leadership Team

AGREEMENT

THIS AGREEMENT is made and entered into as of this 17th day of December, 2013, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

WALTER H. KELLER, INC.

(hereinafter referred to as "WHK"),
whose principal place of business is
3727 S.E. Ocean Boulevard, Suite 200A
Sewall's Point, Florida 34996

WHEREAS, SBBC issued a Request for Proposal identified as RFP 14-050V, Student Generation Rate/School Impact Fee Study (hereinafter referred to as "RFP"), dated September 23, 2013 and amended by Addendum No. 1, dated October 1, 2013 which are incorporated by reference herein for the purpose of receiving proposals for a student generation rate/school impact fee study; and

WHEREAS, WHK submitted a response to the RFP and, after evaluation, was recommended for award of a contract to conduct and provide the Student Generation Rate and School Impact Fee Study as delineated in the Deliverables, **Attachment A** and to utilize methodology set forth in **Attachment B**; and

WHEREAS, WHK has agreed to abide by the timeline and submit the Deliverables regarding the Student Generation Rate/School Impact Fee Study in accordance with the Project Schedule as contained in **Attachment C**; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals.** The parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence on December 18, 2013 and conclude **upon the adoption of the updated Student Generation Rates and School Impact Fee Schedule by the Broward County Commission and the subsequent effectiveness of the updated Student Generation Rates and School Impact Fee Schedule.**

ARTICLE 2 – SPECIAL CONDITIONS

2.02 **Priority of Documents.** In the event of a conflict between documents, the following priority of documents shall govern.

First: This Agreement; then
Second: Addendum No. 1; then
Third: RFP 14-050V – Student Generation Rate/School Impact Fee Study; then
Fourth: Proposal submitted by WHK in response to the RFP 14-050V

2.03 **Deliverables.** WHK agrees to provide SBBC with the Deliverables as described in **Attachment A**.

2.04 **Cost of Services.** SBBC shall pay WHK the sum of \$84,995 for all services and deliverables rendered as stated within this Agreement, RFP and Proposal which includes, but are not limited to, the cost to prepare and present the Student Generation Rate/School Impact Fee Study, including the report on the separate analysis.

SBBC agrees to progress billings on a monthly basis. Monthly billings will include a progress report describing the work efforts performed on the project during the prior month by Task. Monthly billings submitted by WHK shall include adequate documentation to substantiate invoice amounts to the satisfaction of the Chief of Portfolio Services Officer, who shall upon review, acceptance and approval of the task performed and documented, authorize payment. However, final progress payment for each applicable Deliverable and/or Task as documented in **Attachment A**, shall only be made after review, acceptance and approval of the Chief of Portfolio Services Officer.

2.05 **M/WBE Participation.** WHK will provide for M/WBE participation during its performance of services under this contract agreement by using Kinane Corporation Commercial Printing, a WBE business, to assist in their efforts with providing printing services for the Student Generation Rate/Impact Fee Study reports.

2.06 **Inspection of WHK Records by SBBC.** WHK shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by SBBC under this Agreement. All WHK's Records, regardless of the form in which they are kept, shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC's agent or its authorized representative to permit SBBC to evaluate, analyze and verify the satisfactory performance of the terms and conditions of this Agreement and to evaluate, analyze and verify any and all invoices, billings, payments and/or claims submitted by WHK or any of WHK's payees pursuant to this Agreement. WHK's Records subject to examination shall include, without limitation, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Agreement. WHK's Records subject to this section shall include any and all documents pertinent to the evaluation, analysis, verification and reconciliation of any and all expenditures under this Agreement without regard to funding sources.

ARTICLE 2 – SPECIAL CONDITIONS

(a) WHK's Records Defined. For the purposes of this Agreement, the term "WHK's Records" shall include, without limitation, accounting records, payroll time sheets, cancelled payroll checks, W-2 forms, written policies and procedures, computer records, disks and software, videos, photographs, executed subcontracts, subcontract files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, change order files (including sufficient supporting documentation and documentation covering negotiated settlements), and any other supporting documents that would substantiate, reconcile or refute any charges and/or expenditures related to this Agreement.

(b) Duration of Right to Inspect. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to WHK's Records from the effective date of this Agreement, for the duration of the term of this Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to WHK pursuant to this Agreement.

(c) Notice of Inspection. SBBC's agent or its authorized representative shall provide WHK reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction.

(d) Audit Site Conditions. SBBC's agent or its authorized representative shall have access to WHK's facilities and to any and all records related to this Agreement, and shall be provided adequate and appropriate work space in order to exercise the rights permitted under this section.

(e) Failure to Permit Inspection. Failure by WHK to permit audit, inspection, examination, evaluation and/or reproduction as permitted under this Section shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the denial of some or all of any WHK's claims for payment by SBBC.

(f) Overcharges and Unauthorized Charges. If an audit conducted in accordance with this Section discloses overcharges or unauthorized charges to SBBC by WHK in excess of two percent (2%) of the total billings under this Agreement, the actual cost of SBBC's audit shall be paid by WHK. If the audit discloses billings or charges to which WHK is not contractually entitled, WHK shall pay said sum to SBBC within twenty (20) days of receipt of written demand under otherwise agreed to in writing by both parties.

(g) Inspection of Subcontractor's Records. WHK shall require any and all subcontractors, insurance agents and material suppliers (hereafter referred to as "Payees") providing services or goods with regard to this Agreement to comply with the requirements of this section by insertion of such requirements in any written subcontract. Failure by WHK to include such requirements in any subcontract shall constitute grounds for termination of this Agreement by SBBC for cause and shall be grounds for the exclusion of some or all of any Payee's costs from amounts payable by SBBC to WHK pursuant to this Agreement and such excluded costs shall become the liability of WHK.

ARTICLE 2 – SPECIAL CONDITIONS

(h) Inspector General Audits. WHK shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.07 **Notice.** When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools The School Board of Broward County, Florida 600 S.E. 3 rd Avenue, 10 th Floor Fort Lauderdale, Florida 33301
With a Copy to:	Director, Facility Planning & Real Estate Department The School Board of Broward County, Florida 600 S.E. 3 rd Avenue, 8 th Floor Fort Lauderdale, Florida 33301
To WHK:	Walter H. Keller, Inc. 3727 SE Ocean Boulevard, Suite 200A Sewell's Point, Florida 34996
With a Copy to:	Mary F. Keller, Vice President 3727 SE Ocean Boulevard, Suite 200A Sewell's Point, Florida 34996

2.08 **Background Screening:** WHK agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of WHK or its personnel providing any services under the conditions described in the previous sentence. WHK shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to WHK and its personnel. The parties agree that the failure of WHK to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. WHK agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting in WHK's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

ARTICLE 2 – SPECIAL CONDITIONS

2.09 **Indemnification.** This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

A. By SBBC: SBBC agrees to be fully responsible up to the limits of Section 768.28, Florida Statutes, for its acts of negligence, or its employees' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

B. By WHK: WHK agrees to indemnify, hold harmless and defend SBBC, its agents, servants and employees from any and all claims, judgments, costs, and expenses including, but not limited to, reasonable attorney's fees, reasonable investigative and discovery costs, court costs and all other sums which SBBC, its agents, servants and employees may pay or become obligated to pay on account of any, all and every claim or demand, or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of the products, goods or services furnished by WHK, its agents, servants or employees; the equipment of WHK, its agents, servants or employees while such equipment is on premises owned or controlled by SBBC; or the negligence of WHK or the negligence of WHK's agents when acting within the scope of their employment, whether such claims, judgments, costs and expenses be for damages, damage to property including SBBC's property, and injury or death of any person whether employed by WHK, SBBC or otherwise.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 **No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

3.03 **Independent Contractor.** The parties to this agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party or its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

ARTICLE 3 – GENERAL CONDITIONS

3.04 **Equal Opportunity Provision.** The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

3.05 **Termination.** This Agreement may be canceled with or without cause by SBBC during the term hereof upon thirty (30) days written notice to WHK of its desire to terminate this Agreement. In the event of such termination, SBBC shall pay WHK for all services rendered through the effective date of termination.

3.06 **Default.** The parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination for convenience pursuant to Section 3.05.

3.07 **Annual Appropriation.** The performance and obligations of SBBC under this Agreement shall be contingent upon an annual budgetary appropriation by its governing body. If SBBC does not allocate funds for the payment of services or products to be provided under this Agreement, this Agreement may be terminated by SBBC at the end of the period for which funds have been allocated. SBBC shall notify the other party at the earliest possible time before such termination. No penalty shall accrue to SBBC in the event this provision is exercised, and SBBC shall not be obligated or liable for any future payments due or any damages as a result of termination under this section.

3.08 **Excess Funds.** Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC with interest calculated from the date of the erroneous payment or overpayment. Interest shall be calculated using the interest rate for judgments under Section 55.03, Florida Statutes, applicable at the time the erroneous payment or overpayment was made by SBBC.

3.09 **Public Records.** Pursuant to Section 119.0701, Florida Statutes, any party contracting with SBBC is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost, to SBBC all public

ARTICLE 3 – GENERAL CONDITIONS

records in that party's possession upon termination of its contract with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

3.10 **Student Records:** Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Section 1002.22, Florida Statutes, or any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Section 1002.22, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.11 **Compliance with Laws.** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.12 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.13 **Governing Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.14 **Entirety of Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

ARTICLE 3 – GENERAL CONDITIONS

3.15 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.16 **Assignment.** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBBC.

3.17 **Incorporation by Reference.** Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

3.18 **Captions.** The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Severability.** In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.20 **Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.21 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.22 **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.23 **Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

ARTICLE 3 – GENERAL CONDITIONS

3.24 **Survival.** All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.25 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC

(Corporate Seal)

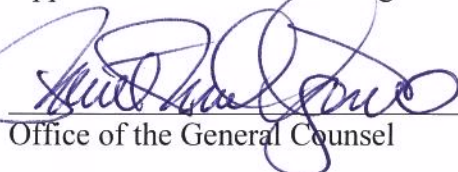
THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By  _____
Patricia Good, Chair

ATTEST:


Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:

 11/21/13
Office of the General Counsel

FOR WHK

(Corporate Seal)

WALTER H. KELLER, INC.

ATTEST:

Mary J. Keller
_____, Secretary

By Walter H. Keller

-or-

Witness

Witness

The Following Notarization is Required for Every Agreement Without Regard to Whether the Party Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF FLORIDA

COUNTY OF MARTIN

The foregoing instrument was acknowledged before me this 20th day of NOVEMBER, 2013 by WALTER KELLER JR of

Name of Person

WALTER H. KELLER INC, on behalf of the corporation/agency.

Name of Corporation or Agency

He/She is personally known to me or produced FLDL K460 908 46 4550 as identification and did/did not first take an oath.

Type of Identification

My Commission Expires:

Brian George Giratoudis
Signature – Notary Public

BRIAN GEORGE GIRATOUDIS
Printed Name of Notary

EE 219722
Notary's Commission No.



DELIVERABLES

1. WHK shall update the Student Generation Rate/School Impact Fee Study Phase II – Final Report prepared by Walter H. Keller, Inc. in December, 2007.
2. WHK shall update the public student generation rates by elementary, middle and high school students for single-family detached, duplex/townhouse/villa, garden apartments, mid-rise apartments and high-rise apartments, mobile home, and their associated bedroom mix codified in the current adopted student generation rates contained in the Broward County Land Development Code (BCLDC).
3. WHK shall use either of the following methodology to develop the student generation rates:
 - a) By generating the student generation rates for single-family detached, duplex/townhouse/villa, mobile home, and garden apartment units based on the latest available US Census Data, and the student generation rates for mid-rise and high-rise apartment units via address matching technique of Geographic Information System (GIS). WHK shall conduct documented field checks which are acceptable to School District staff to verify the accuracy of the address matching resultant student generation rates. However, no aspect of the resultant students shall be based on the field verification approach of proportioning the matched students in the mid-rise and high-rise apartments based on the proportion of units in each building/complex and in each bedroom to address any bedroom difficulty encountered during the field verification.
 - b) Taking a complete (100%) sampling of new housing units completed utilizing Certificates of Occupancy (CO) information, building permit information, property information and school enrollment data from the Broward County Department of Planning and Environmental Regulation, Broward County Property Appraiser and Broward County Public Schools, and matching the data via utilization of GIS to obtain the resultant student generation rates for single family detached, duplex/townhouse/villa, mobile home, garden apartment units, mid-rise and high-rise apartment units. Data obtained from Broward County Public Schools shall be the Benchmark Enrollment data issued the first Monday following Labor Day; and at the minimum, the study timeframe shall be from January 1, 2009 to December 31, 2013 or as consistent with the school year associated with the enrollment data obtained from Broward County Public Schools. WHK shall conduct documented field checks which are acceptable to School District staff to verify the accuracy of the address matching resultant student generation rates associated with mid-rise and high-rise apartment units. However, no aspect of the resultant students shall be based on the field verification approach of proportioning the matched students in the mid-rise and high-rise apartments based on the proportion of units in each building/complex and in each bedroom category to address any bedroom difficulty encountered during the field verification.
4. WHK shall update the school impact fee, including as appropriate all tables contained in the Student Generation Rate/Impact Fee Study, Phase II – Final Report, December, 2007, for single-family detached, duplex/townhouse/villa, garden apartments, mid-rise apartments and high-rise apartments, and mobile home units, and their associated bedroom mix codified in the currently adopted school impact fee rates contained in the BCLDC.

DELIVERABLES

5. WHK shall review and as necessary update the current seven (7) planning areas for alignment with the current high school innovation zones.
6. WHK shall conduct and provide a separate analysis from the main student generation rates and school impact fees study that examines and make recommendations regarding the application of student generation rates by sub-regions as opposed to the current District-wide application. The sub-regions utilized shall be the updated seven (7) planning areas of the SBBC.
7. WHK shall generate and recommend resultant student generation rate for each of the updated seven (7) planning areas of SBBC.
8. WHK shall compare the results of county-wide student generation rates with the resultant student generation rates done based on updated seven (7) planning areas.
9. WHK shall reduce the number of current school impact fee zones from four (4) to three (3) and modify the resultant three (3) zones to align in a practical manner with the boundaries of the updated seven (7) planning areas.
10. WHK shall generate and recommend the resultant school impact fees by the three (3) updated school impact fee zones.
11. WHK shall compare the results of resultant school impact fee for three (3) school impact fee zones with current four (4) school impact fee zones.
12. WHK shall state and defend the legal ramifications of applying student generation rates by the updated seven (7) planning areas of the SBBC as opposed to the current District-wide application and the collection and disbursement of school impact fees by the three (3) new modified school impact fees zones in a separate analysis.
13. The timeframe for the SBBC to transmit the study recommendations to the Broward County Commission shall be no later than June 30, 2014. WHK will meet with the SBBC staff throughout the duration of the study period which at the minimum includes during the data collection, report development, and public workshops/ meetings to review pertinent data/information, comments and recommendations.
14. WHK shall provide a comprehensive Student Generation Rates and School Impact Fees Study Report which contains new recommended county-wide student generation rate and school impact fee schedule.
15. WHK shall provide one electronic copy in Microsoft Word 6.0 or higher on Compact Disc (CD) and 30 stapled copies of the comprehensive Student Generation Rates and School Impact Fees Study Report. Also, provide the supporting spreadsheets in an Excel file.

DELIVERABLES

16. WHK shall provide the results of the separate analysis on student generation rates and school impact fee in a report that contains recommendations and depicts student generation rates for each of the updated seven (7) planning areas of the SBBC and the school impact fee schedule for each of the three (3) new modified school impact fee zones.
17. WHK shall provide one electronic copy of the separate analysis on student generation rates report that is based on the updated seven (7) planning areas of the SBBC and the school impact fee schedule that is based on each of the three (3) new modified school impact fee zones in Microsoft Word 6.0 or higher on Compact Disc (CD) and 30 stapled copies. Also, provide the supporting spreadsheets in Excel file.
18. WHK shall provide a comparative analysis if new recommended seven (7) planning areas projected school impact fees as compared with the county-wide school impact fees including the subsequent impact fee zone changes from four (4) to three (3).
19. WHK shall attend and participate in a minimum of eight (8) of the following workshops/meetings:
 - a. Three (3) School Board meetings - Two (2) workshops and one (1) Regular School Board Meeting.
 - b. One (1) public workshop.
 - c. Two (2) meetings of the Oversight Committee for the Implementation of the Interlocal Agreement for Public School Facility Planning.
 - d. One (1) Broward County Planning Council meeting.
 - e. One (1) Broward County Commission (public hearing) meeting.

METHODOLOGY**SECTION 4.4.1.6 OF THE RFP—METHODOLOGY**

The Study methodology will ensure the Student Generation Rate/Impact Fee Study process is legally defensible and consistent with the School Board's scope and required deliverables. An initial phase of the Consultant's effort will be to refine the Study methodology dependent on data and information availability, the reliability of the data and the completeness of the needed data components. Both Bill Leonard and Walter Keller are knowledgeable of Broward's data sources and will be invaluable resources. Nancy Stroud will also provide input relative to methodology to meet legal sufficiency. The discussion that follows will be refined to reflect the actual data condition.

The anticipated approach is predicated on taking a complete (100%) sampling of new housing units completed utilizing Certificates of Occupancy (CO) information, building permit information, property information and school enrollment data from the Broward County Department of Planning and Environmental Regulation, Broward County Property Appraiser and the Broward County Public Schools and matching the data via utilization of GIS to obtain the resultant student generation rates for single-family detached, duplex/townhouse/villa, mobile home, garden apartment units, mid-rise and high-rise apartment units. Data obtained from Broward County Public Schools shall be the Benchmark Enrollment data issued the first Monday following Labor Day, and at the minimum, the study time frame shall be from January 1, 2009 to December 31, 2013 or as consistent with the school year associated with the student enrollment data obtained from Broward County Public Schools. The desired approach involves use of the current Broward County Permit Monitoring System as part of its Concurrency Management Program. The System includes information on the building permit date, Certificate of Occupancy date, development name, site address, municipal jurisdiction, zip code, number of units, number of bedrooms, Plat Book and Page, Block number and Lot number. The system includes listings by dwelling unit types: single family, townhouse, garden apartment and high-rise. A series of reviews will be made to verify the housing unit information is in-line with expected conditions; i.e., the number of dwelling units with CO's in the selected time frame is similar to the reported totals provided by other agencies. Additionally, the CO information will be reviewed to verify the bedroom information is included. Information not available in the housing unit inventories, such as the number of floors for multi-family units and or the property records, will be obtained by other means.

The Broward County CO Housing Unit Inventories will be reviewed to delete housing units that are not in the selected time frame. Additionally, field checks, as articulated in the Agreement with SBBC, will be initiated to identify the number of floors in each mid-rise and high-rise development. Housing unit inventories will be reviewed to identify development that may have been incorrectly categorized. For example, hotel units or garden apartments are listed in the high rise category.

SBBC's Office of Portfolio Services will need to provide current address listing of all public school students by address. Charter students should be provided separately and not included in the Public School totals. The student listing should reflect the first day enrollment, or align with the end date of the updated housing inventory. The two data files, the housing unit inventory and the student address listing, will be electronically compared (at a minimum utilizing GIS) and, when appropriate, match students to housing units. Difficulties in matching between the two files will be resolved. For example, one file may abbreviate the type of road while the other file might spell it out, prohibiting a proper match. Additionally, files may have address ranges instead of specific addresses.

METHODOLOGY**SECTION 4.4.1.8 OF THE RFP— METHODOLOGY SGR – IMPACT FEES**

The Student Generation Rate information is used together with the Financial Analysis to determine the Impact Fee for various housing unit types.

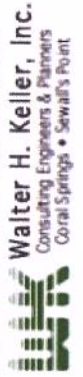
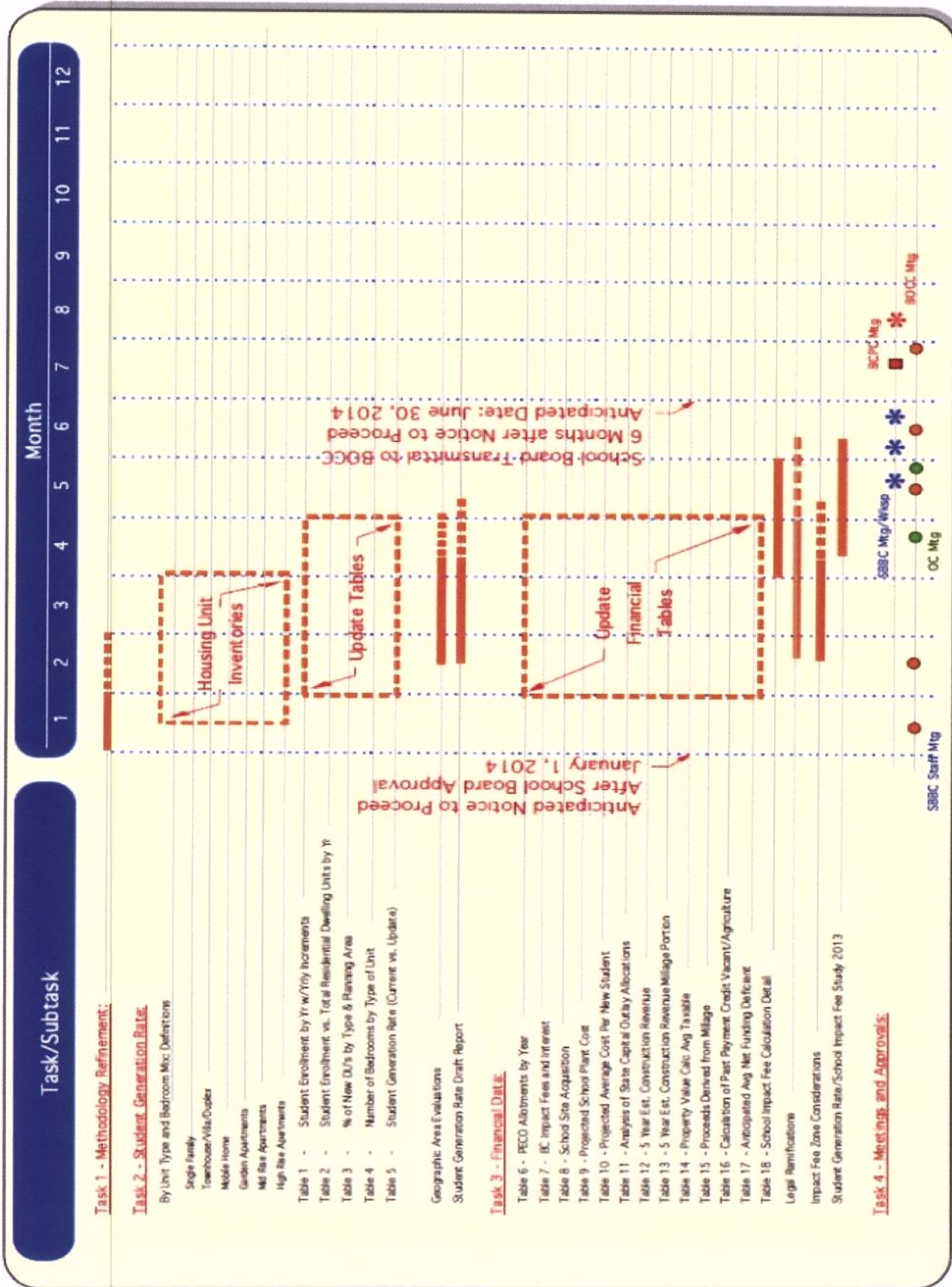
The financial analysis will identify the revenue sources available and recent funding trends for capital projects including millage (local property taxes), Public Education and Capital Outlay (PECO) and Capital Outlay and Debt Service (CO&DS) from the State of Florida, school impact fees and voter approved bond issues. Also, an associated research will need to be performed to demonstrate how PECO money is currently distributed to charter schools and why.

The need and cost for needed school plant facilities are projected based on the projection of student enrollment by grade level and the number of student stations for school types. The cost of school plant facilities are computed based on recent land acquisition costs and the construction and equipment costs for new schools. The end result of this analysis is the average cost per new student.

An evaluation is performed to project the future availability of construction funds from local property taxes and revenue from the State of Florida to identify appropriate credits that should be assigned. Capital construction cost credits is determined for property taxes, PECO and CO&DS and past payments. The resulting credits are subtracted from the average cost per new student to arrive at the average net funding deficit per new student.

The average net funding deficit per new student is then multiplied by the student generation rates calculated in the various categories required by the Land Development Code to identify the impact fee for various types of units and bedroom ranges.

PROJECT SCHEDULE



The School Board of Broward County, Florida
Supply Management & Logistics Department

RFP No.:	<u>14-050V</u>	Board Meeting:	<u>DECEMBER 17, 2013</u>		
Description:	<u>STUDENT GENERATION RATE/SCHOOL IMPACT</u>	Notified:	<u>641</u>	Downloaded:	<u>11</u>
	<u>FEE STUDY (TERM CONTRACT)</u>	RFP Rec'd:	<u>3</u>	No Bids:	<u>0</u>
For:	<u>FACILITY PLANNING & REAL ESTATE</u>	RFP Opening:	<u>OCTOBER 10, 2013</u>		
	<u>(School/Department)</u>	Advertised Date:	<u>SEPTEMBER 23, 2013</u>		
Fund:	<u>CAPITAL BUDGET</u>				

POSTING OF RFP RECOMMENDATION/TABULATION: RFP Recommendations and Tabulations will be posted in the Supply Management & Logistics Department and www.Demandstar.com on **OCTOBER 29, 2013 @3:00 PM**, and will remain posted for 72 hours. Any person who is adversely affected by the decision or intended decision shall file a notice of protest, in writing, within 72 hours after the posting of the notice of decision or intended decision. The formal written protest shall be filed within ten (10) days after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this chapter. Section 120.57(3)(b), Florida Statutes, states that "The formal written protest shall state with particularity the facts and law upon which the protest is based." Saturdays, Sundays, state holidays and days during which the school district administration is closed shall be excluded in the computation of the 72-hour time period provided. Filings shall be at the office of the Director of Supply Management & Logistics Department, 7720 West Oakland Park Boulevard, Suite 323, Sunrise, Florida 33351. Any person who files an action protesting an intended decision shall post with the School Board, at the time of filing the formal written protest, a bond, payable to The School Board of Broward County, Florida, (SBBC), in an amount equal to one percent (1%) of the estimated value of the contract. Failure to post the bond required by SBBC Policy 3320, Part VIII, Purchasing Policies, Section N, within the time allowed for filing a bond shall constitute a waiver of the right to protest.

RECOMMENDATION/TABULATION

THREE PROPOSALS WERE RECEIVED IN RESPONSE TO RFP 14-050V. PROPOSALS WERE EVALUATED BY THE FOLLOWING COMMITTEE CONSISTING OF:

SAM BAYS, DIRECTOR – PHYSICAL PLANT OPERATIONS
LEE BLACK, BUDGET ANALYST V – BUDGET
LESLIE BROWN, CHIEF OF PORTFOLIO SERVICES OFFICER – CHIEF OF PORTFOLIO SERVICES OFFICE
CARSON RAMSEY, BUDGET ANALYST IV – BUDGET
SHEELA VANERO VANHOOSE – EXECUTIVE SECRETARY CONFIDENTIAL, SUPERINTENDENT'S OFFICE

M/WBE ADVISOR: MARCY HOUSER, M/WBE SPECIALIST III

BASED UPON THE COMMITTEE'S RECOMMENDATION AND SECTION 5.4 OF THE RFP, IT IS RECOMMENDED THAT THE AWARD BE MADE TO THE FOLLOWING PROPOSER LISTED BELOW WHO HAS COMPLIED WITH THE TERMS, CONDITIONS AND SPECIFICATIONS OF THE RFP.

WALTER H. KELLER, INC.

THIS AWARD SHALL BE CONTINGENT UPON SUCCESSFUL COMPLETION OF A WRITTEN AGREEMENT WITH THE ABOVE RECOMMENDED PROPOSER.

CONTRACT PERIOD; DECEMBER 18, 2013 AND CONCLUDE UPON THE ADOPTION OF THE UPDATED STUDENT GENERATION RATES AND SCHOOL IMPACT FEE SCHEDULE BY THE BROWARD COUNTY COMMISSION AND THE SUBSEQUENT EFFECTIVENESS OF THE UPDATED STUDENT GENERATION RATES AND SCHOOL IMPACT FEE SCHEDULE.

By:  Date: 10/18/13
(Purchasing Agent)

The School Board of Broward County, Florida, prohibits any policy or procedure which results in discrimination on the basis of age, color, disability, gender expression, national origin, marital status, race, religion, sex or sexual orientation. Individuals who wish to file a discrimination complaint, may call the Executive Director, Benefits & EEO Compliance at 754-321-2150 or Teletype Machine (TTY) at 754-321-2158.

Individuals with disabilities requesting accommodations under the Americans with Disabilities Act (ADA) may call the Equal Educational Opportunities (EEO) at 754-321-2150 or Teletype Machine (TTY) at 754-321-2158.

Student Generation Rate / School Impact Fee Study

14-050V - Student Generation Rate / School Impact Fee Study	Maximum Points	Sam Bays	Leslie Brown	Lee Black	Carson Ramsay	Sheela VanHoose	AVERAGE POINTS
EXPERIENCE AND QUALIFICATIONS	35						
James Duncan and Associates d/b/a Duncan Associates		31	30	30	35	30	31
Walter H. Keller, Inc.		33	28	30	27	20	28
Tindale-Oliver & Associates, Inc.		35	35	33	32	35	34
SCOPE OF SERVICES	25						
James Duncan and Associates d/b/a Duncan Associates		25	21	25	25	20	23
Walter H. Keller, Inc.		25	20	25	17	20	21
Tindale-Oliver & Associates, Inc.		25	25	25	22	25	24
COST OF SERVICES	35						
James Duncan and Associates d/b/a Duncan Associates		21	21	21	21	21	21
Walter H. Keller, Inc.		35	35	35	35	35	35
Tindale-Oliver & Associates, Inc.		22	22	22	22	22	22
M/WBE PARTICIPATION	5						
James Duncan and Associates d/b/a Duncan Associates		0	0	0	0	0	0
Walter H. Keller, Inc.		0	0	0	0	0	0
Tindale-Oliver & Associates, Inc.		3	3	3	3	3	3
TOTAL SCORE	100						
James Duncan and Associates d/b/a Duncan Associates							75
Walter H. Keller, Inc.							84
Tindale-Oliver & Associates, Inc.							83