

SECTION 00 0103
PROJECT DIRECTORY
PROJECT: WESTCHESTER CULTURAL ARTS CENTER

OWNER: MIAMI-DADE COUNTY DEPARTMENT OF CULTURAL AFFAIRS

111 NW 1st Street, Suite 625
Miami, FL 33128
(305) 375-4634 Tel
miamidadearts.org

ARCHITECT: ZYSCOVICH INC.

100 N. Biscayne Blvd., 27th Floor
Miami, Florida 33132
(305) 372-5222 Tel

CIVIL ENGINEER: MILIAN, SWAIN & ASSOCIATES, INC.

2025 SW 32nd Avenue
Miami, FL 33145
(305) 441-0123 Tel

LANDSCAPE ARCHITECT: CHEN MOORE & ASSOCIATES

2103 Coral Way, Suite 401
Miami, FL 33145
Phone: (786) 497-1500 Tel

STRUCTURAL ENGINEER: DONNELL, DQUESNE AND ALBAISA, INC.

4930 SW 74th Court
Miami, FL 33155
(305) 666-0711 Tel

M/E/P/FP: GARTEK ENGINEERING CORP.

7210 SW 39 Terrace
Miami, FL 33155
(305) 266-8997 Tel

THEATER LIGHTING AND ACOUSTIC CONSULTANT: TSG DESIGN SOLUTIONS, INC.

1860 Forest Hill Blvd. #103
West Palm Beach, FL 33046
(561) 967-4511 Tel

END OF SECTION

**SECTION 00 0107
PROFESSIONAL SEALS**

ARCHITECT

**ZYSCOVICH INC.
JOSE MURGUIDO, AIA
100 N. BISCAYNE BOULEVARD
27TH FLOOR
MIAMI, FL 33132
(305)372-5222 Tel**

DATE: _____

CIVIL ENGINEER

**MILIAN, SWAIN & ASSOCIATES, INC.
2025 SW 32 Avenue,
MIAMI, FL 33145
(305) 441-0123 Tel**

DATE: _____

LANDSCAPE ARCHITECT

**CHEN-MOORE & ASSOCIATES, INC.
2103 CORAL WAY, SUITE 401
MIAMI, FL 33145
(786) 497-1500 Tel**

DATE: _____

STRUCTURAL ENGINEER **DONNELL, DQUESNE & ALBAISA, INC.**
4930 SW 74th Court
MIAMI, FL 33155
(305) 666-0711 Tel

DATE: _____

MECHANICAL ENGINEER **GARTEK ENGINEERING CORP.**
7210 SW 39 Terrace
MIAMI, FL 33155
(305) 266-8997 Tel

DATE: _____

ELECTRICAL ENGINEER **GARTEK ENGINEERING CORP.**
7210 SW 39 Terrace
MIAMI, FL 33155
(305) 266-8997 Tel

DATE: _____

PLUMBING ENGINEER **GARTEK ENGINEERING CORP.**
7210 SW 39 Terrace
MIAMI, FL 33155
(305) 266-8997 Tel

DATE: _____

END OF SECTION

**SECTION 00 0110
TABLE OF CONTENTS**

BID SET
August 28, 2019

WESTCHESTER CULTURAL ARTS CENTER – REVISION 1

List of Specifications	Description	Bid Set 8-28-2019
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VOLUME I – Divisions 01-12

INTRODUCTORY INFORMATION

DIVISION 00	PROCUREMENT AND CONTRACTING REQUIREMENTS	
00 0103	Project Directory	X
00 0107	Seals Page	X
00 0110	Table of Contents	X
00 1113	Advertising for Bids	X
00 1113.01	Advertising for Bids newspaper add	X
00 2113	Instruction to Bidders	X
00 25 13	Pre-bid Meeting Agenda	X
00 31 19	Existing Condition Information	X
00 31 32	Geotechnical Data (to be issued via Addendum)	
00 40 01	Bid Submittal Check List	X
00 41 13	Bid Proposal Form	X
00 41 13.1	Bid Proposal Breakdown	X
00 43 13	Bid Bond Form	X
00 43 14	Request for Information (RFI) Form	X
00 45 13	Bidder's Qualification Form	X
00 45 19	Universal Affidavit Form	X
00 45 39	Small Business Certificate of Assurance Form	X
00 45 40	Residents First Form	X
00 45 43	Certified Corporate Resolution Template	X
00 51 00	Notice of Award Template	X
00 51 01	Contract Award Submittal Checklist	X
00 52 13	Construction Contract Form	X
00 61 13	Surety Performance and Payment Bond Form	X
00 72 13	General Contract Conditions	X

List of Specifications

Description

**Bid Set
8-28-2019**

SPECIFICATIONS

DIVISION 01

GENERAL REQUIREMENTS

01 1000	Summary of Work	X
01 1800	Existing Utilities	X
FM 01 1800.01	Underground Utilities Clearance Sign-Off Sheet	X
01 2000	Price and Payment Procedures	X
FM 01 2000.01	Capital Project Payment Certificate Sample Form	X
FM 01 2000.02	Subcontractor's Statement of Satisfaction Form	X
FM 01 2000.03	Final Release of Claim Form	X
FM 01 2000.04	Consent of Surety to Requisition Payment Form	X
FM 01 2000.05	Materials Purchased and Stored off Premises Form	X
FM 01 2000.06	M300A Monthly Utilization Report Form	X
FM 01 2000.07	WH347 Certified Payroll Report Form	X
FM 01 2000.08	Change Proposal Request Form	X
FM 01 2000.09	Change Order to the Original Contract Form	X
FM 01 2000.10	Field Order Form	X
FM 01 2000.11	Work Order Form Changes Within Contingency	X
01 2300	Alternates	X
01 2500	Substitution Procedures	X
FM 01 2500.01	Substitution Request Form	X
01 3000	Administrative Requirements	X
01 3110	Art in Public Places Coordination	X
01 3200	Building Construction Responsible Wages and Benefits	X
01 3216	Construction Schedule-Critical Path Method (CPM)	X
01 3329.03	Sustainable Design Reporting – Green Globes	X
01 3329.03A	Sustainable Design Checklist – Green Globes	X
FM 01 3329.04	Material Content Form	X
FM 01 3329.07	Prohibited Content Installer Certification Form	X
01 4000	Quality Requirements	X
01 4100	Regulatory Requirements	X
01 4219	Reference Standards	X
01 5000	Temporary Facilities and Controls	X
01 5721	Indoor Air Quality Controls	X
01 6000	Product Requirements	X

List of Specifications	Description	Bid Set 8-28-2019
01 6116	Volatile Organic Compound (VOC) Content Restrictions	X
01 7000	Execution Requirements	X
01 7419	Construction Waste Management and Disposal	X
01 7800	Closeout Requirements and Submittals	X
01 7900	Contract Closeout Procedures	X
FM 01 7900.01	General Contractor's Request for Substantial Completion Inspection Form	X
FM 01 7900.02	Substantial Completion Inspection Punch List Form	X
FM 01 7900.03	Certificate of Acceptance for Substantial Completion Form	X
FM 01 7900.04	List of Inventoriable Items	X
FM 01 7900.05	Certificate of Final Acceptance Form	X
01 9100	Commissioning (to be issued via Addendum)	
DIVISION 02	EXISTING CONDITIONS	
02 4000	Demolition and Structure Moving	X
02 4113	Pavement Removal and Replacement	X
DIVISION 03	CONCRETE	
03 0505	Underslab Vapor Barrier	X
03 3000	Cast In Place Concrete	X
03 3511	Concrete Floor Finishes	X
03 5216	Lightweight Insulating Concrete	X
DIVISION 04	MASONRY	
04 2221	Unit Masonry	X
DIVISION 05	METALS	
05 1200	Structural Steel	X
05 2100	Steel Joists	X
05 3100	Steel Decking	X
05 4000	Cold Formed Metal Framing	X
05 5000	Metal Fabrications	X
05 5100	Metal Stairs and Railings	X

List of Specifications	Description	Bid Set 8-28-2019
DIVISION 06	WOOD, PLASTICS, AND COMPOSITES	
06 1000	Rough Carpentry	X
06 4100	Architectural Wood Casework	X
DIVISION 07	THERMAL AND MOISTURE PROTECTION	
07 1800	Waterproof & Traffic Coatings	X
07 2100	Thermal Insulation	X
07 5400	Ketone Ethylene Ester Membrane Roofing	X
07 6200	Sheet Metal Flashing and Trim	X
07 7100	Roof Specialties	X
07 7200	Roof Accessories	X
07 8400	Firestopping	X
07 9200	Joint Sealants	X
DIVISION 08	OPENINGS	
08 1113	Hollow Metal Doors and Frames	X
08 3100	Access Doors and Panels	X
08 3323	Overhead Coiling Doors	X
08 4313	Aluminum-Framed Storefronts	X
08 4413	Glazed Aluminum Curtain Walls	X
08 5113	Aluminum Windows	X
08 5659	Service and Teller Window Units	X
08 7100	Door Hardware	X
08 7100A	Door Hardware Index	X
08 7100B	Door Hardware Groups	X
08 7100C	Door Hardware Cut Sheets	X
08 8000	Glazing	X
08 8300	Mirrors	X
DIVISION 09	FINISHES	
09 0561	Common Work Results for Flooring Preparation	X
09 2116	Gypsum Board Assemblies	X
09 2236.23	Metal Lath	X
09 2400	Portland Cement Plastering	X
09 3000	Tiling	X

List of Specifications	Description	Bid Set 8-28-2019
09 5100	Acoustical Ceilings	X
09 6466	Wood Flooring	X
09 6500	Resilient Flooring	X
09 6700	Fluid-Applied Epoxy Flooring	X
09 6813	Tile Carpeting	X
09 8316	Acoustical Plaster	X
09 8400	Acoustical Panels	X
09 9113	Exterior Painting	X
09 9123	Interior Painting	X
DIVISION 10	SPECIALTIES	
10 1400	Signage	X
10 2113.19	Plastic Toilet Compartments	X
10 2800	Toilet, Bath, and Laundry Accessories	X
10 4400	Fire Protection Specialties	X
10 5100	Lockers	X
10 7500	Flagpoles	X
DIVISION 11	EQUIPMENT	
11 1616	Safes	X
11 3100	Residential appliances	X
11 4001	Custom Fabricated Foodservice Equipment	X
11 6133	Performance Rigging Systems (Alternate)	X
DIVISION 12	FURNISHINGS	
12 2400	Window Shades	X

List of Specifications

Description

**Bid Set
8-28-2019**

VOLUME II – Divisions 13 - 33

DIVISION 13 SPECIAL CONSTRUCTION
NOT USED

DIVISION 14 CONVEYING SYSTEMS
NOT USED

DIVISION 21 FIRE PROTECTION

21 0500	Common Work Results For Fire Suppression	X
21 0517	Sleeves and Sleeve Seals for Fire-Suppression Piping	X
21 0553	Identification for Fire-Suppression Piping and Equipment	X
21 1313	Wet-Pipe Sprinkler Systems	X

DIVISION 22 PLUMBING

22 0500	Common Work Results For Plumbing	X
22 0523	General Duty Valves for Plumbing Piping	X
22 0529	Hangers and Supports for Plumbing Piping and Equipment	X
22 0553	Identification for Plumbing Piping and Equipment	X
22 0719	Plumbing Piping Insulation	X
22 1116	Domestic Water Piping	X
22 1316	Sanitary Waste and Vent Piping	X
22 1319	Sanitary Waste Piping Specialties	X
22 1413	Facility Storm Drainage Piping	X
22 1423	Storm Drainage Piping Specialties	X
22 3300	Electric, Domestic-Water Heaters	X
22 4000	Plumbing Fixtures	X

DIVISION 23 HVAC

23 0500	Common Works Requirements	X
23 0513	Common Motor Requirements for HVAC Equipment	X
23 0516	Expansion Fittings and Loops for HVAC Piping	X

List of Specifications	Description	Bid Set 8-28-2019
23 0517	Sleeves and Sleeve Seals for HVAC Piping	X
23 0518	Escutcheons for HVAC Piping	X
23 0519	Meters and Gages for HVAC Piping	X
23 0523	General Duty Valves for HVAC Piping	X
23 0529	Hangers and Supports for HVAC Piping and Equipment	X
23 0548.13	Vibration Control for HVAC	X
23 0553	Identification For HVAC Piping and Equipment	X
23 0593	Testing, Adjusting, and Balancing for HVAC	X
23 0713	Duct Insulation	X
23 0716	HVAC Equipment Insulation	X
23 0719	HVAC Piping Insulation	X
23 0800	Commissioning of HVAC	X
23 0923	Direct Digital Control (DDC) System for HVAC	X
23 0923.12	Control Dampers	X
23 0993	Sequence of Operations for HVAC DDC	X
23 2113	Hydronic Piping	X
23 2113.13	Underground Hydronic Piping	X
23 2116	Hydronic Piping Specialties	X
23 2123	Hydronic Pumps	X
23 2500	HVAC Water Treatment	X
23 3113	Metal Ducts	X
23 3300	Air Duct Accessories	X
23 3416	Centrifugal HVAC Fans	X
23 3423	HVAC Power Ventilators	X
23 3433	Air Curtains	X
23 3600	Air Terminal Units	X
23 3713	Diffusers, Registers, and Grilles	X
23 4100	Particulate Air Filtration	X
23 6423.21	Air-Cooled Scroll Water Chillers	X
23 7313	Modular, Indoor, Central-Station Air Handling Units	X
23 7314	Packaged, Outdoor, Central-Station Air Handling Units	X
23 8216.14	Electric-Resistance Air Coils	X
23 8219	Fan Coil Units	X

List of Specifications	Description	Bid Set 8-28-2019
DIVISION 26	ELECTRICAL	
26 0519	Low-Voltage Electrical Power Conductors and Cables	X
26 0526	Grounding and Bonding for Electrical Systems	X
26 0529	Hangers and Supports for Electrical Systems	X
26 0533	Raceways and Boxes for Electrical System	X
26 0543	Underground Ducts and Raceways for Electrical Systems	X
26 0544	Sleeves and Sleeve Seals for Electrical Systems	X
26 0553	Identification for Electrical Systems	X
26 0572	Overcurrent Protective Device Short-Circuit Study	X
26 0573	Overcurrent Protective Device Coordination Study	X
26 0574	Overcurrent Protective Device Arc-Flash Study	X
26 0923	Lighting Control Devices	X
26 2200	Low-Voltage Transformer	X
26 2416	Panelboards	X
26 2726	Wiring Devices	X
26 2813	Fuses	X
26 2816	Enclosed Switches And Circuit Breakers	X
26 2913	Enclosed Controllers	X
26 2923	Variable-Frequency Motor Controllers	X
26 4113	Lightning Protections for Structures	X
26 4313	Surge Protection for Low-Voltage Electrical Power Circuits	X
26 5100	Interior Lighting	X
26 5501	Performance Lighting Systems	X
26 5600	Exterior Lighting	X
DIVISION 27	COMMUNICATIONS	
27 0526	Grounding and Bonding for Communications Systems	X
27 0528	Pathways for Communication Systems	X
27 4118	AV System	X
DIVISION 28	ELECTRICAL SAFETY AND SECURITY	
28 3111	Digital, Addressable Fire-Alarm System	X

List of Specifications	Description	Bid Set 8-28-2019
DIVISION 31	EARTHWORK	
31 0000	Earthwork	X
31 1000	Clearing and Grubbing	X
31 2333	Trenching and Backfilling for Piping Systems	X
31 3116	Termite Control	X
DIVISION 32	EXTERIOR IMPROVEMENTS	
32 0116	Pavement Restoration and Rehabilitation	X
32 1113	Limerock Base	X
32 1116	Stabilized Subgrade	X
32 1200	Asphaltic Concrete Paving	X
32 1213	Prime and Tack Coats	X
32 1600	Concrete Curbs, Gutters, and Sidewalks	X
32 1723	Pavement Marking and Traffic Signs	X
32 3113	Chain Link Fences and Gates	X
32 8400	Irrigation System (see drawings)	
32 9100	Soil Preparation (see drawings)	
32 9200	Turf & Grasses (see drawings)	
32 9300	Trees Plants & Groundcover (see drawings)	
DIVISION 33	UTILITIES	
33 3100	Water Systems	X
33 3000	Sanitary Sewer System	X
33 4000	Storm Drainage System	X

END OF SECTION

SECTION 00 11 13 - ADVERTISEMENT FOR BIDS

Sealed bids for furnishing all labor, materials and equipment for the following project will be received in the Office of the Clerk of the Board of County Commissioners, Stephen P. Clark Center, 111 N.W. 1st Street, 17th Floor, Suite 17-202, Miami FL 33128. All bids received prior to the stipulated time will be transferred to the 18th Floor, Room 18-01 where envelopes will be publicly opened and prices read aloud shortly after 2:00 PM, local time, at the Stephen P. Clark Center, 111 N.W. 1st Street, 18th Floor, Miami, FL 33128.

PROJECT NAME: WESTCHESTER CULTURAL ARTS CENTER –REVISION 1

COUNTY DEPARTMENT: DEPARTMENT OF CULTURAL AFFAIRS (CUA)

CUA PROJECT MANAGER: CAROLINA ALFONSO
305.375.3671, carana@miamidade.gov

CUA PROJECT NUMBER: A13-CUA 01 GOB ESP

ARCHITECT’S PROJECT NUMBER: 1540WCAC

PROJECT LOCATION: Tropical Park
7900 SW 40th Street, Miami, FL 33155

BIDDING SCHEDULE:

RFP Advertisement Date: Wednesday September 18, 2019

Advertisement Available at: <http://www.miamidadearts.org/news/westchester-cultural-arts-center-wcac-advertisement-construction-bids>

Bid Documents Available on: Wednesday September 18, 2019

Bid Documents Available from: Go Green Document Solutions at a fee, Bidder to contact them directly at (786) 360-2041.

Site Visit and Pre-Bid Conference Date: Thursday September 26, at 11:00 AM EST

Site Visit and Pre-Bid Conference Location and Address: Mary Abreu Community Center in Tropical Park at 7900 SW 40th Street Miami FL 33155.

Bidders’ request for information deadline: Monday, October 28, 2019 at 5:00 PM EST

Bidders’ request for substitutions deadline: Monday, October 28, 2019 at 5:00 PM EST

Bids due date and time: Tuesday, November 12, 2019 at 2:00 PM EST

Bids due at: Office of the Clerk of the Board of County Commissioners
Stephen P. Clark Center
111 N.W. 1st Street, 17th Floor, Suite 17-202
Miami, FL 33128

DESCRIPTION: The Project consists of the New Construction of an approximately 11,000 square foot Cultural Arts Center Facility located at the front of Tropical Park in the Westchester neighborhood of Unincorporated Miami-Dade County, Florida.

Site work includes landscape and hardscape improvements, construction of parking and service areas, and utility infrastructure.

This project also includes one (1) Alternate for the work, reference bid documents for additional details.

Prospective bidders are advised that:

- 1) the County reserves the right to directly purchase materials, equipment, supplies and other items for this project, which are included in the Contractor's Base Bid and/or the Contract, substantially in accordance with the Contract Documents and;
- 2) a Recommendation for Contract Award will be conditioned upon the submittal of any and all documents required by the County as part of the bid evaluation process, including but not limited to, the schedule of values and project schedule.

BIDDER'S QUALIFICATIONS AND RESPONSIBILITY: Bidders must meet the following **minimum qualifications and responsibility requirements:**

- 1) The selected contractor or primary principals of the company must demonstrate active experience in the construction industry for at least ten (10) years prior to submittal.
- 2) The selected contractor or primary principals and/or senior management must demonstrate experience as a prime contractor responsible for the construction of one (1) facility of comparable or greater size, complexity, quality, value, type and scale within the past ten (10) years.
- 3) Contractor or its consultant must demonstrate experience with sustainability and/or resiliency projects and the fulfillment of the requirements for attaining building certification as required by the sustainability rating system used such as LEED and/or Green Globes of at least two (2) projects.
- 4) Bidders must fill out and include in their bid submissions a Bidder's Qualification Form in order to provide information about the project(s) being submitted for consideration to substantiate the experience required, Reference Section 00 45 13.
- 5) Bidders are required to include in their bid submissions general information regarding their companies' management and operations, financial resources, bonding capacity, payment history to subcontractors, and a history of commenced and completed projects in order to support said requirements.
- 6) Any and all documentation submitted to support these requirements will be subject to verification by County staff.

The determination of the companies and/or individual's qualifications and compliance with the above experience and qualifications shall be at the sole discretion of the County.

BID DOCUMENTS AVAILABILITY: Bidders may obtain a CD of documents for construction for a fee of \$50.00 or a full set of printed documents for construction at the bidder's expense from the office of Go Green Documents Solutions, Inc. located at 3715 Grand Avenue, Coconut Grove, Florida 33133. Bidders may contact this office directly at (786) 360 - 2041 to arrange CD or hard copies pick up.

PRE-BID SITE VISIT AND CONFERENCE: A pre-bid site visit and/or conference to discuss the general requirements of this project at the location and time listed above. Assistance is not mandatory, but it is strongly recommended.

REQUESTS FOR INFORMATION (RFI): Bidders shall submit a Request for Information (RFI) whenever they believe that the specifications or drawings are unclear or present a conflict. Once advertised, the project is under the 'Cone of Silence' pursuant to MDC section 2-11.1 (t). Therefore, all requests must be submitted in writing in the form provided in Section 00 43 14 to the CUA Project Manager listed above with a copy to the clerk (clerkbcc@miamidade.gov) in a manner that clearly identifies the drawing and/or specification section where clarification or interpretation is being requested. **All RFIs must be received at least nine (9) calendar days prior to the receipt of Bids** in order to be given consideration. All interpretations and supplemental instructions will be issued by the Department of Cultural Affairs as a written addendum to the Contract Documents which, if issued, will be sent by e-mail to all prospective Bidders prior to the opening of Bids. If any Bidder fails to acknowledge the receipt of any Addendum in the space provided in the Bid Form, the Bid will be construed as though receipt of the Addendum had been acknowledged. Failure to send a copy of any correspondence to the Clerk of the Courts by e-mail at clerkbcc@miamidade.gov or other methods defined herein, may render a bidder non-responsive.

CONTRACTORS' CERTIFICATION: Prospective Contractors are required to be certified by Miami-Dade County in one of the following categories: General Building, General Engineering, or other certified categories as applicable to Chapter 10 of the Code of Miami-Dade County and/or State of Florida General Contractor's License, or as required to successfully complete the work under contract.

CONTRACT SMALL BUSINESS ENTERPRISE (SBE) – SMALL BUSINESS DEVELOPMENT (SBD) MEASURES: In accordance with County Ordinance Nos. 97-52, 97-158, and 03-1, and Administrative Order Nos. 3-22 and 3-37, the following goals have been established for this project:

- **Community Small Business Development - Construction (SBD-CONS) goal – 13.42%**
- **Small Business Development – Goods and Services (SBD-GS) goal – 1%**
- **Community Workforce Program (CWP) – N/A**
- **Responsible Wages - YES**

Compliance with these Ordinances and Administrative Orders is required for all contractors submitting a bid for this project.

BID SUBMITTAL: The contractor will submit one **(1) original and one (1) copy** in a sealed envelope containing the documents outlined in Document Submittal Check List Section 00 40 01. The sealed envelope or container shall bear on the outside a completed copy of page one of Section 00 40 01 Document Submittal Check List, indicating the items that are being included with the bid package. Submission of bids is due at the time and date stated above. Bids may not be opened or considered if received after the first bid envelope or container has been opened.

BID SECURITY/PAYMENT AND PERFORMANCE BOND: The Bid must be accompanied by a bid bond or a certified check in an amount not less than five percent (5%) of the Total Bid proffered. The Bid Bond will guarantee that the Bidder, if awarded the contract, will enter into a written contract with the Board of County Commissioners of Miami-Dade County, Florida within the time stipulated after receiving a formal Notice of Recommendation for Award. At that time, the successful Bidder shall give a Performance and Payment Bond satisfactory to the County, as provided in the terms and conditions of the Contract Documents. Bidders are advised that, if submitting a bid bond through a surety, the Bid Bond Form, Section 00 43 13 provided within these bid documents, shall be the **ONLY** acceptable document.

WITHDRAWAL OF BIDS: Bidders may not withdraw their bids for a period of up to ninety (90) calendar days after the bid due date.

BIDS ARE SUBJECT TO THE FOLLOWING PROVISIONS AMONG OTHERS:

CONE OF SILENCE: Pursuant to Section 2-11.1(t) of the Miami-Dade County Code, as amended, and County Administrative Order 3-27, a "cone of silence" is imposed upon each RFP, RFQ or Bid after its advertisement and terminates at the time the County Mayor issues a written recommendation to the Board of County Commissioners. The Cone of Silence prohibits any communication regarding RFPs, RFQs or bids between, among others:

- a. Potential vendors, service providers, lobbyists or consultants and the County's professional staff including, but not limited to, the County Mayor and the County Mayor's staff, County Commissioners or their respective staffs;
- b. The Mayor, County Commissioners or their respective staffs and the County's professional staff including, but not limited to, the County Mayor's staff;
- c. Potential vendors, service providers, bidders, lobbyists or consultants, any member of the County's professional staff, the Mayor, County Commissioners or their respective staffs and any member of the respective Selection Committee.

The provisions do not apply to, among other communications:

- a. Oral communications with the staff of the Vendor Information Center, the responsible Procurement Agent or Contracting Officer, provided the communication is limited strictly to matters of process or procedure already contained in the solicitation document;
- b. Oral communications at the proposal or pre-bid conferences, oral presentations before selection committees, contract negotiation during any duly noticed public meeting, public presentations made to the Board of County Commissioners during any duly noticed public meeting or Board of County Commissioners unless specifically prohibited by the applicable RFP, RFQ or bid documents.

Proposers or Bidders must file a copy of any written communications with the Clerk of the Board, which shall be made available to any person upon request. The County shall respond in writing and file a copy with the Clerk of the Board, which shall be made available to any person upon request. Written communications may be in the form of e-mail, with a copy to the Clerk of the Board at clerkbcc@miamidade.gov.

In addition to any penalties provided by law, a violation of the Cone of Silence by any proposer or bidder shall render any RFP award, RFQ award or bid award voidable. Any person having personal knowledge of the violation of these provisions shall report such violation to the State Attorney's Office and/or may file a complaint with the Commission on Ethics. Proposers or Bidders should refer to Section 2-11.1(t) of the Miami-Dade County Code for further clarification. This language is only a summary of the key provisions of the Cone of Silence. Please review Miami-Dade County Administrative Order 3-27 for a complete and thorough description of the Cone of Silence.

ACCOUNTS RECEIVABLE ADJUSTMENTS: In accordance with Miami-Dade County Implementing Order 3-9, Accounts Receivable Adjustments, if money is owed by the Contractor to the County, whether under this Contract or for any other purpose, the County reserves the right to retain such amount from payment due by County to the Contractor under this Contract. Such retained amount shall be applied to the amount owed by the Contractor to the County. The Contractor shall have no further claim to such

retained amounts which shall be deemed full accord and satisfaction of the amount due by the County to the Contractor for the applicable payment due herein.

APPLICABLE LEGISLATION: The successful bidder for this Contract will be bound to comply with all applicable Federal, State, and County legislation, and must include all expenses if any for compliance with legislation as part of the Total Bid proposed.

Bidders attention is drawn to the following, which while not an exhaustive list of County and State legal requirements, is a compilation of certain requirements that apply to this Contract, additional requirements are set forth in the Affidavits:

- Small Business Enterprise (SBE) and Small Business Development (SBD),
- Access to Public Records;
- Account Receivable adjustments, Implementing Order 3-9;
- Conflict of Interest, Section 2.11.1 of the Code of Miami-Dade County;
- Employ Miami-Dade Program, Section 2-8.1 of the Code of Miami-Dade County;
- Felony Conviction, Section 2-8.6 of the Code of Miami-Dade County;
- Lobbying Activities, Section 2-11.1(i)(2) of Code of Miami-Dade County;
- Outside Employment by County Employees, Section 2-11 of the Miami-Dade County Code;
- Office of the Inspector General (OIG) and Independent Private-Sector Inspector General (IPSIG), Administrative Order 3-20 Resolution R-516-96;
- Prompt Payment, Section 2-8.1.4 of the Miami-Dade County Code;
- Residents First Training and Employment Program (RFTE1), Section 2-11.17 of the Miami-Dade County Code;
- Responsible Wage and Benefits, Miami-Dade County Code Section 2-11.16 of the Miami-Dade County Code;
- Sustainable Buildings Program, Implementing Order 8-8 of the Miami-Dade County Code;
- Suspension of Contractors, Administrative Order 3-42 of the Miami-Dade County Code;
- Contractor Debarment Ordinance, Ordinance No. 93-129;
- Fraud and Misrepresentation, Section 2-8.1.4 of the Miami-Dade County Code;
- Required bidder's certification, Section 489.103 of the Miami-Dade County Code;
- Security of Plans and/or Construction Document, Florida Statute Section 109.071;

It is the responsibility of the Bidders to inform themselves as to any and all legislation applicable to this Contract. In order to request a copy of any ordinance, resolution and/or administrative order cited in this Bid Solicitation, the Bidder may contact the Clerk of the Board at (305) 375-5126.

The County shall not be responsible for any modifications or alterations made to the Bid Documents or to the Contract Documents other than those made by Addendum, Change Order, or Work Order. Any purchase of partial sets of documents shall be at the purchaser's risk.

The County reserves the right to waive any informality in, or to reject any or all bids. Bids from any person, firm or corporation in default upon any agreement with the County will be rejected.

**CARLOS A. GIMENEZ
MAYOR**

**HARVEY RUVIN, CLERK
BOARD OF COUNTY COMMISSIONERS**

END OF SECTION

**ADVERTISEMENT FOR BIDS
MIAMI-DADE COUNTY, FLORIDA
DEPARTMENT OF CULTURAL AFFAIRS (CUA)**

Sealed bids for furnishing all labor, materials and equipment for the following project will be received in the Office of the Clerk of the Board of County Commissioners, Stephen P. Clark Center, 111 N.W. 1st Street, 17th Floor, Suite 17-202, Miami FL 33128. All bids received prior to the stipulated time will be transferred to the 18th Floor, Room 18-01 where envelopes will be publicly opened and prices read aloud shortly after 2:00 PM, local time, at the Stephen P. Clark Center, 111 N.W. 1st Street, 18th Floor, Miami, FL 33128.

PROJECT NAME: WESTCHESTER CULTURAL ARTS CENTER - REVISION 1

CUA PROJECT NUMBER: A13-CUA 01 GOB ESP

PROJECT LOCATION: Tropical Park
7900 SW 40th Street, Miami, FL 33155

BID DUE DATE: **Tuesday, November 12, 2019 up to 2:00 PM EST**

DESCRIPTION: The Project consists of the New Construction of an approximately 11,000 square foot Cultural Arts Center Facility located at the front of Tropical Park in the Westchester neighborhood of Unincorporated Miami-Dade County, Florida.

Site work includes landscape and hardscape improvements, construction of parking and service areas, and utility infrastructure.

This project also includes one (1) Alternate for the work, reference bid documents for additional details.

A Pre-Bid Conference and site visit to discuss the general requirements of this project will be held at: Tropical Park, 7900 SW 40th Street, Miami FL 33155, at the **Mary Abreu Community Center**, commencing at **11:00 a.m. on Thursday, September 26, 2019**. This information is also posted online at: <http://www.miamidadearts.org/news/westchester-cultural-arts-center-wcac-advertisement-construction-bids>. This project is under the 'Cone of Silence' pursuant to Miami-Dade County Code Section 2-11.1 (t). All requests for information must be submitted in writing to Carolina Alfonso, CUA Project Manager, via e-mail at carana@miamidade.gov with a copy to the Clerk of the Board at clerkbcc@miamidade.gov.

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1. **REQUIRED BIDDER'S CERTIFICATION** A Bidder must hold at the time his bid is submitted, unless this contract is exempt under Florida Statutes Section 489.103 and Miami-Dade County Code of Ordinances Chapter 10 Section 10-22 (a) (2),:
 - A) A current valid certificate, as listed below, qualifying the Bidder to perform the work contemplated by these Contract Documents. Failure to hold the appropriate certificate at the time this Bid is submitted shall render the Bid non-responsive.
 - 1) The State of Florida Construction Industry Licensing Board, pursuant to the provisions of Section 489.115 of the Florida Statutes; or
 - 2) The Miami-Dade County Construction Trades Qualifying Board, pursuant to the provisions of Section 10-3 (a) of the Miami-Dade County Code. Holders of Miami-Dade County Certificates of Competency must also hold Certificates of Registration issued by the State of Florida Construction Industry Licensing Board, pursuant to the provisions of Section 489.117, Florida Statutes.
 - B) If Bidder is a joint venture, the joint venture entity, of whatever nature or qualifications, must be qualified as a separate and distinct entity, as required by the rules of the State of Florida Department of Professional Regulations. Joint Venture Bidders not otherwise qualified as set forth above, may submit Qualifications if they have initiated the process with the Florida Construction Industry Licensing Board and have received a letter from the Department of Professional Regulations (DPR) attesting that they have satisfied the requirements of The State of Florida Department of Professional Regulations pertaining to the Qualifications of Joint Ventures. Such letters must be submitted with the Bid.

Failure to comply with the provisions of this Article at the time this bid is submitted, shall render the Bid non-responsive.

Bidders are not required to be County Vendors to submit a bid but must do so prior to Contract Award. Refer General Conditions Section 00 72 13 Article 15 for detail information on how to become a County Vendor.

2. EXAMINATION OF CONTRACT DOCUMENTS AND SITE

It shall be the responsibility of the Bidder to examine all the Contract Documents, to become fully informed of the conditions to be encountered, of the character, quality and quantities of work to be performed and materials to be furnished, and of the operational activities of the facility.

The records of borings, test excavations and other subsurface investigations, if any, made for design purposes for the County, are contained in the Contract Documents for examination. Such records are offered as information only and solely for the convenience of Bidders. The County does not warrant or guarantee that the said records will disclose the actual subsurface conditions.

The Bidder is hereby cautioned that the interpretation of the records and the conclusions drawn there from as to the actual existing subsurface conditions are his sole responsibility. The Contractor shall have no claim against the County if in carrying out the work he finds that the actual conditions encountered do not conform to those indicated by said borings, test excavations and other subsurface investigations.

The submission of a bid shall be prima facie evidence that the Bidder has examined the Contract Documents and is satisfied as to the conditions to be encountered in performing the work and as to the requirements of the proposed Contract, Plans and Specifications.

It shall be the responsibility of the Bidder to examine the Project Site. The Contractor, by virtue of signing the Contract, acknowledges that he has satisfied himself as to the nature and location of the work, including the general and local conditions. Failure on the part of the Contractor to completely or properly evaluate any factors of costs prior to bidding, shall not form a basis for additional compensation if he is awarded the Contract.

3. SECURITY OF PLANS AND/OR CONSTRUCTION DOCUMENTS

Each prospective contractor is made aware that in accordance with Florida Statute, Section 119.071, that all Miami-Dade County plans and records, including drawings, permit records, microfilm and other depictions of any type of Miami-Dade County facilities is exempt from the public records law.

It is the responsibility of the Bidders/prospective contractors and, if awarded the Contract, the selected Contractor, to maintain security controls of any Contract Documents including the Plans, even when providing copies to prospective sub-contractors and vendors. The Bidder/prospective contractor shall maintain a record of all Contract Documents to be used in the fulfillment of the bidding of or the performance of the Contract. The record shall include the type of document, date of receipt, date of return, number of pages, page numbers, company name and personnel who will secure the document. The preceding includes any copies of Documents made by the Contractor or sub-contractors or vendors. The record or copy of the record shall be made available to the County representative upon request.

Upon completion of the bidding process, when the Documents are no longer required, the Bidder/prospective contractor who purchased bidding documents but were not awarded this contract, shall collect and dispose of the Documents.

4. PREPARATION AND SUBMITTAL OF BIDS

4.01 Bid Submittal Delivery

Sealed Bids for this project will be received for and on behalf of Miami-Dade County, by the Office of the Clerk, at the Stephen P. Clark Center, Suite 17-202, 111 N.W. 1st Street, Miami, Florida 33128 on the time and date stipulated in the **Advertisement For Bids (Section 00 11 13)**, or as modified by

Addendum. If the bid is forwarded by mail, the sealed envelopes containing the Bid Documents must be enclosed in another envelope addressed to Miami-Dade, Florida, Clerk of the Board, Stephen P. Clark Center, 111 N.W. 1st St. Suite 17- 202, Miami, Florida 33128. Shortly after the Bid Submittal due date and time stipulated, all Bids will be taken to a room to be designated by the Clerk of the Board in said Stephen P. Clark Center, envelopes will be publicly opened, and the names of the Bidders read aloud along with the respective Bid amount(s). Bidders are invited to be present at each opening. The County reserves the right to postpone or cancel the bid opening at any time prior to the scheduled opening of bids.

4.02 Bid Submittal Package

The contractor will submit one **(1) original and one (1) copy** in a sealed envelope or container containing the documents outlined in Bid Submittal Check List (Section 00 40 01). The sealed envelope or container shall bear on the outside a completed copy of the **Bid Submittal Check List (Section 00 40 01)**, indicating the items that are being included with the bid package. It is requested that documents be **organized** in the order specified in the Document Submittal Check List (Section 00 40 01) and **tabbed** accordingly. Forms to be submitted with bid package have the Miami-Dade logo on the upper left-hand corner.

4.03 Proprietary/Confidential Information

Bidders are hereby notified that all information submitted as part of, or in support of bid submittals will be available for public inspection after opening of bids in compliance with Chapter 119 of the Florida Statutes; popularly known as the "Public Record Law". The bidder shall not submit any information in response to this invitation, which the bidder considers to be a trade secret, proprietary or confidential. The submission of any information to the County in connection with this invitation shall be deemed conclusively to be a waiver of any trade secret or other protection, which would otherwise be available to the bidder.

In the event that the bidder submits information to the County in violation of this restriction, either inadvertently or intentionally and clearly identifies that information in the bid as protected or confidential, the County shall endeavor to redact and return that information to the bidder as quickly as possible, and if appropriate, evaluate the balance of the bid. The redaction or return of information pursuant to this clause may render a bid non-responsive.

4.04 Art in Public Places

This project is subject to the Miami-Dade County Art in Public Places requirements, pursuant to Section 2-11.15 of the Code of Miami-Dade County, managed by the Miami-Dade County Department of Cultural Affairs as detailed in Procedure 358 in the Miami-Dade County Procedures Manual (see <http://www.miamidadepublicart.org/#tools> or <http://intra.miamidade.gov/managementandbudget/procedures.asp>).

4.05 Florida Sales Tax

All work under this Contract is subject to the provisions of Chapter 212, Florida Statutes, Tax on Sales, Use and Other Transactions, as amended, and the Bidder shall be responsible for determining its liability thereunder, shall make payment therefore, and the cost therefore shall be deemed included in the bid price.

4.06 User Access Program (UAP)

The user access program and fee are not applicable to this project.

4.07 Office of the Inspector General (OIG)

According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General (OIG) which may, on a random basis, perform audits, inspections, and reviews of all County/Trust contracts.

Bidders are to include the OIG fees (0.25%) in their Total Bid Price.

Independent Private-Sector Inspector General (IPSIG)

Pursuant to AO 3-20 and R-516-96, the County shall have the right but not the obligation to retain the services of an IPSIG who may be engaged to audit, investigate, monitor, oversee, inspect and review the operations, activities and performance of the Contractor and County in connection with this contract. The scope of services performed by an IPSIG may include, but are not limited to, monitoring and investigating compliance with Contract Specifications; project costs; and investigating and preventing corruption and fraud. Any cost associated with IPSIG will be covered by the OIG fees.

5. REQUIRED BIDDING DOCUMENTS – SECTION 00 40 01 BID SUBMITTAL CHECKLIST

It is the responsibility of each Bidder to verify that all required Bidding Documents are included in the bid package properly completed and executed. The Contractor's failure to provide the forms in a complete matter, may render the bidder non-responsible.

All bids shall be submitted on the forms provided by the County, with all applicable blank spaces filled in legibly, and preferably typed. The Plans and Project Manual volume(s) should not accompany the bid. A copy of all required forms for submission of Bids are included in the Project Manual.

Bids shall include the following documents per Section 00 40 01 – Bid Submittal Checklist:

5.01 Bid Proposal Form (Section 00 41 13)

Form to be executed and notarized.

The Total Amounts Bid shall be stated both in words and in figures. In case of conflict between words and figures, the words will govern, unless they are obviously incorrect.

Payment for the various Bid Items listed in the Bid Form shall constitute full compensation for furnishing plant, labor, equipment, appliances and materials and for performing operations required to complete the Work in conformity with the Contract Documents. All costs for work shown or indicated by the Contract Documents, although not specifically provided in the Bid Form Breakdown, shall be included in the most appropriate line item.

Except for the relief provided by the applicable section of the Contract Documents governing Differing Site Conditions, the Contractor will not be entitled to additional compensation for providing an activity or material necessary for the completion of the Work in accordance with the Contract even though the activity or material is not included in the bid form breakdown or specifically indicated in the Contract Documents.

Bidders must Bid on specified Alternate Bid Items (if any) shown on the Bid Form.

5.02 Bid Proposal Breakdown (Section 00 41 13.01)

Excel spreadsheet showing bid breakdown by work divisions for the base bid and any/all alternates, if applicable.

Bidders are responsible for verifying that any formulas in the Excel spreadsheet are correct and totals add properly.

5.03 Bid Security

Each Bid Proposal shall be accompanied by a Bid Security in an amount not less than five percent (5%) of the Total Amount Bid, including all alternates, if applicable, and in the form of a certified check or a Bid Bond prepared on the exact form included in the Contract Documents in Section 00 43 13.

The Bid Bond furnished shall be executed by the Bidder and Surety and must be accompanied by:

1. Copy of the **Resident Florida Agent's current license**;
2. Attorneys-in-fact who sign the Bid Bond, must file with such Bonds, a certified copy of their current **power of attorney** to sign such Bonds; and
3. **Certified Corporate Resolution** (reference Section 00 45 43 for Certified Corporate Resolution Template) is required for entities other than sole-proprietors.

Bid Bonds will not be returned to any Bidder.

5.04 Bidder's Qualifications Form (Section 00 45 13)

Bidders shall submit one form per reference project they would like considered as basis for determining compliance with the project's qualification requirements in Section 00 11 13 - Advertisement for Bids.

Bidders are required to include in their bid submissions information regarding their companies' management and operations, key personnel, financial

resources, bonding capacity, choice of subcontractors, and a history of commenced and completed projects in order to support said requirements.

The determination of the company's and/or individual's qualifications and compliance with the required experience and qualifications shall be at the sole discretion of the County.

Any and all documentation submitted to support these requirements will be subject to verification by County staff. The County reserves the right to require the Bidder to submit evidence of its qualifications. The County will consider any evidence it deems necessary, including information concerning the financial, technical and other qualifications and abilities of the Bidder.

5.05 Universal Affidavit Form – CUA Capital Projects (Section 00 45 19)

All individual affidavit sections need to be acknowledged with **either initials or N/A** for sections that may not apply. Please be aware of sections requesting additional information to be attached to the Universal Affidavits Form. Form to be executed and notarized.

The Affidavit requires Bidders to attest compliance with the following:

5.5.01 Miami-Dade County Ownership Disclosure Affidavit (Section 2-8.1 of the County Code)

Ownership interest in a corporation shall be disclosed, including each officer and director and each stockholder who holds directly or indirectly five percent (5%) or more of the corporation's stock. If the contract or business transaction is with a partnership, the foregoing information shall be provided for each partner. If the contract or business transaction is with a trust, the full legal name and address shall be provided for each trustee and each beneficiary.

5.5.02 Public Entity Crimes Affidavit (Florida Statutes 287.133(3)(a))

Pursuant to Section 287.133 (2) (a) Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on this contract.

5.5.03 Miami-Dade County Criminal Records Affidavit (Section 2-8.6 of the County Code)

Any individual who has been convicted of a felony during the past ten (10) years, and any corporation, partnership, joint venture, or other legal entity having an officer, director or executive who has been convicted of a felony during the past ten (10) years shall disclose this information at the time of bid or proposal submission. Failure to disclose such conviction may result in debarment for those persons or entities that knowingly fail to make the required disclosure or falsify information.

5.5.04 Miami-Dade County Debarment Disclosure (Section 10.38 of the County Code)

Firms wishing to do business with Miami-Dade County must certify that its contractors, subcontractors, officers, principals, stockholders, or affiliates are not debarred by the County before submitting a bid.

5.5.05 Contractor's Due Diligence Affidavit (County Resolution R-63-14)

As a condition of award for any contract that exceeds one million dollars (\$1,000,000) or that otherwise must be presented to the Board for approval, County Vendors and Contractors shall disclose law suits filed against the firm, its directors, partner(s), principals and/or board members based on a breach of contract by the firm in the five (5) years prior to bid or proposal submittal.

5.5.06 Anti-Collusion Affidavit (County Code Sections 2-8.1.1 and 10.33.1 Ordinance No. 08-113)

Entities, its owner(s), officer(s), director(s), principal shareholder(s), or executive(s) must disclose or state that they are not related to any of the other parties bidding in the competitive solicitation, and that the bidder/contractor's proposal is genuine and not sham or collusive or made in the interest or on behalf of any person not therein named, and that the Bidder/Contractor has not, directly or indirectly, induced or solicited any other proposer to put in a sham proposal, or any other person, firm, or corporation to refrain from proposing, and that the proposer has not in any manner sought by collusion to secure to the proposer an advantage over any other proposer.

5.5.07 Florida Trench Safety Act (Florida Statutes 553.60-553.64)

The Bidder certifies that as successful Bidder/Contractor, all trench excavation done within his control (by his own forces or by his Subcontractors) shall be accomplished in strict adherence with OSHA Trench Safety Standards contained in 29 C.F.R., s. 1926, 650, Subpart P, including all subsequent revisions or updates to these standards as adopted by the Department of Labor and Employment Security.

5.5.08 Responsible Wages Affidavit (County Code Section 2-11.16)

By submitting a bid pursuant to these specifications, a Bidder/Contractor is hereby agreeing to comply with the provisions of Section 2.11.16, and to acknowledge awareness of the penalties for non-compliance. The Bidder/Contractor is advised that the Wages and Benefits Schedule will be reviewed and increased, if appropriate, once a year, on January 1st. The rates for wages and benefits to be paid for work performed under this Contract and during each subsequent calendar year will be the rate in effect on January 1st of the year in which the work is performed.

5.5.09 Scrutinized Companies with activities in Sudan list or the Scrutinized Companies with activities in the Iran petroleum energy sector list (Florida Statutes 287.135 and 215.473)

By executing this affidavit through a duly authorized representative, the Bidder/Contractor certifies that the Bidder/Contractor is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, as those terms are used and defined in sections 287.135 and 215.473 of the Florida Statutes.

5.5.10 Claim of Local Business Preference and Certified Veteran Business Enterprise (County Code Section 2-8.5)

5.5.10.1 Local Business

Miami-Dade County Code Section 2-8.5 (Preference for local business) provides that vendors that hold, at least one (1) year prior to the date of bid or proposal opening, a valid occupational license, issued by Miami-Dade County, that authorizes the business to provide the goods, services, or construction to be purchased, and that possesses a physical business address within the County from which the vendor operates or performs business, shall be considered a local business. Post Office Boxes shall not be used for the purpose of establishing said physical address. In addition to the foregoing, a Bidder shall not be considered a "local business" unless it contributes to the economic development and well-being of Miami-Dade County in a verifiable and measurable way. This may include, but not be limited to the County's tax base. Bidders shall affirm in writing their compliance with their bid or proposal to be eligible for consideration as a "local business." A Bidder who misrepresents the Local Preference status of its firm in the bid or proposal will lose the privilege to claim local preference status for a period of up to one year. The County Mayor, in his discretion, may also recommend that the firm be referred for debarment in accordance with Section 2-8.4.1 of the Code of Miami-Dade County.

When a responsive, responsible non-local business submits the lowest price bid and the bid submitted by one or more responsive, responsible local businesses is within ten percent (10%) of the price submitted by the non-local Contractor, then that non-local business and each of the aforementioned local businesses shall have the opportunity to submit, within five (5) working days of the bid opening, a best and final bid offer (BAFO) equal to or lower than the amount of the low bid previously submitted by the non-local business. Contract award shall be made to the responsive, responsible business submitting the lowest best and final bid. In the case of a tie in the best and final bid between a local business and a non-local business, Contract award shall be made to the local business.

5.5.10.2 Locally-headquartered

Locally-Headquartered Business means a Local Business as defined in this Section which has a Principal Place of Business in Miami-Dade County.

Principal Place of Business means the nerve center or the center of overall direction, control, and coordination of the activities of the bidder. If the bidder has only one (1) business location, such business location shall be its principal place of business. Except where federal or state law, or any other funding source mandates otherwise, if the Low Bidder is a not a Local Business, then any and all responsive and responsible Local Businesses submitting a price within ten percent of the Low Bid, the Low Bidder, and any and all responsive and responsible Locally-Headquartered Businesses submitting a price within fifteen percent (15%) of the Low Bid, shall have an opportunity to submit a best and final bid equal to or lower than the Low Bid.

If the Low Bidder is a Local Business which is not a Locally-Headquartered Business, then any and all responsive and responsible Locally Headquartered Businesses submitting a price within five percent (5%) of the Low Bid, and the Low Bidder shall have an opportunity to submit a best and final bid equal to or lower than the Low Bid.

5.5.10.3 Inter-local Agreement

In the event Broward, Palm Beach or Monroe County extend preferences to local businesses, Miami-Dade County may enter into an inter-local agreement with such County wherein the preferences of this section may be extended and made available to vendors that have a valid occupational license issued by Broward, Palm Beach or Monroe County to do business in that County that authorizes the vendor to provide the goods, services or construction to be purchased, and a physical business address located within the limits of that County. Post Office Boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In addition to the foregoing, a vendor shall not be considered a "local business" unless it contributes to the economic development and well-being of Broward, Palm Beach or Monroe County, whichever is applicable, in a verifiable and measurable way. This may include, but not be limited to, the retention and expansion of employment opportunities and the support and increase to that County's tax base. Vendors shall affirm in writing their compliance with the foregoing at the time of submitting their bid or proposal to be eligible for consideration as a "local business" under this section. In no event shall the amount of the preference accorded Broward, Palm Beach or Monroe County firms exceed the amount of preference that such County extends to Miami-Dade County firms competing for its contracts.

5.5.10.4 Joint Venture

A Joint Venture is not entitled to Local Preference unless the Joint Venture entity itself qualifies for Local Preference, irrespective of whether one or more of the entities constituting the Joint Venture qualifies for Local Preference.

5.5.10.5 Local Certified Veteran Business Enterprise Certification

A Local Certified Veteran Business Enterprise is a firm that is:

- (a) a local business pursuant to Section 2-8.5 of the Code of Miami-Dade County, **and**
- (b) prior to Bid submission is certified by the State of Florida Department of Management Services as a veteran business enterprise pursuant to Section 295.187 of the Florida Statutes.

5.06 Small Business Certificate of Assurance Form (Section 00 45 39)

Form to be executed and notarized. Reference Section 6 below for Small Business Enterprise program requirements.

5.07 Residents First Training and Employment Program Form (Section 00 45 40, RFTE1 Form)

Form to be executed and notarized. In accordance with Section 2-11.17 of the Miami-Dade County Code, all contractors and subcontractors of any tier performing on a contract for (i) the construction, demolition, alteration and/or repair of public buildings or public works projects valued in excess of \$1,000,000 funded completely or partially by Miami-Dade County, or (ii)

privately funded projects or leases valued in excess of \$1,000,000 for the construction, demolition, alteration or repair of buildings or improvements on County-owned land, and which are subject to Section 2-11.16 of the Code of Miami-Dade County, shall comply with the requirements of the Residents First Training and Employment Program.

5.08 Construction Contract (Section 00 52 13)

Bidders shall submit (4) originals of the construction contract form (2 pages) with the bid package. Please complete the section labeled "To be Completed by Contractor" on page 2. Form to be executed by Contractor and to be notarized. Contract amount and date will be completed by the County upon award and execution of the Contract.

6. SMALL BUSINESS ENTERPRISE (SBE)

For additional information contract: <https://www.miamidade.gov/smallbusiness/construction-contract-requirements.asp>

6.01 Affidavits

Two Affidavits referenced above are required by Small Business Enterprise. All bidders must include:

- Section 00 45 39 – Small Business Development (SBD) Certificate of Assurance for Construction Goals and Goods and Services Goals – Reference Item 5.06.
- Section 00 45 40 – Residents First Training and Employment Program Form (RFTE1). Reference Item 5.07.

6.02 SBE Community Workforce Participation (CWP)

Pursuant to County Ordinance No. 03-01, the Community Workforce Participation Provisions are not applicable for this Contract.

6.03 SBE Make-up Plan

Each Bidder whose bid does not meet the specified SBE goal(s) at the time of bid has additional submittal requirements as outlined in the SBE make-up plan: Pursuant to Section 10-33 of the Code of Miami Dade County, a contractor who fails to meet an established SBD goal shall submit an SBE Make-up Plan for approval by the ISD/SBD Division Director. A Make-up Plan must be submitted as part of any Bid submitted for future contracts at the time of Bid submittal. Failure to include the required associated Certificate of Assurance – Small Business Participation for County Projects with Bids for any future contracts shall result in the submittal being deemed non-responsive. To verify whether your company has a Small Business Enterprise (SBE) make-up requirement, please refer to the ISD/SBD website at <http://www.miamidade.gov/smallbusiness/business-development-reports.asp>. For questions regarding this requirement, please contact ISD/SBD at (305) 375-3111.

6.04 SBE Schedule of Values

Pursuant to R-138-10, the scope of Work to be performed by any SBE utilized to satisfy any goal(s) in this Contract, shall be separately identified in the Schedule of Values. Reference Section 00 72 13 General Conditions Article 11.4.2.

6.05 SBE Reporting

The Contractor is to comply with Ordinance No. 18-33 amending Miami-Dade County Code Sections 2-8.1.1.1.1, 2-8.1.1.1.2, 10-33.02, 2-10.4.01, 2-11.16, 2-8.1, 2-8.8, 2-8.9 and 10.34. These changes mandate the use of the County's web-based system, the Business Management Workforce System (BMWS), to comply with Small Business Enterprise participation measures, Responsible and Living Wage requirements, and Workforce goals.

The Prime Contractor and any sub-contractors are required to provide any noted and/or requested contract compliance-related data electronically in the BMWS. Contracts to which Responsible Wages and Benefits apply, will require monthly submittal of certified payroll information for the Prime Contractor and every lower-tier sub-contractor through the BMWS. The Prime Contractor and all subcontractors are responsible for responding by any noted response date or due date to any instructions or request for information, and to check the BMWS on a regular basis to manage contact information and contract records. The prime contractor is responsible for ensuring all sub-contractors have completed all requested items and that their contact information is accurate and updated. The County may require additional information related to the contract to be provided electronically through the system at any time before, during, or after contract award.

Information related to contractor access of the system will be provided to a designated point of contact with each contractor upon award of the contract. The BMWS can be accessed at the following Internet address: <https://mdcsbd.gob2g.com/>.

6.06 SBE Certification

In order to participate as an SBE on this Contract, an SBE must have a **valid certification** at the time of bid submittal, bid award, and throughout the duration of the contract in which the SBE participates as an SBE.

6.07 County's Clearinghouse (Resolution No. 1395-05, amending Resolution Nos. 1145-99 and 937-98)

Contractors shall post notice through the County's Clearinghouse process of job opportunities made available by construction improvements on County property. The procedures direct the Contractor to forward a notice of job vacancy(ies) created as a result of this construction work to the Director of the SBD, located at Stephen P. Clark Center, 111 N.W. 1st. Street, Contract Review and Compliance Division, 19th Floor, Miami, Florida, 33128. The job vacancy notice(s) should be delivered within ten (10) working days following award of contract. The Director of SBD will in turn distribute said job announcements to

all Miami-Dade County facilities participating in the notification requirements of Resolution No. 1395-05. For information regarding the Miami-Dade County's Clearinghouse program, please contact the County's SBD at (305) 375-3598.

6.08 [Employ Miami-Dade Program \(Section 5.02 of the Miami-Dade County Home Rule Amendment and Charter, Section 2-8.1 of the Code of Miami-Dade County, and Administrative Order No. 3-63\)](#)

Except where state or federal laws or regulations mandate to the contrary, all contractors and sub-contractors of any tier performing on a County construction contract shall satisfy the requirements of this program.

All contractors and sub-contractors of any tier on (i) construction contracts valued in excess of one million dollars (\$1,000,000) for the construction, demolition, alteration and/or repair of public buildings, or public works; or (ii) contracts or leases valued in excess of one million dollars (\$1,000,000) for privately funded construction, demolition, alteration or repair of buildings, or improvements on County-owned land:

Referral Procedures:

- A) Career Source South Florida shall compile and maintain the Employ Miami-Dade Register.
- B) The Contractor will notify Career Source South Florida of the vacancy by completing a Job Opening Form on the Career Source South Florida Website www.careersourcefl.com
- C) The job order must contain a detailed description of the job responsibilities and qualifications.
- D) Career Source South Florida will then provide a list of qualified candidates available to the Contractor with copy to the SBE Compliance Officer.
- E) Contractor will review the resumes and qualifications of the candidates, conduct interviews with those candidates who satisfy the minimum competency requirements, and make a good faith effort to fill at least 20% of the labor workforce required per Contractor's Construction Workforce Plan from the Employ Miami-Dade Register through Career Source South Florida.
- F) Positions filled from the Employ Miami-Dade Register must be full-time, for at least 120 days, in order to be considered towards attainment of the 20% labor workforce requirement.
- G) If the 20% labor workforce per Contractor's Construction Workforce Plan from Employ Miami-Dade is not met on the contract, the Contractor must provide the Compliance Officer with a detailed explanation of its efforts.
- H) Career Source South Florida may have funds to pay a portion of the salaries for Employ Miami-Dade participants. It shall be the responsibility of the Contractor to contact Career Source South Florida directly to

determine eligibility for, and make arrangements as applicable with, Career Source South Florida to pay a portion of the salaries for a specified period and/or during on the job training for the Employ Miami-Dade participants employed on the contract.

The awarded Contractor is hereby notified that the County will consider whether the Contractor made its best reasonable efforts to promote Employ Miami-Dade on this contract, as defined in A.O. 3-63, as part of the County's evaluation and responsibility review of the Contractor for future County contract awards.

6.09 Affirmative Action Plan

Section 2-8.1.5 of the Code of Miami-Dade County requires that all entities with annual gross revenues in excess of \$5 million seeking to contract with Miami-Dade County shall, as a condition of receiving a County contract, have: a) a written affirmative action plan which sets forth the procedures the entity utilizes to assure that it does not discriminate in its employment and promotion practices; and b) a written include with their request an Affirmative Action Plan and a Procurement Policy that shall be submitted in writing to the County's Internal Services Department (ISD), Small Business Development Division (SBD). Said firms must also submit, as part of their pre-award process to be filed with the Clerk of the Board, an appropriately completed and signed Affirmative Action Plan/Procurement Policy Affidavit. Firms which Boards of Directors are representative of the population make-up of the nation are exempt from this requirement and must submit, in writing, a detailed listing of their Boards of Directors, showing the race or ethnicity of each board member, to the County's SBD. Firms claiming exemption must submit, as a part of their request to be filed with the Clerk of the Board, an appropriately completed and signed Exemption Affidavit in accordance with MDC Code Section, 2-8.1.5. These submittals shall be subject to periodic reviews to assure that the entities do not discriminate in their employment and procurement practices against minorities and women-owned business. It will be the responsibility of each firm to provide verification of their gross annual revenues to determine the requirement for compliance with the Ordinance.

6.10 Subcontractor and Supplier Listing

Any entity contracting with the County shall report the race, gender and ethnic origin of the owners and employees of all first tier subcontractors

In the event that the successful bidder demonstrates to the County prior to award that the race, gender and ethnic information is not reasonably available at that time; the successful bidder shall be obligated to exercise diligent efforts to obtain that information and provide subcontractor information to the County not later than 10 days after it becomes available and, in any event, prior to final payment under the contract.

These disclosure requirements are in accordance with Sections 2-8.1, 2-8.8 and 10.34 of the Miami-Dade County Code.

6.11 Subcontractor Payments

The contractor shall identify all subcontractors used in the work, the amount of each subcontract, and the amount paid to each subcontractor.

These payment requirements are in accordance with Sections 2-8.8 of the County Code (as amended by Ordinance No. 11-90).

6.12 Living Wages

All covered employees providing service pursuant to the service contractor's contract shall be paid a living wage of no less than a stipulated dollar amount per hour inclusive of a stipulated dollar amount per hour for health benefits. The rates for the current and years are posted at <https://www.miamidade.gov/smallbusiness/living-wage-reports.asp>

6.13 Responsible Wages & Benefits

Responsible Wages and Benefits apply to competitively bid construction contracts valued greater than \$100,000 as defined in the provisions of Miami-Dade County's Section 2-11.16 of the Code of Miami-Dade County. Employees performing work on County construction contracts and privately funded construction on County owned land shall be paid rates not less than those contained in the Wage and Benefits Schedule in effect as of January 1st of the year the work is performed. The annual reports list the appropriate wages and fringe benefits by trade category. Reports are available in this section to determine the correct wages and benefits required on a contract. Yearly rates can be found at : <https://www.miamidade.gov/smallbusiness/responsible-wages-and-benefits.asp?fldrReports=2019#YearReports>

7. ADDENDA - CHANGES WHILE BIDDING

It is the Bidder's obligation to notify the County and the Architect/Engineer prior to the opening of Bids of any conflicts, ambiguities or discrepancies it finds in the Contract Documents, in order to allow County to issue appropriate addenda.

The County reserves the right to make changes to the Contract Documents, as it finds necessary or in its best interest, at any time prior to the opening of Bids.

7.01 Request for Information (RFI) (Section 00 43 14)

Every request for interpretation or correction shall be made in writing via e-mail to the Cultural Affairs Project Manager listed in the Advertisement for Bids (Section 00 11 13) with a copy of all correspondence to be sent to the Clerk of the Courts at clerkbcc@miamidade.gov and must be received at least nine (9) calendar days prior to the receipt of Bids in order to be given consideration.

All interpretations and supplemental instructions will be issued by the Department of Cultural Affairs as a written Addendum to the Contract Documents which, if issued, will be sent by email to all prospective Bidders prior to the opening of Bids. If any Bidder fails to acknowledge the receipt of any Addendum in the space provided in the Bid Form, its Bid will be construed as though receipt of the Addendum had been acknowledged. Failure to send a copy of any correspondence to the Clerk of the Courts by email at clerkbcc@miamidade.gov may render a bidder non-responsive.

Only the interpretations or corrections of the Bid Documents given by addenda shall be binding, and prospective Bidders are warned that no other source is authorized to give information concerning, explaining or interpreting the Bid Documents. Bidders shall not rely on any oral interpretation, nor correction of any apparent ambiguity, inconsistency or error offered by any person.

7.02 Request for Substitution

All contractor requests for substitution shall be submitted during the bid period or as specified in the Advertisement for Bids. No request for substitution from the Contractor will be considered during the construction period. No request for substitution will be considered unless accompanied by complete information and descriptive data necessary to determine the quality of the proposed materials, articles or equipment. Samples shall be provided when requested by the Architect/Engineer. Bidders shall refer to General Conditions Section 00 72 13 Article 8 Changes and/or Substitutions for further details before submitting a request for substitution. The burden of proof as to the comparative quality or suitability of the proposed materials, articles or equipment shall be upon the Contractor. The Architect/Engineer's and the Owner's decision in such matters shall be final. In the event that the Architect/Engineer rejects the use of such substitute materials, articles or equipment, then one of the particular products designated by brand name shall be provided.

If any mechanical, electrical, structural, or other changes are required for the proper installation and fit of alternative materials, articles, or equipment, or because of deviations from the Contract Documents, such changes shall be shown in the substitution request and the Bidder/Contractor shall be responsible for any additional costs to the Owner as a result of such changes.

8. CONTRACTUAL OBLIGATIONS

The submittal of a bid proposal under this solicitation shall bind the Bidder to all the Provisions of the entire Contract Documents as listed under Construction Contract Section 00 52 13.

9. REVIEW OF BIDS

9.01 Rejection of bids

Bids which are not responsive to the Bid Documents may be rejected by the County. Any of the following factors may be considered sufficient cause for the rejection of the Bid.

- A) Bid submitted on a form other than that furnished by the County;
- B) Bids which do not contain completed and properly executed forms and affidavits;
- C) Submission of more than one Bid for the same work by an individual, firm, partnership or corporation under the same or different names;
- D) Evidence of collusion among Bidders;
- E) Previous participation in collusive bidding on work for the County;
- F) Submission of an unbalanced Bid in which the prices bid for some items are out of proportion to the prices bid for other items;
- G) Bidder's lack of competency. The Contract will be awarded only to a Bidder considered to be capable of performing the work as required by the Contract Documents. The County may declare any Bidder ineligible at any time during the process of receiving bids or awarding the Contract where developments arise which, in the opinion of the County, adversely affect the Bidder's competency to perform the work and to discharge its responsibilities under the Contract;
- H) Lack of capability as shown by past performance of Bidder's work, judged from the standpoint of workmanship and progress;
- I) Unfinished work for which the Bidder is committed by contract, which, in the judgment of the County, might hinder or prevent the prompt completion of work under this Contract if awarded to such Bidder;
- J) Being in arrears on any existing Contract, or having been sued to enforce the County's rights on a construction contract, or having failed to complete the Work, the punch list, or warranty items, or having defaulted on a previous contract with the County;
- K) If the Bid does not contain a bid price for each item listed in the Bid Form;
- L) If the Bid is not accompanied by the Bid security.

The County reserves the right to waive informalities and irregularities contained in the Bid, or to reject any or all Bids, or to re-advertise for Bids, whichever is in the County's best interests.

9.02 Withdrawal of Bids

No Bid can be withdrawn by a Bidder after it is filed with the Clerk, during the period stipulated in the advertisement for Bids, unless the Bidder makes the

request in writing to the Clerk of the Board of County Commissioners and the request is received prior to the time set for the opening of Bids.

9.03 Bid Protests

(Section 2-8.4 of the Miami-Dade County Code, and Administrative Order 3-21)

Participants in this bid solicitation may protest any recommendations for contract award in accordance with Section 2-8.2.7 of the Code of Miami-Dade County ESP Ordinance, and Administrative Order 3-21.

Pursuant to the reference legislation, the three (3) day protest period shall commence upon the filing of the recommendation to award with the Clerk of the Board. Reference Miami-Dade Code Section 2-8.4 Bid Protest Procedures.

9.04 Pre-award inspection

The County may conduct a pre-award inspection of the bidder's site or hold a pre-award qualification hearing to determine if the bidder is capable of performing the requirements of this bid solicitation.

10. CONDITIONS OF CONTRACT AWARD

The Contract shall not be binding upon the County until it has been executed by the County and a copy of the fully executed Contract is delivered to the Contractor.

Upon Notice of Award Recommendation and prior to Notice to proceed the successful bidder must provide the following items, reference General Conditions Section 00 72 13, Article 2.3 for detailed information on each item:

10.01 Payment and performance bond, General Conditions Section 00 72 13 Article 12.2

10.02 Insurance, General Conditions Section 00 72 13 Article 12.2

10.03 Final Bid Take off (Miami-Dade County Code Section 21-265), General Conditions Section 00 72 13 Article 10.2.1

10.04 Preliminary Schedule of Value, General Conditions Section 00 72 13, Article 10.

10.05 Estimated Monthly Payment Schedule, General Conditions Section 00 72 13, Article 10.

10.06 Preliminary Progress Schedule, General Conditions Section 00 72 13, Article 10.

10.07 Miami-Dade County Vendor Registration (Miami-Dade County Code Section 2.8-1(d)), General Conditions 00 72 13 Article 15.

10.08 Required Listing of Subcontractors and Suppliers on County Contracts Certification (Section 10-34 of the Miami-Dade County Code) General Conditions Section 00 72 13, Article 15.

10.09 Fair Subcontracting Policies Certification (Section 2-8.8 of the Miami-Dade County Code) GC Conditions Section 00 72 13, Article 15.

11. AWARD OF CONTRACT

Unless all Bids are rejected, the Contract will be awarded by the County, subject to execution of the Contract, to the qualified, responsive and responsible Bidder submitting the lowest Bid as adjusted in accordance with Miami-Dade County Ordinances. The lowest Bid will include the Bid price(s), the Owner Controlled Contingency Account, any Owner Controlled Allowance Accounts, and those Alternates that may be selected by the County, in its sole discretion. The Bidder's failure to comply with the SBE participation provisions may result in the Bid not being considered for award.

An award will be made, or all bids will be rejected, within the number of calendar days after the opening of Bids stipulated as the bid guaranty period in the Advertisement for Bids, or as extended by Addendum, or otherwise.

The County reserves the right to cancel the award without liability to the Bidder, except return of the Bid Guaranty if applicable, at any time before the Contract is fully executed by the Mayor or his/her designee.

A Recommendation for Contract Award will be conditioned upon the submittal of any and all documents required by the County as part of the bid evaluation process and Contract execution, including but not limited to, the schedule of values, estimated payments, and project schedule.

Upon Notice of Award Recommendation and Prior to Notice to Proceed, the recommended Bidder shall deliver to the County the respective Condition of Award Requirements, Reference Section 00 51 01 - Contract Award Submittal Checklist. Failure by the recommended Bidder to execute and deliver the Condition of Award Requirements may result in the forfeiture of the bid guaranty to the County, which forfeiture shall be considered not as a penalty but in liquidation of damages sustained by the County. Award may then be recommended to the next lower responsive and responsible Bidder, or all remaining Bids may be rejected, and the Contract may be re-advertised.

12. ACCESS TO PUBLIC RECORDS

The Contractor shall comply with the Public Records Laws of the State of Florida, including but not limited to, (1) keeping and maintaining all public records that ordinarily and necessarily would be required by Miami-Dade County (County) in order to perform the service; (2) providing the public with access to public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed the cost provided in Chapter

119, F.S., or as otherwise provided by law; (3) ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meeting all requirements for retaining public records and transferring, at no cost, to the County all public records in possession of the Contractor upon termination of the contract and destroying any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements upon such transfer. In addition, all records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County. Failure to meet any of these provisions or to comply with Florida's Public Records Laws as applicable shall be a material breach of the agreement and shall be enforced in accordance with the terms of the agreement.

13. FRAUD AND MISREPRESENTATION (Miami-Dade County Code Section 2-8.1.4)

Any individual, corporation or other entity that attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement, may be debarred for up to five (5) years. The County as a further sanction may terminate or cancel any other contracts with such individual, corporation or entity. Such individual or entity shall be responsible for all direct or indirect costs associated with termination or cancellation, including attorney's fees.

14. CONFLICT OF INTEREST (Miami-Dade County Code Section 2.11.1)

No County employee or his or her immediate family shall be prevented from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the employee or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County, as long as (1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County, (2) the employee has not participated in determining the subject contract requirements or awarding the contract, and (3) the employee's job responsibilities and job description will not require him or her to be involved with the contract in any way, including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance. However, this limited exclusion shall not be construed to authorize an employee or his or her immediate family member to enter into a contract with Miami-Dade County or any person or agency acting for Miami-Dade County, if the employee works in the County department that will enforce, oversee or administer the subject contract.

Any affected County employee shall seek a conflict of interest opinion from the Miami-Dade County Commission on Ethics and Public Trust ("the Ethics Commission") prior to submittal of a bid, response, or application of any type to contract with the County by the employee or his or her immediate family. A

request for a conflict of interest opinion shall be made in writing and shall set forth and include all pertinent facts and relevant documents.

If the affected employee or his or her immediate family member chooses to respond to a solicitation to contract with the County, such employee shall file with the Clerk a statement in a form satisfactory to the Clerk disclosing the employee's interest or the interest of his or her immediate family in the proposed contract and the nature of the intended contract at the same time as or before submitting a bid, response, or application of any type to contract with the County. Along with the disclosure form, the affected employee shall file with the Clerk a copy of his or her request for an Ethics Commission opinion and an opinion or waiver from the Board. Also, a copy of the request for a conflict of interest opinion from the Ethics Commission and any opinion or waiver must be submitted with the response to the solicitation to contract with the County.

15. OUTSIDE EMPLOYMENT BY COUNTY EMPLOYEES (Miami-Dade County Code Section 2.11)

The attention of the Contractor is hereby directed to the requirements of Miami-Dade County Code Section 2-11 entitled "Outside Employment by County Employees" and Outside Employment Guidelines from the Miami-Dade County Ethics Code.

16. LOBBYING ACTIVITIES (Miami-Dade County Code Section 2-11.1(i)(2))

Lobbyists are required to be registered with the Clerk of the Board of County Commissioners. Lobbyist means any persons or entity, whether an individual, firm, partnership or corporation, employed or retained by a principal who seeks to influence any action, decision or recommendation of the County Mayor or any County Board or Committee or any action, decision or recommendation of County personnel.

17. LEGISLATION

The successful Bidder/Respondent shall comply with all applicable legislation, including Federal, State, and Miami-Dade County Codes, Ordinances and Resolutions, and must include all expenses for compliance with such applicable legislation as part of the Total Bid proposed.

END OF SECTION

SECTION 00 25 13 – PRE-BID MEETING AGENDA

PROJECT NAME: WESTCHESTER CULTURAL ARTS CENTER – REVISION 1

PROJECT NUMBER: A13-CUA 01 GOB ESP

MANDATORY MEETING: NO

A. INTRODUCTIONS AND SIGN-IN SHEET

B. ADVERTISEMENT FOR BIDS (SECTION 00 11 13)

1. Project description and scope of work
2. Base bid scope and Alternates
3. How/Where to obtain project documents
4. Bid Submittal Schedule/Deadlines
5. Section 00 21 13 - Instructions to Bidders

C. SMALL BUSINESS ENTERPRISE (SBE) REQUIREMENTS

D. QUESTIONS DURING BID

1. Questions / requests for information (RFI)/Request for substitution – must be sent to PM and copy the clerk of the board at clerkbcc@miamidade.gov
2. Bid addenda issued to respond to questions submitted during RFI period.
3. Bidder acknowledgement of receipt of any addenda issued required as part of bid on the Bid Form 00 41 13.

E. COMPLETION TIME AND PROJECT SCHEDULE

Project is scheduled for 365 construction time frame.

F. SPECIAL CONSIDERATIONS

1. Tropical Park must remain open during the work and the selected bidder must schedule and perform the work to avoid disruption to the Park. This includes but not limited to: mitigating noise, maintaining a safe work environment, allowing for adequate temporary protection, managing the ingress and egress to the site, etc.
2. Art in Public places scope and coordination.

G. REQUIRED BID SUBMITTAL DOCUMENTS

SECTION 00 40 01 - BID SUBMITTAL CHECKLIST/FORMS WITH COUNTY LOGO

H. BID DEADLINE AND OPENING

I. QUESTIONS

J. SITE TOUR

END OF SECTION

DOCUMENT 00 3119
EXISTING CONDITION INFORMATION

1.01 The following information is presented to Bidders either bound within the Project Manual or as a part of the drawings:

A. Subsurface Investigation Report

1. A copy of the following geotechnical report is included in this Project Manual as **Document 00 3132**:
2. The recommendations and data described within the subsurface investigation report are not a part of the contractual requirements of this project and are reproduced here solely for the information of prospective bidders. Contractual requirements for earthwork, foundations, and other subsurface work will be found within the technical specifications and drawings relative to this project.
3. The Subsurface Investigation Report identifies limited properties of below grade conditions and offers recommendations for the Project Consultant's use concerning the design of foundations and other subsurface structures. The enclosed report and soil boring logs may be reasonably relied on by Bidders but do not represent a warrant or guarantee of subsurface conditions by either the Owner or the Project Consultant. Refer to **Document 00 7213, General Conditions – Owner Provided Information**.
4. The **Document 00 2113, Instructions to Bidders** requires all Prospective Bidders to visit the project site and acquaint themselves with existing site conditions. With arrangements and scheduling approved in advance by the Owner, Bidders may make their own subsurface investigations to further explore subsurface site conditions. All such investigations undertaken by prospective Bidders shall be at that Bidder's expense and must be conducted prior to the bid opening date established for this project. No extension of bidding dates will be allowed due to any Bidder's site investigations.

B. Topographic/Site Survey

1. A site survey of existing conditions can be found within the Drawings, "SU" Series Sheets. The site survey is not a part of the contractual requirements of this project and is reproduced here solely for the information of prospective bidders. The site survey may be reasonably relied on by Bidders but does not represent a warrant or guarantee of subsurface conditions by either the Owner or the Project Consultant. Refer to **Document 00 7213, General Conditions – Owner Provided Information**.
2. **Document 00 2113, Instructions to Bidders** requires all Prospective Bidders to visit the project site, acquaint themselves with existing site conditions, and draw their own conclusions from the existing conditions.

1.02 Interpretation:

- A. The information is provided only for the convenience of the bidders. The Owner and the Consultant disclaim any responsibility for the accuracy, true locations, and extent of material contained in above reports.
- B. The Owner and Consultants disclaim any responsibility for the interpretation of data by the bidders.
- C. The above listed reports are included in the specifications for reference only.

END OF DOCUMENT 00 3119



SECTION 00 40 01 – BID SUBMITTAL CHECKLIST

PROJECT NAME: WESTCHESTER CULTURAL ARTS CENTER
- REVISION 1

CUA CONTRACT NO.: A13-CUA 01 GOB ESP

BID OPENING DATE: _____

BIDDER NAME: _____

BIDDER ADDRESS: _____

QUALIFIER’S NAME: _____

QUALIFIER’S CERTIFICATE No: _____

REQUIRED TO BE SUBMITTED WITH THE BID in a sealed envelope or container which should have on the outside a copy of page 1 of this form 00 40 01. All forms included shall be signed, sealed, and notarized as required. Failure to provide completed forms may render the bidder non-responsive.

1. Section 00 41 13 - Bid Proposal FORM
2. Section 00 41 13.1 - Bid Proposal Breakdown
3. Bid Security - Certified Check **OR**
 - Section 00 43 13 -Bid Bond FORM
 - a. Provide Power of Attorney if applicable
 - b. Bond must be countersigned by a Florida Resident Agent of Surety
 - c. Provide legible copy of Agent’s current identification card
 - d. 00 45 43 Certified Corporate Resolution Template if applicable
4. Section 00 45 13 - Bidder’s Qualifications FORM
5. Section 00 45 19 - Universal Affidavit FORM CUA Capital Projects
6. Section 00 45 39 - Small Business Certificate of Assurance FORM
7. Section 00 45 40 - Residents First Training and Employment Program FORM (RFTE 1)
8. Section 00 52 13 Construction Contract FORM
(Please complete company name and signatures; amount and date will be completed upon award)

END OF SECTION



SECTION 00 41 13 - BID PROPOSAL FORM

PROJECT NAME:	Westchester Cultural Arts Center – Revision 1
PROJECT NUMBER:	A13-CUA 01
BIDDER NAME:	
BID DATE:	

Board of County Commissioners
Miami-Dade County, Florida

Honorable Members:

The undersigned as Bidder, hereby declares that the only person or persons interested in the Proposal as Principals is or are named herein and that no other person than those herein mentioned have any interest in this Proposal or in the Contract to be entered into; that this Proposal is made without connection with any other person, company, or parties making a bid or proposal; and that it is in all respects fair and in good faith without collusion or fraud.

The Bidder further declares that he has examined the site of the work and informed himself fully in regards to all conditions pertaining to the place where the work is to be done; that he has examined the Plans and Specifications for the Work and contractual documents relative thereto, including but not limited to, Advertisement for Bids, Instructions to Bidders, Proposal Form, Bid Bond Form, Construction Contract Form, General Conditions, Special Provisions, and Surety Performance and Payment Bond, and has read all of the Provisions furnished prior to the opening of bids; and that he has satisfied himself relative to the work to be performed.

If this Proposal is accepted, the undersigned bidder proposes and agrees to enter into and execute the Contract with Miami-Dade County, Florida, in the specified form of contract, which this Proposal and the above-mentioned documents, as well as the Plans and Specifications, shall be made a part of for the performance of work described therein; and agrees to the following:

Small Business Development (SDB) Construction Participation Goal: 13.42%

Small Business Development (SBD) Goods and Services Goal: 1%

Small Business Enterprise (SBE) Workforce program Goal: N/A

Wage and Benefit - Ordinance 90-143: The Contractor agrees to comply with the minimum wages and other provisions.

Contract Time: The Contractor understands that the timeframe for completion of the Project is three hundred and sixty five (365) calendar days, which shall commence upon the issuance of the Notice to Proceed (NTP).

Contract Time Allowance: An additional Contract Time Allowance of thirty seven (37) calendar days shall be used at the discretion of the County for unforeseen conditions.

Bid Security: A bid security of five (5%) percent of the total bid must be attached in the form of a certified check or an executed Bid Bond utilizing the exact form provided by the County in Section 00 43 13. Miami-Dade County requires that the Base Bid and the Additive Alternates Bid costs be held for ninety (90) days after receipt of the bid.



Liquidated Damages: Liquidated damages to the County for delays caused by the Contractor is agreed to be paid at the rate of two thousand seven hundred and fifty dollars (\$2,750) per day and will be deducted from the Contract Sum for each calendar day of Contract time overrun.

Liquidated Indirect Cost: Liquidated Indirect cost to the Contractor for delays caused by the County is agreed to be paid at the rate of two thousand seven hundred dollars (\$2,700) per day subject to the approval of the County for compensable time.

Addendum(a) Receipt: Contractor acknowledges receipt of the following number of Addenda:

Addendum No.	Date	Addendum No.	Date

Bid Amounts		
Item No	Description	Total Amount
1	Base Scope (including IG fees)	\$ -
2	Alternate 1 (including IG fees)	\$ -
TOTAL AMOUNT BID		\$ -

Total Amount Bid in words:

IMPORTANT NOTES:

- 1) Miami-Dade County reserves the right to accept any or no Alternates at its sole discretion.
- 2) The Owner-controlled Contingency and/or any Owner-controlled Allowance Account is/are NOT included in the totals on this worksheet and will be added by the County at Contract Award.
- 3) Total Amounts shall be inclusive of I.G. Fees.
- 4) Bidders are responsible for the accuracy of any formulas used in calculating totals.

The County anticipates awarding the contract to the responsive, responsible bidder that provides the County with the lowest Bid to include the total amount bid for the Basic Scope of Work, total amount bid for each of those Alternates that may be selected by the County, in its sole discretion, and the Allowance Accounts (if applicable).



In the case of a conflict between the unit prices of amounts bid for each item and/or the Total Amount Bid, the Total Amount Bid controls.

The undersigned bidder understands and agrees that the above bid amount (s) is inclusive of all work necessary to complete the job. The Undersigned bidder certifies that this Agreement is submitted in accordance with the bid submission requirements of the Contract, and that the Undersigned Bidder will accept any award made to him as a result of this bid.

The Undersigned bidder further agrees that, in the event it withdraws its bid, after proper notification of intent to Contract from the County, within ninety (90) days after the date of the submittal package opening, or in the event he fails to comply with the Contract Documents or in the event he fails to enter into a written Contract with Miami-Dade-County, Florida, in accordance with the submittal package as accepted and provide required Bond(s) with good and sufficient surety and provide the necessary Insurance Certificates, as may be required, all within fifteen (15) days after the prescribed forms are presented to him for signature, the Bid Bond accompanying his submittal package shall become the property of and be retained and used by Miami-Dade-County as liquidated damages, and not as a penalty; Bid Bond will not be returned by Miami-Dade-County to the undersigned.

Attached hereto is a certified check issued by the _____ bank of _____ in the sum of _____ Dollars (\$ _____) or Bid Bond in the sum of _____ Dollars (\$ _____) made payable to Miami-Dade County.

The list of parties interested in this Proposal, the list of equipment, references, and financial statement which are furnished to assist the County in making the award of the Contract are true and correct.

Tax identification Number: _____
Bidder's Name: _____
Qualifier/Certification No.: _____
Bidder's Address: _____
Bidder's Telephone Number: _____
Bidder's Email Address: _____



In order to assist the County in determining whether the Bidder is qualified to do the work set forth in the Proposal, he shall furnish hereunder a list of references that are qualified to judge as to his financial responsibility and his experience in work of a similar nature.

The Bidder shall furnish hereunder a list of the facilities or equipment that is available for use in case his submittal is accepted.

The Bidder shall furnish hereunder the full name and residences of persons and firms interested in the foregoing submittal package as principals.

The Bidder shall furnish hereunder the name of the executive who will give personal attention to the work, and a telephone number or numbers where he may be reached 24 hours a day, 7 days a week.

Note: Use additional attachments if necessary to provide full documentation of the above.



Note: The following is a suggested form of the type of Financial Statement requested. The Respondent is not required to follow such form explicitly, but the Financial Statement submitted must clearly show the Bidder's financial condition. The County reserves the privilege of requiring additional information as to financial responsibility before awarding contract.

FINANCIAL STATEMENT

CURRENT ASSETS:

Cash \$ _____

Accounts Receivable \$ _____

Inventories \$ _____

PLANT ASSETS:

Real Estate \$ _____

Machinery \$ _____

OTHER ASSETS: \$ _____

LIABILITIES:

Notes Payable \$ _____

Accounts Payable \$ _____

Accrued Wages \$ _____

Other Liabilities \$ _____

NET WORTH: \$ _____



THE EXECUTION OF THIS FORM CONSTITUTES THE UNEQUIVOCAL OFFER OF THE BIDDER TO BE BOUND BY THE TERMS OF ITS PROPOSAL. FAILURE TO SIGN THIS SOLICITATION WHERE INDICATED BY AN AUTHORIZED REPRESENTATIVE SHALL RENDER THE PROPOSAL NON-RESPONSIVE. THE COUNTY MAY, HOWEVER, IN ITS SOLE DISCRETION, ACCEPT ANY PROPOSAL THAT INCLUDES AN EXECUTED DOCUMENT WHICH UNEQUIVOCALLY BINDS THE BIDDER TO THE TERMS OF ITS OFFER.

This Bid Proposal is hereby submitted in accordance with the Contract Documents on this _____ day of _____ 20 ____.

ATTEST:

Witness:

Signature

Legal Name of Individual / Corporation / Joint Venture

Witness:

Signature

Legal Name and Title

Date Signed

By:

Signature of Authorized Representative

(Seal)

Legal Name and Title

By:

Signature of Authorized Representative
(2nd Authorized Representative required for Joint Ventures)

For entities other than individuals, attach a certified copy of a resolution of the Board of Directors of the legal entity authorizing the officer who signs the documents (Bid Proposal, Bid Bond, Construction Contract, Performance and Payment Bond, etc.) to do so on its behalf. Refer to Section 00 45 43 - Corporate Resolution Template for a sample document.

ACKNOWLEDGEMENT:

STATE OF _____) ss.:
COUNTY OF _____)

Before me personally appeared _____ to me well known and known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that _____ executed said instrument for the purposes therein expressed.

WITNESS my hand and official seal, this _____ day of _____, 20____.

Print or Stamp Name of Notary, Serial Number and Signature

END OF SECTION



00 41 13.01 - Bid Proposal Breakdown

Project

Name: Westchester Cultural Arts Center - Revision 1

Bidder's Name: _____

CUA Contract

No.: A13 CUA 01

Bid Date: _____

		Base Scope	Alternate 1
Division	Description	Total Amount	Total Amount
1	General Requirements		
2	Existing Conditions		
3	Concrete		
4	Masonry		
5	Metals		
6	Wood, Plastics, and Composites		
7	Thermal & Moisture Protection		
8	Openings		
9	Finishes		
10	Specialties		
11	Equipment		
12	Furnishings		
13	Special Construction		
14	Conveying Equipment		
15 - 20	Not Used		
21	Fire Suppression		
22	Plumbing		
23	HVAC		
24	Not Used		
25	Integrated Automation		
26	Electrical		
27	Communications		
28	Electronic Safety and Security		
29 - 30	Not Used		
31	Earthwork		
32	Exterior Improvements		
33	Utilities		
	SUB-TOTAL	\$ -	\$ -
	BUILDERS RISK INSURANCE		
	PAYMENT AND PERFORMANCE BOND		
	CONTRACTOR'S OVERHEAD		
	CONTRACTOR'S PROFIT		
	TOTAL AMOUNT BID	\$ -	\$ -

Important Notes:

- 1) The Owner-controlled Contingency and/or any Owner-controlled Allowance Account is NOT included in the totals on this worksheet and will be added by the County at Contract Award.
- 2) Bidders are responsible for the accuracy of any formulas in the Excel form in order to generate correct bid amounts.
- 3) Total Amount Bid shall be inclusive of I.G. Fees.
- 4) The Miami-Dade County reserves the right to accept Alternates at its sole discretion.



SECTION 00 43 13 - BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, _____
as Principal, and _____ as Surety, are held and firmly bound unto
Miami-Dade County in the penal sum of _____
_____ Dollars (\$_____), lawful money of the United States, which sum represents
five percent (5%) of the Total Bid Price, inclusive of any additive alternates and for the payment of which
sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and
assigns, jointly and severally, firmly by these presents;

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted the
accompanying Bid, dated this _____ day of _____, 20___ for Project Number:
_____ entitled, _____.

NOW THEREFORE, if the Principal shall not withdraw said Bid within ninety (90) days after date of
opening of the bid, shall submit complete information required, and shall within fifteen (15) days after the
prescribed forms are presented to him for signature, enter into a written Contract with Miami-Dade County,
in accordance with the Bid as accepted, and give a Surety Performance Bond and Surety Payment Bond
with good and sufficient surety or sureties and provide the necessary Insurance Certificates, as may be
required, for the faithful performance and proper fulfillment of such Contract and for the prompt payment
of all persons furnishing labor or materials in connection therewith, or in the event of withdrawal of said
Bid within the period specified, or in the event of the failure to enter into such Contract and give such
Bond within the time specified, if the Principal shall pay Miami-Dade County the difference between the
amounts specified in said Bid and the amount for which Miami-Dade County may procure the required
work and supplies, provided the latter amount be in excess of the former, then the above obligations shall
be void and of no effect; otherwise, to remain in full force and virtue.

(CONTINUED)



SECTION 00 43 13 - BID BOND

IN WITNESS WHEREOF, the above bounden parties have caused this Bond to be executed by their appropriate officials as of the _____ day of _____ 20 ____.

Witness:	_____	_____	_____	_____
	Signature	Date	Legal Name of Individual/Corporation/Joint Venture	FEIN Number

Witness:	_____	_____	_____	_____
	Signature	Date	Signature of Authorized Representative	Title

_____	_____
Signature of Authorized Representative (2 nd Authorized Representative required for Joint Ventures)	Title

(SEAL)

For entities other than individuals, attach a certified copy of a resolution of the Board of Directors of the legal entity authorizing the officer who signs the documents (Bid Proposal, Bid Bond, Construction Contract, Performance and Payment Bond, etc.) to do so on its behalf. Refer to Section 00 45 43 - Corporate Resolution Template for a sample document.

ACKNOWLEDGEMENT:

STATE OF _____) ss.:
COUNTY OF _____)

Before me personally appeared _____ to me well known and known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that _____ executed said instrument for the purposes therein expressed.

WITNESS my hand and official seal, this _____ day of _____, 20 ____.

Print or Stamp Name of Notary
Serial Number
and Signature _____

(CONTINUED)



SECTION 00 43 13 - BID BOND

SURETY:

By:		
	Signature	Legal Name of Surety

(Corporate Seal)	
	Legal Name and Title

ATTEST:

By:		By:	
	Signature of Attorney-In-Fact		Resident Florida Agent

Printed Name of Attorney-In-Fact	Printed Name of Resident Agent

Note: Copy of Resident Florida Agent's current license as issued by State of Florida Insurance Commissioner must be attached.
Power of Attorney must be attached.

END OF SECTION

SECTION 00 43 14 - REQUEST FOR INFORMATION (RFI) FORM

PROJECT NAME: Westchester Cultural Arts Center – Revision 1 PROJECT NUMBER: CUA

REQUEST FOR INFORMATION (RFI) NO. _____

RFI DATE: _____

TO: (County Project Manager or Architect/Engineer’s Name and Title)

FROM: (Contractor’s Project Manager Name and Title)

SUBJECT: _____

REFERENCE:

DRAWING SHEET NO: _____

SPECIFICATION SECTION – ARTICLE NO: _____

SHOP DRAWING NO. _____ SHEET NO: _____

INFORMATION NEEDED: _____

REPLY: _____

[] In accordance with the provisions of the contract, the above response is an interpretation of the Contract Documents involving no monetary change or additional time. The General Contractor must proceed with the work.

Response By: _____ Title: _____ Date: _____

cc: CUA Project Manager

Other:



SECTION 00 45 13 - BIDDER'S QUALIFICATIONS FORM

The Bidder or the primary principals of the company must demonstrate the qualifications outlined in Section 00 11 13 Advertisement for Bids by providing the following information for several reference projects that best match the scope, type, size, complexity, quality, value, and/or scale of the subject project. Please use one completed form per reference project. Bidder may use additional sheets to clearly document how the reference project exemplifies the Bidder's qualifications and any additional documentation such as specific sub-contractor(s) with relevant experience and/or **project images**.

Bidders shall also provide an **organizational chart** showing the principals and key individuals proposed for the project, **AND** list the sub-contractors for each main trade/scope of work, whether they fulfill the Small Business requirements, and proposed percentage, as applicable. Please provide **resumes** of principals and key personnel.

Reference Project Name: _____

Reference Project Address: _____

Reference Contact:

Reference Project Company Name: _____

Reference Project Contact Name: _____

Reference Project Contact Title: _____

Reference Project Contact Phone No.: _____

Reference Project Contract e-mail: _____

Bidder's role in Reference Project (Prime Contractor, Sub-Contractor, etc.). Please be specific: _____

Name of Prime Contractor (if other than Bidder): _____

LEED Project: ____Yes ____No GREEN GLOBES Project: ____Yes ____No

Other Sustainable Ratings Project: ____Yes ____No - Name: _____

If Yes, please provide Project Coordinator Name: _____



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

Reference Project Description:

Reference Project Scope of Services provided. Please be specific:

Project Construction Start Date: _____

Project Construction Completion Date: _____

Time overrun if any: _____

Please explain reason for time overrun if applicable:

Project Construction Cost: _____

Cost overrun if any: _____

Please explain reason for cost overrun if applicable:



**SECTION 00 45 19
UNIVERSAL AFFIDAVITS - CUA CAPITAL PROJECTS**

Each section of this form must be read, and initialed indicating acceptance and/or compliance with Miami-Dade County's policy related to the particular affidavit. **ALL SECTIONS MUST BE COMPLETED, either with your initials indicating compliance or "N/A" indicating non-applicable. Failure to complete the Affidavit(s) may render the Bidder to be non-responsive.**

I, _____
Name of Affiant / Authorized Official Title

being first duly sworn in the state of _____

I am over 18 years of age, have personal knowledge of the facts stated in these affidavits, and I am owner, officer, director, principal shareholder and/or I am otherwise authorized to bind the bidder of this contract.

The full legal name and business address of the person(s) or entity contracting or transacting business with Miami-Dade County are (Post Office addresses are not acceptable):

Name of Entity, Individual(s), Partners, or Corporation Federal Employer Identification Number

Name of Company Qualifier Registration Number

Street Address City State Zip Code Phone. No.

1. MIAMI-DADE COUNTY OWNERSHIP DISCLOSURE AFFIDAVIT (Sec. 2-8.1 of the County Code)

1. If the contract or business transaction is with a corporation, the full legal name and business address shall be provided for each officer and director and each stockholder who holds directly or indirectly five percent (5%) or more of the corporation's stock. If the contract or business transaction is with a partnership, the foregoing information shall be provided for each partner. If the contract or business transaction is with a trust, the full legal name and address shall be provided for each trustee and each beneficiary. The foregoing requirements shall not pertain to contracts with publicly traded corporations or to contracts with the United States or any department or agency thereof, the State of Florida or any political subdivision or agency thereof or any municipality of this State. All such names and addresses are (Post Office addresses are not acceptable):

Full Legal Name	Address	Ownership%



2. The full legal name and business address of any other individual (other than subcontractors, material men, suppliers, laborers, or lenders) who have, or will have, any interest (legal, equitable, beneficial or otherwise) in the contract or business transaction with Miami-Dade County are (Post Office addresses are not acceptable):

3.

Full Legal Name	Address

4. Any person who willfully fails to disclose the information required herein, or who knowingly discloses false information in this regard, shall be punished by a fine of up to five hundred dollars (\$500) or imprisonment in the County jail for up to sixty (60) days or both.

2. PUBLIC ENTITY CRIMES (Section 287.133 (3) (a) of the Florida Statutes)

1. 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 with the United States, including, but not limited to any bid, proposal, reply, or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation."

2. 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, nonjury trial, or entry of a plea of guilty or nolo contendere."

3. 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 another 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."

1. 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 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.”

2. The statement which is marked below is true in relation to the Entity submitting this sworn statement. **[Please indicate which statement applies.]**

_____ Neither the Entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management, of the Entity, nor any affiliate of the Entity have 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 the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in 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. **[Please indicate which additional statement applies.]**

_____ There has been a proceeding concerning the conviction before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer did not place the person or affiliate on the convicted vendor list. **[Please attach a copy of the final order.]**

_____ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. **[Please attach a copy of the final order.]**

_____ The person or affiliate has been placed on the convicted vendor list. **[Please attach a description of any action taken by or pending with the Florida Department of Management Services.]**

_____ **3. MIAMI-DADE COUNTY CRIMINAL RECORD AFFIDAVIT** (Section 2-8.6 of the County Code)

Pursuant to Section 2-8.6 of the Code, the Entity must disclose, at the time the submission, if the Entity or any of its officers, directors, or executives have been convicted of a felony during the past (10) years. Failure to disclose such conviction may result in the debarment of the Entity who knowingly fails to make the required disclosure or to falsify information.

Indicate below if the above-named Entity, as of the date of submission:

_____ has not been convicted of a felony during the past ten (10) years, nor does it, as of the date of submission, have an owner, officer, director, principal shareholder or executive who has been convicted of a felony during the past ten (10) years.

_____ has been convicted of a felony during the past ten (10) years, or as of the date of submission, has an officer, director or executive who has been convicted of a felony during the past ten (10) years.

_____ **4. MIAMI-DADE COUNTY DEBARMENT DISCLOSURE AFFIDAVIT** (Section 10.38 of the County Code)

Firms wishing to do business with Miami-Dade County must certify that its contractors, subcontractors, officers, principals, stockholders, or affiliates are not debarred by the County before submitting a bid.



I, confirm that none of this firms agents, officers, principals, stockholders, subcontractors or their affiliates are debarred by Miami-Dade County.

A breach of the clauses contained in the Contract adversely affecting the performance of the Contractor on this Project may be grounds for the initiation of debarment procedures. The Contractor shall be subject to and comply with all provisions of MDC Code Section 10-38, as follows:

- A) The Contractor shall comply with MDC Code Section 10-38, which prevents contractors, subcontractors, their officers, their principals, stockholders, and their affiliates who have been debarred by the County, from entering into contracts with the County during the period for which they have been debarred.
- B) Contractors' Affidavit: Pursuant to MDC Code Section 10-38 that requires the Contractor to affirm, under oath, that neither the Contractor, nor its sub-contractors, their officers, principals and/or affiliates as defined in the ordinance, are debarred by the County at the time of the bid. Any Contractor who fails to complete the Contractors' Affidavit pursuant to MDC Code Section 10-38 shall not be awarded a Contract with the County. Any contract or transaction entered into with a violation of MDC Code Section 10-38 is void able, and any person who willfully fails to disclose the required information or who knowingly discloses false information can be punished by civil or criminal penalties, or both, as provided for in the law. It is the Contractors' responsibility to ascertain that none of the sub-contractors, their officers, principals or affiliates, as defined in the ordinance, is debarred by the County pursuant to MDC Code Section 10-38.

5. CONTRACTOR DUE-DILIGENCE AFFIDAVIT (County Resolution R-63-14)

County Vendors and Contractors shall disclose the following as a condition of award for any contract that exceeds one million dollars (\$1,000,000) or that otherwise must be presented to the Board for approval. Mark any applicable items and include requested documentation on a separate page attached to the executed affidavit and submit with the bid package.

_____ All law suits in the five (5) years prior to bid or proposal submittal that have been filed against the firm, its directors, partner(s), principals and/or board members based on a breach of contract by the firm **[Please attach a description of all law suits, including the case name, number and disposition]**

_____ A list of any instances in the five (5) years prior to bid or proposal submittal where the firm has defaulted **[Please attach a description of the circumstances]**

_____ A list of any instances in the five (5) years prior to bid or proposal submittal where the firm has been debarred or received a formal notice of non-compliance or non-performance, such as a notice to cure or a suspension from participating or bidding for contracts, whether related to Miami-Dade County or not. **[Please attach details of each circumstance]**

6. ANTI-COLLUSION AFFIDAVIT

(Code of Miami-Dade County Section 2-8.1.1 and 10-33.1, Ordinance No. 08-113)

I state that the Entity, its owner(s), officer(s), director(s), principal shareholder(s), or executive(s):

_____ is/are not related to any of the other parties bidding in the competitive solicitation, and that the contractor's proposal is genuine and not sham or collusive or made in the interest or on behalf of any person not therein named, and that the contractor has not, directly or indirectly, induced or solicited any other proposer to put in a sham proposal, or any other person, firm, or corporation to refrain from proposing, and that the proposer has not in any manner sought by collusion to secure to the proposer an advantage over any other proposer.



OR

_____ is related to the following parties who bid in the solicitation, which are identified and listed below:

_____	_____
_____	_____
_____	_____

Note: Any person or entity that fails to submit this executed affidavit shall be ineligible for contract award. In the event a recommended contractor identifies related parties in the competitive solicitation, its bid shall be presumed to be collusive and the recommended contractor shall be ineligible for award unless that presumption is rebutted by presentation of evidence as to the extent of ownership, control and management of such related parties in the preparation and submittal of such bids or proposals. Related parties shall mean bidders or proposers or the principals, corporate officers, and managers' thereof which have a direct or indirect ownership interest in another bidder or proposer for the same agreement or in which a parent company or the principals thereof of one (1) bidder or proposer have a direct or indirect ownership interest in another bidder or proposer for the same agreement. Bids or proposals found to be collusive shall be rejected.

_____ **7. FLORIDA TRENCH SAFETY ACT** (Florida Statutes Section 553.60-553.64)

1. By submission of this bid and subsequent execution of this Contract, the undersigned Bidder certifies that as successful Bidder (Contractor) all trench excavation done within his control (by his own forces or by his Subcontractors) shall be accomplished in strict adherence with OSHA Trench Safety Standards contained in 29 C.F.R., s. 1926, 650, Subpart P, including all subsequent revisions or updates to these standards as adopted by the Department of Labor and Employment Security.

2. The undersigned Bidder certifies that as successful Bidder (Contractor) he has obtained or will obtain identical certification from his proposed Subcontractors that will perform trench excavation prior to award of the subcontracts and that he will retain such certifications in his files for a period of not less than three years following final acceptance.

3. The Bidder acknowledges that included in the various items listed in the Schedule of Prices Bid, and in the Total Amount Bid are costs for complying with the Florida Trench Safety Act (Sections 553.60-553.64, Florida Statutes). The bidder further identifies the costs to be summarized below:

	Trench Safety Measure (Description)	Unit of Measure (LF, SQ, etc.)	Unit Quantity	Unit Cost	Extended Cost
A					
B					
C					
D					
E					

_____ **8. RESPONSIBLE WAGES AFFIDAVIT** (Section 2-11.16 of the Miami-Dade County Code)

Entity shall pay workers on the project minimum wage rates in accordance with Section 2-11.16 of the Miami-Dade County Code, and the Labor Provisions of the Contract Documents.

_____ **9. SCRUTINIZED COMPANIES WITH ACTIVITIES IN SUDAN LIST OR THE SCRUTINIZED COMPANIES WITH ACTIVITIES IN THE IRAN PETROLEUM ENERGY SECTOR LIST:**

By executing this proposal through a duly authorized representative, the Proposer certifies that the Proposer is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, as those terms are used and defined in sections 287.135 and 215.473 of the Florida Statutes. In the event that the Proposer is unable to provide such certification but still seeks to be considered for award of this solicitation, the Proposer shall execute the proposal through a duly authorized representative and shall also initial this space: _____.

In such event, the Proposer shall furnish together with its proposal response a duly executed written explanation of the facts supporting any exception to the requirement for certification that it claims under Section 287.135 of the Florida Statutes.

The Proposer agrees to cooperate fully with the County in any investigation undertaken by the County to determine whether the claimed exception would be applicable. The County shall have the right to terminate any contract resulting from this solicitation for default if the Proposer is found to have submitted a false certification or to have been placed on the Scrutinized Companies for Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

_____ **10. CLAIM OF LOCAL BUSINESS PREFERENCE** (Section 2-8.5 of the Miami-Dade County Code)

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

1. Bidder/Proposer has a valid business tax receipt issued by Miami-Dade County at least one (1) year prior to the bid or proposal submission due date to do business within Miami-Dade County that authorizes the business to provide the goods, services or construction to be purchased.

Bidder/Proposer shall attach hereto a copy of said local business tax receipt. (Note: Current and past year licenses/receipts shall be submitted as proof that Bidder/Proposer has had the license/receipt at least one year prior to the Bid/Proposal submission due date.)

2. Bidder/Proposer has a physical business address located within the limits of Miami-Dade County from which the Bidder/Proposer operates or performs business and has served as the place of employment for at least three (3) full-time employees for a continuous period of one year prior to bid or proposal submission or a business that has a physical Miami-Dade County business address and is a certified Small Business Enterprise that has served as the place of employment for at least one (1) full-time employee for a continuous period of one year prior to bid or proposal submission.



Bidder/Proposer shall state its Miami-Dade County physical business address:

and shall submit proof of occupancy for this address. If Bidder/Proposer is leasing space from another company, a copy of the lease or an affidavit from the lessor must be submitted.

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

Check box, if applicable:

a. Bidder/Proposer has at least ten (10) permanent full time employees, or part time employees equivalent to 10 FTE ("full-time equivalent" employees working 40 hours per week) that live in Miami-Dade County, or at least 25% of its employees live in Miami-Dade County. **Bidder/Proposer shall provide Internal Revenue Service Forms 941 for a one year period or other supporting documentation.**

b. Bidder/Proposer contributes to Miami-Dade County's tax base by paying either real property taxes or tangible personal property taxes to Miami-Dade County. **Bidder/Proposer shall provide real property tax receipts or tangible personal property tax returns.**

c. Bidder/Proposer contributes to the economic development and well-being of Miami-Dade County by some other verifiable and measurable contribution by:

Bidder/Proposer shall check the box if applicable. If checking item "c" above, Bidder/Proposer shall provide a written statement defining how Bidder/Proposer meets the criteria and provide supporting documentation.

In addition to the above, the Bidder/Proposer shall also list (1) the number of employees that are Miami-Dade County residents; (2) the Bidder/Proposer's total employee workforce; and, (3) the Bidder's/Proposer's number of employees that are Miami-Dade County residents divided by the Bidder's/Proposer's total employee workforce. The number of employees submitted is to be accurate as of the bid/Proposal submission due date.

_____ Number of Bidder's/Proposer's employees who are Miami-Dade County residents

_____ Number of Bidder's/Proposer's total employee workforce

_____ % Bidder's/Proposer's total workforce residing in Miami-Dade County divided by Proposer's total employee workforce



LOCALLY HEADQUARTERED BUSINESS PREFERENCE

For purposes of this certification, a “Locally Headquartered Business” is a Local Business whose principal place of business is in Miami-Dade County, as defined in Section 2-8.5 of Miami-Dade County Code.

Place a check mark here only if affirming bidder meets the Locally Headquartered Preference. The address of the locally headquartered office is

1) Does your company conduct business through any office outside Miami-Dade County?

Yes No

2) If you responded yes to question 1, please list all offices outside Miami-Dade County at which your company conducts business and describe the nature of the business activities conducted therein.

Office Address

Business Conducted

Please attach additional pages if necessary.

3) Please identify the key officer(s) responsible for the overall direction, control, and coordination of activities for your company and identify the address of the office at which they are located.

Name/Title

Corporate Role

Office Address

Please attach additional pages if necessary.

LOCAL CERTIFIED VETERAN BUSINESS ENTERPRISE CERTIFICATION: A Local Certified Veteran Business Enterprise is a firm that is (a) a local business pursuant to Section 2-8.5 of the Code of Miami-Dade County and (b) prior to proposal submission is certified by the State of Florida Department of Management Services as a veteran business enterprise pursuant to Section 295.187 of the Florida Statutes.

Place a check mark here only if affirming proposer is a Local Certified Veteran Business Enterprise. A copy of the certification **must** be submitted with this proposal.

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



I have carefully read this entire nine (9) page document entitled, "Universal Affidavit" and have initialed all affidavits that pertain to this contract and have indicated by "NA" all affidavits that do not pertain to this contract.

By _____
(Signature of Affiant) (Date)

SUBSCRIBED AND SWORN TO (or affirmed) before me this _____ day of ____, 20__

By _____
(Name of Affiant - Printed)

He/she has produced _____ as identification.
(Type of Identification)

Seal (Signature of Notary) Imprint of Notary

(Name of Notary Typed, Printed or Stamped)

State of Florida - County of _____

END OF SECTION



SMALL BUSINESS DEVELOPMENT
CERTIFICATE OF ASSURANCE

SMALL BUSINESS PARTICIPATION ON COUNTY PROJECTS

This form must be submitted with bid documents by all bidders/proposers on a Miami-Dade County project with Small Business Enterprise ("SBE") program measure(s).

Project No.: _____ Project Title: _____

Bidder/Proposer: _____

Address: _____ City _____ State _____ ZIP _____

Phone Number: _____ Email address: _____

The bidder/proposer is committed to meeting the established _____% SBE-A/E, _____% SBE-Construction, _____% SBE-G, and/or _____% SBE-S measure(s) assigned to this project.

Print Prime Bidder's Name & Title _____ Prime Bidder's Signature _____ Date _____

To satisfy the requirements for Step 1 - Bid Submittal and Compliance with Small Business Enterprise Program(s), the following are required:

- 1. Acknowledgement of the SBE-A/E, SBE-Construction, SBE-G and/or SBE-S measure(s) established for this project via this Certificate of Assurance.
2. Agree to engage in the solicitation of approved Miami-Dade County Small Business Enterprise firm(s) to achieve the established measure(s) as indicated in the Project Documents (specifications).
3. Agree to submit a list of certified SBEs to satisfy the measures via Miami-Dade County's Business Management Workforce System ("BMWS") within the specified timeframe, upon email notification from the Small Business Development ("SBD") Division or BMWS.

To satisfy the requirements for Step 2 - Bid Evaluation and Recommendation for Award, please attest that:

I understand that my company will be deemed non-compliant and not eligible for award if I fail to (1) submit this form with my bid documents via BMWS, and/or (2) submit my company's Utilization Plan which shall list all certified Miami-Dade County Small Business Enterprise firms whom will be subcontracted with to satisfy the project's established SBE measure(s) via BMWS, within the specified timeframe, upon email notification from SBD or BMWS. Each SBE subcontractor, sub consultant, and/or sub-vendor will also be required to confirm its contractual relationship via BMWS, within the specified timeframe, for final approval by SBD.

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

BEFORE ME, an officer duly authorized to administer oaths and take acknowledgement, personally appeared _____, who being first sworn deposes and affirms that the provided information statements are true and correct to the best of his/her knowledge information and belief.

Signature of Owner

SWORN TO and subscribed before me this _____ day of _____, 20_____

Signature of Notary Public-State of Florida

My Commission Expires:



**00 45 40 - Residents First Training and Employment Program
Responsible Contractor/Subcontractor Affidavit Form (RFTE 1)
(Miami-Dade County Code Section 2-11.17)**

In accordance with Section 2-11.17 of the Miami-Dade County Code, all contractors and subcontractors of any tier performing on a contract for (i) the construction, demolition, alteration and/or repair of public buildings or public works projects valued in excess of \$1,000,000 funded completely or partially by Miami-Dade County, or (ii) privately funded projects or leases valued in excess of \$1,000,000 for the construction, demolition, alteration or repair of buildings or improvements on County owned land, and which are subject to Section 2-11.16 of the Code of Miami-Dade County shall comply with the requirements of the Residents First Training and Employment Program.

If applicable, the undersigned Contractor / o Subcontractor verifies that should they be awarded the contract, the undersigned understands their obligation to comply with the following:

- i. Prior to working on the project, all persons employed by the contractor / subcontractor to perform construction shall have completed, the OSHA 10 Hour Safety Training course established by the Occupational Safety & Health Administration of the United States Department of Labor. Such training does not need to be completed at the time of bidding but shall be completed prior to the date persons are employed on the project.
- ii. The contractor / subcontractor will make its best reasonable efforts to promote employment opportunities for local residents and seek to achieve a project goal of having fifty-one percent (51%) of all Construction Labor hours performed by Miami-Dade County residents. To verify workers' residency, firms shall require each worker to produce a valid driver's license or other form of government-issued identification.

Printed Name of Affiant	Printed Title of Affiant	Signature of Affiant
--------------------------------	---------------------------------	-----------------------------

Name of Firm	Date
---------------------	-------------

Address of Firm	State	Zip Code
------------------------	--------------	-----------------

Notary Public Information

Notary Public – State of _____ County of _____

Subscribed and sworn to (or affirmed) before me this _____ day of, _____ 20____.

by _____ He or she is personally known to me o or has produced identification o

Type of identification produced _____

Signature of Notary Public	Serial Number
-----------------------------------	----------------------

Print or Stamp of Notary Public	Expiration Date	Notary Public Seal
--	------------------------	---------------------------

SECTION 00 45 43 – CERTIFIED CORPORATE RESOLUTION TEMPLATE

NOTE: *The following is a suggested form of the type of Corporation Resolution required. Such form need not to be followed explicitly, but the Certified Resolution submitted must clearly show that the person signing the Proposal Form and Bid Bond for the Corporation has been properly empowered by the Corporation to do so in its behalf.*

I, _____, the duly elected Secretary of _____, a
(Name) (Corporation Name)
Corporation organized and existing under the laws of the State of _____, do hereby
(State)

Certify that the following Resolution was unanimously adopted and passed by a quorum of the Board of Directors of the said Corporation at a meeting held in accordance with law and the by-laws of the said Corporation:

“IT IS HEREBY RESOLVED that _____, the duly elected
(Name)
_____ of _____ is hereby authorized to
(Title of Officer) (Corporation Name)
execute and submit documents to Miami-Dade County, Florida for a certain Project entitled
_____, Project Number _____
(Name of Project) (Project Number)

and such other instruments in writing as may be necessary on behalf of the said Corporation, and that the Bid Proposal, Bid Bond, Construction Contract, Performance and Payment Bond, and other such instruments signed by him/her shall be binding upon the said Corporation as its own acts and deeds.”

I further certify that the above Resolution is in force and effect and has not been revised, revoked or rescinded.

Given under my hand and the Seal of said Corporation this _____ day of _____, 20____.
(Day) (Month) (Year)

(Seal)

By: _____
(Signature)

(Print Name)

(Corporate Title)

SECTION 00 51 00 NOTICE OF AWARD (TEMPLATE)

Date

VIA E-MAIL TO ALL BIDDERS (SEE DISTRIBUTION LIST)

RE: Construction Contract Award Recommendation
Project Name: Westchester Cultural Arts Center – Revision 1
Project Number: A13-CUA 01 GOB ESP

Dear Bidders:

In accordance with Sections 2-8.2.7 of the Code of Miami-Dade County ESP Ordinance, this letter serves to notify all bidders on this solicitation of the recommended award of contract to “Successful bidder’s name”. Reference Contract Award recommendation attached.

Pursuant to the reference legislation, the three (3) day protest period shall commence upon the filing of this recommendation to award with the Clerk of the Board. Refer to 2-8.4 Bid Protest Procedures and Implementing Order 3-21.

This notice also serves to confirm that the Cone of Silence is lifted from this procurement action as dictated by Section 2-11.1 (t) of the Code of Miami-Dade County.

Thank you for your interest in providing construction services to Miami-Dade County; we encourage you to bid on future projects. Should you have any questions regarding this notification, please feel free to contact me.

Sincerely,

Carolina Alfonso, AIA, e-mail: carana@miamidadegov; phone: (305) 375-3671.

Attachment: Contract Award Recommendation

Distribution:

Bidder 1 Co. Name and e-mail

Bidder 2 Co. Name and e-mail

Bidder 3 Co. Name and e-mail

c: Michael Spring, Senior Advisor to the Mayor, Director of Cultural Affairs

All bidders

County Attorney’s Office

Clerk of the Board

Project File

SECTION 00 51 01- CONTRACT AWARD SUBMITTAL CHECKLIST**REQUIRED AS A CONDITION OF CONTRACT AWARD AND PRIOR TO NOTICE TO PROCEED**

1. **Performance and Payment Bond and Insurance Requirements** (Section 00 72 13 General Conditions, Article 12)
2. **Final Bid Take-off** (Section 00 72 13 General Conditions, Article 10.3.1)
3. **Preliminary Schedule of Values** (Section 00 72 13 General Conditions, Article 10.3)
4. **Estimated Monthly Payments** (Section 00 72 13 General Conditions, Article 10.3)
5. **Summary Construction Progress Schedule** (Section 00 72 13 General Conditions, Article 10.3)
6. **Miami-Dade County Vendor Contract Registration** (Section 00 72 13 General Conditions, Article 15.2)
7. **Sub-contracting Listing** (Section 00 72 13 General Conditions, Article 15.3)
8. **Sub-contractor Policies** (Section 00 72 13 General Conditions, Article 15.4).

REQUIRED PRIOR TO CONTRACTOR STARTING THE WORK

9. Owner to issue **Notice to Proceed** (Section 00 72 13 General Conditions, Article 11.1)
10. GC to obtain **Permits** for the Work (Section 00 72 13 General Conditions, Article 7.1.1)
11. GC to provide **Safety Program and Safety Manual** (Section 00 72 13 General Conditions, Article 5.9.9)
12. GC to provide **Hurricane Plan** (Section 00 72 13 General Conditions, Article 5.9.11)

REQUIRED TO BE SUBMITTED UPON CONTRACT AWARD AND PRIOR TO FIRST PAYMENT

13. **Accepted Schedule of Values** (Section 00 72 13 General Conditions, Article 10.3)
14. **Accepted Monthly Payment Schedule** (Section 00 72 13 General Conditions, Article 10.3)
15. **Accepted Progress Schedule** (Section 00 72 13 - General Conditions, Article 10.3)
16. **Written Confirmation from Subs Approving Schedule** (Section 00 72 13 - General Conditions, Article 5.3.13)
17. **Shop Drawing Schedule** (Section 00 72 13 - General Conditions, Article 5.7)
18. GC to provide **List of Sources** - Suppliers and Manufacturers (Section 00 72 13 General Conditions Article 5.16)

REQUIRED TO BE SUBMITTED WITH EVERY PAYMENT APPLICATION

(Section 00 72 13 General Conditions Article 10.3.8)

Contractor is to provide (1) electronic copy to the Owner and the Architect of the Draft application package at least (1) week before final application for on-site review by Owner and Architect. Final package must include (1) signed and notarized hard copies to the Owner and Architect.

19. Pay application Form
20. Updated Schedule of Values
21. List of payment amounts requested and paid to date, listed individually, and balance to complete contract
22. List of approved change orders to date
23. Accounting/documentation of any materials purchased and stored off-site, including exact location of material, paid invoices establishing Owner's title to such material, pictures, etc. Material stored off-site must be segregated, kept in proper environmental control, and ready to be inspected by the Owner's representative.
24. Contractor's partial/final waiver and release and/or consent of surety.
25. List of all sub-contractors and suppliers, noting those who performed work or supplied materials during the period cover by the payment application.
26. Partial/Final waivers/releases or consent of surety from each sub-contractors and/or supplier providing equipment and/or services during the prior application.
27. Updated Project Schedule (electronic copy of primavera and/or printed copy)
28. Updated Project Schedule (electronic copy of primavera and/or printed copy)
29. CUA to check BMWS
 - Updated Community Small Business (CSBE) plan.
 - Updated Community Workforce Program (CWP) plan.
 - Monthly Employment Utilization Report (MUR) for each CSBE firm.
 - Certified Payroll/timesheets.

- 30. Project Photographs. Minimum of (2) Site progress Aerial and (4) Building views to Architect and Owner.

- 31. Contractor Certification of worked performed, payments, and as-built records.

- 32. Such other information, evidence and substantiation as the Contracting Department may required with respect to the nature and extent of all obligations incurred for or on connection with the work.

END OF SECTION



00 52 13 - CONSTRUCTION CONTRACT

THIS CONTRACT, made and entered into on this ____ day of _____, 20____, by and between Miami-Dade County, Florida, acting by and through the Office of The Mayor, party of the first part (hereinafter sometimes called the "County"), and _____ party of the second part (hereinafter sometimes called "Contractor");

WITNESSETH

That the parties hereto, for and in consideration of the covenants and agreements hereinafter set forth, mutually agree as follows, to wit:

1. That the Contractor shall furnish all plant, labor, materials and equipment and perform all work in the manner and form provided by the Contract Documents covering the Project of the County known and identified as _____ for the amount reflected by the Proposal, based on the Contract prices shown in the Proposal heretofore provided to the County, a copy of said Proposal being a part of the Contract Documents, the aggregate amount of this not to exceed _____ (\$ _____).
2. That the Contractor shall begin the work to be performed under this Contract on a day to be specified in a written order issued by the Engineer, and shall fully complete all work hereunder within the time or times stated within the Contract Documents.
3. That the County shall pay to the Contractor for the faithful performance of this Contract in lawful money of the United States, and subject to additions and deductions as provided in the Contract Documents, the total amount of the aggregate prices for work performed as set forth above at the times and in a manner stated in the General Covenants and Conditions of the Contract Documents.
4. It is further mutually agreed that if at any time after the execution of this Contract and the Performance Bond and Payment Bond, the County shall find the surety upon such bonds to be unsatisfactory, or if for any reason such bond shall become inadequate to cover the performance of the work, the Contractor shall at his own expense, within five (5) days after the receipt of notice from the County to do so, furnish an additional bond or bonds in such form and amount and with such surety or sureties as shall be satisfactory to the County. In such event, no further payment to the Contractor shall be deemed to be due under this Contract until such new or additional surety shall have been furnished in a manner and form satisfactory to the County.
5. The "Construction Contract Documents" are hereby defined as:
 - Advertisement for Bids – Section 00 11 13
 - Instructions to Bidders – Section 00 21 13
 - Bid Proposal Form and Breakdown – Section 00 41 13 and Section 00 41 13.1
 - Bid Bond – Section 00 43 13
 - **Bidder's Qualifications and its requirements** – Section 00 45 13
 - Universal Affidavits – Section 00 45 19
 - Small Business Development Provision and Affidavits – Section 00 21 13 Section 6 and Sections 00 45 39 and 00 45 40
 - Vendor Registrations Affidavits – Section 00 72 13, Article 15.2
 - Wages and Benefits Provisions – Section 00 21 13
 - Performance and Payment Bond – Section 00 61 13
 - Construction Contract – Section 00 52 13
 - General Contract Conditions – Section 00 72 13
 - All Addenda Issued.
 - Plans/Sketches
 - Specifications
 - Standards
 - Others
6. The terms and conditions of said Contract Documents are incorporated herein by reference and made a part hereof as though fully set forth herein. The Contract Documents are complementary, so that a recital in one is tantamount to a recital in all, and the Contractor specifically acknowledges that he has read and understands all of said Contract Documents.

Department of Cultural Affairs

7. The various indemnities of the Contractor contained in the Contract Documents indemnifying the County from liability for damages to persons or property caused by acts, omissions, or defaults in the performance of the Contract Documents shall have a monetary limitation of the larger of the following: \$1,000,000, or the entire amount of the Contract.
8. The County retains the right to audit any and all information regarding this Contract as described in Specification Section 00 72 13 General Contract Conditions Article 7.10 Audit Rights / Review of Records / Inspector General.

THIS SECTION LEFT BLANK

To Be Completed by Contractor

IN WITNESS WHEREOF, the above bounden parties have caused this Bond to be executed by their appropriate officials as of the _____ day of _____ 20 ____.

Witness: _____
Signature Date Legal Name of Individual/Joint Venture/Corporation FEIN Number

Witness: _____
Signature Date Signature of Authorized Representative Title

Signature of Authorized Representative
(2nd Authorized Representative required for Joint Ventures) Title

(SEAL)

ACKNOWLEDGEMENT:

STATE OF _____) ss.:
COUNTY OF _____)

Before me personally appeared _____ to me well known and known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that _____ executed said instrument for the purposes therein expressed.

WITNESS my hand and official seal, this _____ day of _____, 20 ____.

Print or Stamp Name of Notary, Serial Number and Signature _____

To Be Completed by Miami-Dade County

Approved as to Insurance Requirements:

Approved for Legal Sufficiency:

Risk Management Division Date

Assistant County Attorney Date

IN WITNESS WHEREOF the said MIAMI-DADE COUNTY, FLORIDA, has caused this Agreement to be executed in its name by the County Mayor or County Mayor's designee, attested by the Clerk of the Board of County Commissioners, and has caused the seal of the Board County Commissioners to be set hereto, as executed and attested by the undersigned this day and year first above written.

ATTEST:

FOR:
BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

HARVEY RUVIN
Clerk of the Court

CARLOS A. GIMENEZ
County Mayor

By: _____, Clerk of the Board

By:

Signature Date

Signature Date

Distribution:

One Original to Clerk of the Board
One Original to User Department
One Original to Small Business Development
One Original to Contractor



00 61 13 - SURETY PERFORMANCE AND PAYMENT BOND

By this Bond, we _____, as Principal, whose principal business address is _____, as Contractor under the contract dated _____, 20____, between Principal and Miami-Dade County for the construction of _____ (herein after referred to as "Contract") the terms of which Contract are incorporated by reference in its entirety into this Bond and _____, a corporation, whose principal business address is _____ as Surety, are bound to Miami-Dade County (hereinafter referred to as "County") in the sum of _____ (U.S. dollars) \$ _____, for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs all the work under the Contract, including but not limited to guarantees, warranties and the curing of latent defects, said Contract being made a part of this bond by reference, and in the times and in the manner prescribed in the Contract, including any and all damages for delay; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract; and
3. Pays County all losses, damages, including damages for delay, expenses, costs and attorney's fees, including appellate proceedings, that County sustains because of a default by Principal under the Contract, including but not limited to a failure to honor all guarantees and warranties or to cure latent defects in its work or materials within five (5) years after completion of the work under the Contract; and
4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the Contract, including all warranties and curing all latent defects within five (5) years after completion of the work under the Contract;

Then this bond is void; otherwise it remains in full force.

If no specific periods of warranty are stated in the Contract for any particular item or work, material or equipment, the warranty shall be deemed to be a period of one (1) year from the date of final acceptance by the County. This Bond does not limit the County's ability to pursue suits directly with the Principal seeking damages for latent defects in materials or workmanship, such actions being subject to the limitations found in Section 95.11(3)(c), Florida Statutes.

Any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect Surety's obligation under this Bond.

(CONTINUED)



00 61 13 - SURETY PERFORMANCE AND PAYMENT BOND

IN WITNESS WHEREOF, the above bounden parties have caused this Bond to be executed by their appropriate officials as of the _____ day of _____ 20_____.

Witness: _____
Signature Date Legal Name of Individual/Joint Venture/Corporation FEIN Number

Witness: _____
Signature Date Signature of Authorized Representative Title

Signature of Authorized Representative
(2nd Authorized Representative required for Joint Ventures)
Title

(SEAL)

For entities other than individuals, attach a certified copy of a resolution of the Board of Directors of the legal entity authorizing the officer who signs the documents (Bid Proposal, Bid Bond, Construction Contract, Performance and Payment Bond, etc.) to do so on its behalf. Refer to Section 00 45 43 - Corporate Resolution Template for a sample document.

ACKNOWLEDGEMENT:

STATE OF _____) ss.:
COUNTY OF _____)

Before me personally appeared _____ to me well known and known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that _____ executed said instrument for the purposes therein expressed.

WITNESS my hand and official seal, this _____ day of _____, 20_____.

Print or Stamp Name of Notary, Serial Number and Signature _____

(CONTINUED)



00 61 13 - SURETY PERFORMANCE AND PAYMENT BOND

SURETY:

By:	_____	_____
	Signature	Legal Name of Surety
	(Corporate Seal)	_____
		Legal Name and Title

ATTEST:

By:	_____	By:	_____
	Signature of Attorney-In-Fact		Resident Florida Agent
	_____		_____
	Printed Name of Attorney-In-Fact		Printed Name of Resident Agent

Note: Copy of Resident Florida Agent's current license as issued by State of Florida Insurance Commissioner must be attached.
 Power of Attorney must be attached.

END OF SECTION

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ARTICLE 1 – DEFINITIONS

- 1.1.01 Addendum/Addenda:** A modification/s or clarification/s of the Contract Documents distributed to prospective Bidders prior to the opening of Bids.
- 1.1.02 Advertisement for Bids:** The public notice inviting the submission of Bids for the Work.
- 1.1.03 Allowance Account (Contingency):** Account in which a stated maximum dollar amount is included in the Contract for the purpose of funding, at the sole discretion of the Owner, unforeseen and/or changed conditions or extra work arising during the prosecution of the Work or any other changes issued by the Owner. The scope and limitations regarding use of the Allowance Account are contained in the Contract Documents. Performance of work, if any, under this Allowance Account shall be authorized by written Work Order issued by the Owner. Should the aggregate of charges for all approved Allowance Account expenditures be less than the amount of the Allowance Account, the balance shall remain with the Owner and be used at the Director's discretion.
- 1.1.04 Allowance Account(s) (Dedicated):** Account(s) in which stated maximum dollar amount(s), are included in the Contract for the purpose of possibly funding specific items of work at the sole discretion of the Owner. The scope and limitations regarding use of the Dedicated Allowance Account(s) are contained in the Contract Documents. Should the aggregate of charges for all approved Allowance Account expenditures be less than the amount of the Allowance Account, the balance shall remain with the Owner and be used at the Director's discretion.
- 1.1.05 Architect/Engineer:** Owner or its authorized representatives identified in the Notice-to-Proceed letter, including but not limited to the Resident Architect/Engineer, the Construction Manager, the Owner's representatives and the Architect/Engineer of Record. In the event an Architect/Engineer is not employed on the project, the term "Owner" may be substituted for Architect/Engineer.
- 1.1.06 Architect's Supplemental Instruction(s) (ASI):** Any written document initiated by the Architect/Engineer, advising the Contractor of clarifications to the Work, alterations, revisions, deletions and/or additions in the Work and requesting itemized price quotations, if applicable, for any proposed changes.
- 1.1.07 Art in Public Places:** Miami-Dade County program established through Ordinance No. 94-12 and codified in Miami-Dade County Code Section 2-11.15 providing 1.5% of each County project's construction cost to fund a public art component within the Project. Coordination of the Artist's work is included as part of the scope of the Contractor's services.
- 1.1.08 Artist:** Person(s) chosen through the Art in Public Places program to design and fabricate or specify an integrated work of art for the Project. The term Artist as may be referred to in the Contract Documents means the Artist and/or their authorized representative.

- 1.1.09 As-Built Documents:** Documents signed and sealed by an appropriately licensed professional and submitted by the Contractor during and/or upon completion of the Contract reflecting actual installed/built conditions and all changes made in the Contract Documents during the construction process and showing the exact dimensions, geometry, location, identification and such other information as required by the Contract Documents and/or Architect/Engineer for all elements of the Work completed under the contract. (Also referred to as “As-Built Drawings” or “As-Builts”). Final payment is conditional upon the receipt of complete As-Built Documents as approved by the Architect/Engineer.
- 1.1.10 BCC:** Board of County Commissioners, the governing board of Miami-Dade County.
- 1.1.11 Beneficial Occupancy:** The point at which the Owner or Architect/Engineer determines that the Work or any portion thereof can be occupied from a regulatory and work function standpoint prior to Substantial Completion of the Work. Beneficial Occupancy will not relieve the Contractor of any of its obligations relative to Substantial Completion, or of its responsibility to fully complete the Work in accordance with the Contract Documents.
- 1.1.12 Bid:** The written offer of a Bidder to perform the Work.
- 1.1.13 Bid Documents:** The Advertisement for Bids, Instructions to Bidders, Bid Form, Bid Security, Construction Contract, all contractual forms, General Conditions, Special Provisions, Technical Specifications and Contract Drawings, together with all Addenda and any other applicable standards, regulations, laws and permits as described within these other documents which may be incorporated by reference.
- 1.1.14 Bid Item:** A specific item of work represented by a line item in the Bid Form.
- 1.1.15 Bid Form:** The form on which Bids are submitted.
- 1.1.16 Bid Security:** The cashier's check, certified check or bid bond, accompanying the Bid and submitted by the prospective Bidder, as a guarantee that the prospective Bidder will enter into a contract with the Owner for the performance of the Work and furnish acceptable bonds and insurance if the Contract is awarded to him.
- 1.1.17 Bidder:** An individual, firm, partnership, corporation or combination thereof, submitting a Bid for the Work.
- 1.1.18 Calendar days:** Every day shown in the calendar.
- 1.1.19 Certificate of Substantial Completion:** Certificate issued to the Contractor by the Owner certifying that Substantial Completion has been achieved.
- 1.1.20 Certificate of Completion:** Certificate issued by the local building official providing proof that a structure or system is complete and, for certain types of permits, is released for use and may be connected to a utility system. This certificate does not grant authority to occupy a building, such as a shell building, prior to the issuance of a Certificate of Occupancy by the local building official.

- 1.1.21 Certificate of Final Acceptance:** Certificate issued to the Contractor by the Owner certifying that Final Acceptance has been achieved in accordance with the definition reflected herein (see Final Acceptance definition).
- 1.1.22 Certificate of Occupancy:** Certificate issued by the local building official after the building official inspects the building or structure and finds no violations of the provisions of applicable codes or other laws that are enforced by the local building department.
- 1.1.23 Change Notice:** A document issued by the Architect/Engineer or Owner to the Contractor specifying a proposed change to the Contract Documents and requesting a price proposal from the Contractor, if applicable, within a specified time period.
- 1.1.24 Change Order:** A written agreement executed by the County, the Contractor and the Contractor's Surety, covering modifications to the Contract Documents, recommended by the Architect/Engineer and approved by the Director.
- 1.1.25 Construction Staging Area:** Property which may be available for use by the Contractor during the construction period for the purpose of storing products and construction equipment and for the purpose of staging the Work. The construction staging area(s), if applicable, may be defined in the Contract Documents.
- 1.1.26 Construction Contract:** The written agreement executed by the Contractor and the Owner covering the performance of the Work including the furnishing of labor, superintendence, materials, tools and equipment as indicated in the Contract Documents and for the payment of the agreed consideration. The term "Contract" shall have the same meaning.
- 1.1.27 Consultant:** Any professional firm or individual contracted by the Architect or Owner with respect to specific areas of design in the Project, or theatre & acoustical and sound & communications professionals. The term Consultant as referred to throughout the Contract Documents means the Consultant or its authorized representative.
- 1.1.28 Contract Documents:** Bid Documents, Change Orders, Payment and Performance Bonds, Work Orders, Approved Schedules, all Contractual Forms, Approved Shop Drawings and Approved Working Drawings.
- 1.1.29 Contract Drawings:** The plans, profiles, cross-sections, elevations, schedules, and details which show locations, character, dimensions and details of the Work. Contract Drawings are confidential under the Florida Public Records Act and the Contractor is responsible for maintaining confidentiality during and after the progress of the Work.
- 1.1.30 Contractor:** The individual, firm, partnership, or corporation, or combination thereof, private, municipal, or public, including joint ventures, duly licensed under Florida Statutes, which, as an independent Contractor, has entered into a Contract with Miami-Dade County, who is referred to throughout the Contract Documents by singular in number and masculine in gender.

- 1.1.31 Contract Time:** The number of days allowed for completion of the Work commencing with the effective date of Notice to Proceed. The Contract Time will be stipulated in the Contract Documents unless extended by a Change Order or by a Work Order.
- 1.1.32 County:** A political subdivision of the State of Florida whose governing body is the Board of County Commissioners of Miami-Dade County, Florida.
- 1.1.33 County Mayor:** The Mayor of Miami-Dade County, Florida.
- 1.1.34 Critical Path:** Longest sequence of activities in a project's schedule which defines the project completion date and which must be completed on time in order for the project to be completed on schedule.
- 1.1.35 Days:** Unless otherwise designated, days mean consecutive calendar days.
- 1.1.36 Delays:** May be Excusable or Non-Excusable. Excusable Delays may be Compensable or Non-Compensable, as further defined within the text of these General Conditions.
- 1.1.37 Department Director:** The Director of the Miami-Dade County Department of Cultural Affairs, or his/her Designee. The Director's mailing address is: 111 NW 1st Street, Suite 625, Miami, FL 33128.
- 1.1.38 Department Director's Representative:** The person or persons designated by the Department Director to act on his behalf in the administration of the contract within the limits of their respective authorization.
- 1.1.39 Direct Costs:** Direct Costs recoverable by the Contractor as a result of changes in the Work shall be limited to the actual additional costs of labor and materials installed as part of the Work and for the reasonable additional cost of rental of any Special Equipment or Machinery. Labor shall be limited to site labor costs, including Employer's Payroll Burden. Specifically excluded from labor are the costs of general foremen and site office personnel inclusive of estimator. Materials are limited to permanent materials required by the Contract Documents and materials approved by the Architect/Engineer as necessary to install the permanent materials in an efficient and workmanlike manner. Rental for Special Equipment and Machinery, not already mobilized on the project site, shall be the amount equal to the appropriate daily, weekly, or monthly rental rate for such equipment, in accordance with the current issue of Associated Equipment Distributor (AED) "Compilation of Nationally Averaged Rental Rates and Model Specifications for Construction Equipment" (notwithstanding the caveats contained therein that such rental rates are not for use by government agencies) for each and every rental period (in weeks, days, or months as applicable) that the Special Equipment or Machinery is in use on the work plus any required mobilization. Payment for Special Equipment and Machinery already mobilized on the project site, shall not exceed the monthly rate stated in the AED divided by 176 per hour that the Special Equipment and Machinery is in use on the work, plus any required re-mobilization. For Special Equipment or Machinery not listed in said document the Contractor shall be paid a rental rate corresponding to the average prevailing rental rate for such equipment or machinery in Miami-Dade County, Florida, subject to approval by the Architect/Engineer. No additional payment shall be made to the Contractor for fuel, lubricants, fair

- wear and tear, transportation, insurance or depreciation. Any equipment or machinery not designated by the Architect/Engineer as Special Equipment and Machinery shall be considered Overhead.
- 1.1.40 Employer's Payroll Burden:** The term "employer's payroll burden" shall include the following items: costs of workers' compensation insurance, applicable fringe benefits and liability insurance, employer social security contribution, employer pension contributions, unemployment insurance and health insurance.
- 1.1.41 Extra Work:** Work not provided for in the Contract Documents as awarded or as previously modified by Change Order or Work Order but found to be essential to the satisfactory completion of the Contract within its intended scope.
- 1.1.42 Field Representative/Construction Manager:** An authorized representative of the Owner providing administrative and construction inspection services during the construction, and closeout phases of the Contract.
- 1.1.43 Final Acceptance:** The formal written acceptance by the Owner of the completed work.
- 1.1.44 Final Completion:** Point in time when the Owner determines that all Work has been completed in accordance with the Contract Documents and all deficiencies listed within the Certificate of Substantial Completion and Punch List have been corrected to the satisfaction of the Owner or Architect/Engineer including but not limited to all required final inspections, close-out documents, delivery of all spares and extra materials and activation of warranties as required. A Certificate of Final Acceptance shall be issued to the Contractor by the Owner upon Final Completion.
- 1.1.45 Force Account:** A method of payment measured by actual cost of the labor, materials and equipment plus a mark-up for Indirect Costs, as distinct from other payment methods such as lump sum or unit price, for Extra Work ordered by Change Order and/or Work Order.
- 1.1.46 Fragnet:** A fragment or selected portion of the Schedule network and/or network of proposed changed work activities.
- 1.1.47 Furnishing:** Manufacturing, fabricating and delivering to the site of the Work materials, plant, power, tools, patterns, supplies, appliances, vehicles and conveyances necessary or required for the completion of Work.
- 1.1.48 General Conditions:** This section of the Contract Documents which specifies, in general, the contractual conditions.
- 1.1.49 Green Building Practices:** Environmentally and socially-conscious practices that emphasize processes and methods of design and construction that reduce exposure to noxious materials, conserve non-renewable energy and scarce materials, minimize life-cycle ecological impact of energy and materials, employ renewable energy or materials that are sustainably harvested, protect and restore local air, water, soils, flora and fauna, and support pedestrians, bicycles, mass transit and other alternatives to fossil-fueled vehicles.

- 1.1.50 Guaranty (Guarantee):** A formal assurance that attests to and assumes responsibility for the quality and/or durability of the Work having been performed and/or executed under the Contract, inclusive of materials, services and/or workmanship will be/has been fulfilled in conformance with the Construction Documents.
- 1.1.51 Indirect Cost:** Overhead.
- 1.1.52 Installation, Install, or Installing:** Completely assembling, erecting and connecting material, parts, component, supplies and related equipment specified or required for the completion of the work including the successful passing of all tests so that they are fully functional.
- 1.1.53 LEED (Leadership in Energy and Environmental Design):** An ecology-oriented building certification program run under the auspices of the U.S. Green Building Council (USGBC) which concentrates its efforts on improving performance across five key areas of environmental and human health: energy efficiency, indoor environmental quality, materials selection, sustainable site development, and water savings.
- 1.1.54 Lessee:** Any individual, partnership or corporation having a tenant relationship with the County.
- 1.1.55 Liquidated Damages:** The amount that the Contractor accepts, as stipulated in the Bid Form that will be deducted from the Contract Sum for each Calendar day of delay due to a Non-excusable Delay.
- 1.1.56 Liquidated Indirect Costs:** The amount stipulated in the Bid Form that will be added to the Contract Sum for each calendar Day of delay due to a Compensable Delay. The Contractor accepts this sum as full compensation for the Contractor's and all its Subcontractors' Indirect Costs, for each day of Excusable Compensable Delays.
- 1.1.57 Limit of Work:** Boundary within which the Work is to be performed.
- 1.1.58 Lump Sum Bid Item:** A bid item in which quantity is not separately measured for payment in units but rather is based on the amount bid by the Contractor as indicated in the Bid Form and made a part of the Contract. Partial payments of Lump Sum Bid Items will be conditionally made, based upon an approved schedule of values, and will be subject to reconciliation in the event that the work of a Lump Sum Bid Item is not fully completed in accordance with the requirements of the Contract Documents.
- 1.1.59 Miami-Dade County Department of Cultural Affairs (CUA):** A department of Miami-Dade County government.
- 1.1.60 Milestone:** A completion date as defined in the Contract Documents.
- 1.1.61 Notice To Proceed (NTP):** The written communication issued by the Miami-Dade County Department of Cultural Affairs to the Contractor directing the Contractor to begin contract work and establishing the date of commencement of the work.
- 1.1.62 Overhead (Indirect Costs):** Overhead includes any costs other than Direct Costs, as defined herein, incurred by the Contractor and all its Subcontractors of any tier in the performance of the Contract. Overhead includes, but is not limited to all costs associated with: project bond

premiums, project insurance premiums, costs of supervision, coordination, superintendents, general foremen, consultants, schedulers, cost controllers, accountants, estimators, office administrative personnel, time keepers, clerks, secretaries, watch persons, small tools, equipment or machinery not designated by the Architect/Engineer as Special Equipment or Machinery, utilities, rent, telephones, facsimile machines, computers, word processors, printers, scanners, plotters, computer software, all expendable items, job site and general office expenses, profit, extended jobsite general conditions, interest on monies retained by the County, escalated costs of materials and labor, decreased productivity, home office expenses or any cost incurred that may be allocated from the headquarters of the Contractor or any of its subcontractors, loss of any anticipated profits, loss of bonding capacity or capability losses, loss of business opportunities, loss of productivity on this or any other project, loss of interest income on funds not paid, costs to prepare a bid, cost to prepare a quote for a Change in the Work, estimators, costs to prepare, negotiate or prosecute claims, costs of legal and accounting work, costs spent to achieve compliance with applicable laws and ordinances, loss of projects not bid upon, loss of productivity or inefficiencies in the Work from any cause.

- 1.1.63 Owner:** The term Owner as used in this Contract shall mean the Miami-Dade County Board of County Commissioners or the Department of Cultural Affairs, but it excludes the regulatory departments of Planning, Development and Regulation (Building and Zoning); Department of Environmental Resources Management (DERM); Public Works, Water & Sewer, and Fire Rescue or their successors.
- 1.1.64 Notice of Default:** Written notice from the Architect/Engineer and the Owner to the Contractor to notify them that they are in default of the Contract. The Notice of Default will stipulate expected correction time frame of the issue. The contractor must correct the issue to the owner's satisfaction; if the issue is not corrected, the notice of default may serve as grounds for contract termination.
- 1.1.65 Notice of Termination:** Written notice from the Architect/Engineer or the Owner to the Contractor to permanently stop work under the Contract on the date and to the extent specified in the notice. The Notice of Termination includes Notices of Termination for Convenience, Default and National Emergencies as set forth in the Contract Documents. Upon receipt of such notice, the Contractor shall comply with the termination provisions of this Contract.
- 1.1.66 Payment and Performance Bond:** Bond executed by the Contractor and its Surety assuring that the Contractor will, in good faith, perform and guarantee the work in full conformity with the terms of the Contract Documents and will promptly pay all persons supplying the Contractor with labor, materials, or supplies, used directly or indirectly by the Contractor in the prosecution of the Work. This bond shall be a single instrument bond for twice the penal sum (to cover 100% of the total maximum contract amount for payment-related issues and 100% of the total maximum contract amount for performance-related issues).

- 1.1.67 Plans:** The drawings, or reproductions thereof, prepared by the Architect/Engineer, which show the locations, character, dimensions and details of the work to be done and which are part of the Contract Documents.
- 1.1.68 Project:** The construction and services required by the Contract Documents, which includes all labor, materials, equipment, and services to be provided by the Contractor to fulfill the Contractor's obligations.
- 1.1.69 Punch List:** A list issued by the Owner to the Contractor of work elements requiring remedial action or completion by the Contractor before Final Completion is issued to the Contractor.
- 1.1.70 Project Manual:** The portion of the Contract Documents, prepared by the Architect/Engineer, other than the Plans.
- 1.1.71 Project Testing Laboratory:** The laboratory(ies) employed by the County to perform under the direction of the Architect/Engineer all quality assurance testing.
- 1.1.72 Right-of-Way:** A term denoting land and property, and interests therein, owned or acquired by the Owner.
- 1.1.73 Schedules:** All schedules delivered under the Contract including time schedules and schedule of values.
- 1.1.74 Schedule of Values:** A detailed cost breakdown of each lump sum bid item in the bid form, submitted by the Contractor at the beginning of the Work and to be used as a basis to determine monthly progress payments and quantity adjustments within the constraints specified in the Contract Documents.
- 1.1.75 Shop Drawings:** Documents furnished by the Contractor for approval by the Architect/Engineer to illustrate specific portions of the Work. Shop Drawings include drawings, diagrams, illustrations, calculations, schedules, tables, charts, brochures and other data describing design, fabrication and installation of specific portions of the Work.
- 1.1.76 Site, Project Site, Work Site, Construction Site, Job Site:** The location(s) at which the work under this Contract is to be accomplished, as shown in the Contract Documents.
- 1.1.77 Special Equipment or Machinery:** Equipment or machinery such as power driven rollers, tractors, backhoes, bulldozers, excavators, trucks (excluding "pickup" trucks), cranes, industrial railroad equipment, or any other such equipment approved by the Architect/Engineer as necessary to complete the Project in an efficient and workmanlike manner. This equipment or machinery must be a requirement for the economical performance of the work to be accomplished by the Contractor or by a Subcontractor (of any tier). Special Equipment or Machinery shall not include small tools or pieces of equipment considered to be standard equipment included in the basic inventory of a Contractor or a Subcontractor (of any tier).
- 1.1.78 Special Provisions:** Section of the Contract which includes specific contractual requirements not covered in the General Conditions that are specific to the Project.

- 1.1.79 Subcontractor:** Any person or entity, other than the employees of the Contractor, supplying the Contractor with labor, materials, supplies and/or equipment used directly or indirectly by the Contractor in the prosecution of the Work.
- 1.1.80 Substantial Completion:** Substantial Completion of the Work shall occur when the Architect/Engineer certifies that the Work is sufficiently complete, in accordance with the Contract Documents, so that the County may use the Work for the use for which it is intended or for such other use which the County in its sole discretion may determine to be appropriate under the circumstances, and after receipt of the final certificate of occupancy.
- 1.1.81 Surety:** The bonding company or companies furnishing the bonds required of a Bidder and of the Contractor.
- 1.1.82 Technical Specifications:** The general term comprising all the written directions, provisions and requirements contained herein, entitled "Technical Specifications," those portions of standard specifications to which reference is specifically made in the Technical Specifications, and any Addenda, Work Orders and Change Orders that may be issued for the Contract, all describing the work required to be performed, including detailed technical requirements as to labor, materials, supplies and equipment and standards to which such work is to be performed as well as any reports specifically issued with the Bid Documents and specifically identified in the Instructions to Bidders which may include geotechnical or other technical reports.
- 1.1.83 Temporary Construction Easement Line:** A boundary which describes additional areas which may be made temporarily available for construction operations.
- 1.1.84 Time Contingency:** The maximum time specifically identified in the Contract Documents by which the Owner may extend the contract time to accomplish the work without a BCC change order. Limitations on the use of the time contingency are set forth in the Contract Documents Article 11 – Contract Completion.
- 1.1.85 Unit Prices:** Unit prices shall include all labor, materials, tools, and equipment; all other direct and indirect costs necessary to complete the item of Work and to coordinate the unit price Work with adjacent work; and shall include all overhead and profit. Contractor shall accept compensation computed in accordance with the unit prices as full compensation for furnishing such Work. There are two types of unit price items: "Major Unit Price Item" and "Minor Unit Price Item". The term "Major Unit Price Item" shall refer to any single item of work on the Bid Form for which the extended price on the Bid Form (quantity times unit price) is at least 20% of the Total Amount Bid in the Bid Form. The term "Minor Unit Price Item" shall refer to those item(s) of work not meeting the criteria for "Major Unit Price Item".
- 1.1.86 Warranty:** A written guarantee promising that the Work is, among other things, fit for use as represented, free from defective material and workmanship and meets statutory and/or other specifications as required by the Contract Documents.

- 1.1.87 Work:** The construction and services required by the Contract Documents, which includes all labor, materials, equipment, and services to be provided by the Contractor to fulfill the Contractor's duties and obligations imposed by the Contract Documents or, if not specifically imposed by the Contract Documents, which can be reasonably assumed as necessary to fulfill the intent of the Contract Documents to provide a complete, fully functional and satisfactory project.
- 1.1.88 Work Order:** A written order, authorized by the Architect/Engineer or Owner, directing the Contractor to perform work under a specific Allowance Account or directing the Contractor to perform a change in the Work that does not have a monetary impact.

ARTICLE 2 - ADMINISTRATION OF THE CONTRACT**2.1 INTENT OF THE CONTRACT**

- 2.1.1** The intent of the Contract is to include all necessary items for the proper completion of the Work by the Contractor so the Owner may have a fully functioning facility and fully receive the benefits of the use as intended. The Contractor shall perform, without additional compensation, such incidental work as necessary to complete the Work and fulfill the design intent, in accordance with the requirements set forth in the Contract Documents, so that it will meet the requirements for which the Project was intended, in a satisfactory and workmanlike manner.
- 2.1.2** No contractual relationship will be recognized under the Contract other than the contractual relationship between the Owner and the Contractor. There shall be no third party beneficiary to this Contract. It is specifically agreed between the parties executing the Contract that it is not intended by any of the provisions of any part of the Contract to create in the general public a third party beneficiary or to authorize anyone not a party to the Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of the Contract.
- 2.1.3** No acceptance, order, measurement, payment, or certificate of or by the Architect/Engineer and/or the Owner or its employees or agents shall either stop the Owner from asserting any rights or operate as a waiver of any provision hereof or of any power or right herein reserved to the Owner or of any rights to damages herein provided.
- 2.1.4** The Contract Documents, including the Contract, Plans, Specifications and all referenced standards cited are essential parts of the Contract requirements. A requirement occurring in one is as binding as though occurring in all. The documents comprising the Contract Documents are complementary and are intended to describe and provide for a complete Work. Anything mentioned in the Contract Documents and not shown on the Contract Drawings, or shown on the Contract Drawings and not mentioned in the Contract Documents, shall be of like effect as if shown or mentioned in both. The more stringent shall apply in the case of a conflict.
- 2.1.5** The headings and or titles contained in the Contract Documents are solely for convenience of reference and shall not affect the meaning or interpretation of this Agreement or of any term or provision hereof.
- 2.1.6** The Contractor is responsible to include in all subcontracts, at all tiers, the relevant provisions of these General Conditions of the Contract. Failure to do so will not limit the Owner's rights as defined in the Contract.
- 2.1.7** Miami-Dade County enters into this Contract solely in its proprietary capacity. Nothing in this Contract is intended to bind or otherwise restrict the discretion of Miami-Dade County acting in its regulatory capacity, including but not limited to the regulatory acts of the Departments of Regulatory and Economic Resources (RER), Public Works and Waste Management (PWWM), Fire-Rescue (MDFRD) and Water and Sewer (WASD) or their successors.

2.2 OTHER CONTRACTS

- 2.2.1** The Owner may undertake or award other contracts for other work on the Site. The Contractor shall fully cooperate with such other contractors and shall carefully fit his own work to such other work. The Contractor shall not commit or permit any act, which will interfere with the performance of work by any other contractors or by the Owner, or fail to perform such acts as required to avoid interference with the performance of work by any other contractor.
- 2.2.2** In the event of interference between the work of the Contractor and other contractor(s) working concurrently at the Site, the Field Representative will instruct the Contractor as to which Work has priority in performance and such instructions shall be binding upon the Contractor. The Contractor shall not have any claim against the Owner, the Architect/Engineer, Consultants or the Field Representative for any additional compensation whatsoever in connection therewith.
- 2.2.3** The Contractor shall conduct its operations so as not to interfere with or hinder the progress of completion of the work being performed by other contractors.
- 2.2.4** The Contractor shall be responsible for obtaining all necessary scheduling details from other contractors and their responses must be provided, in writing, to the Owner. The Architect/Engineer shall have the authority to resolve conflicts related to coordination between Contractors.

2.3 CONDITIONS OF AWARD

- 2.3.1** Upon Notice of Award Recommendation and prior to Notice to proceed the successful bidder must provide the following items, reference General Conditions Section 00 72 13 for detailed information on each item:
- Payment and performance bond, General Conditions Section 00 72 13 Article 12.2.
 - Insurance, General Conditions Section 00 72 13 Article 12.
 - Final Bid Take off (Miami-Dade County Code Section 21-265), General Conditions Section 00 72 13 Article 10.2.1
 - Preliminary Schedule of Value, General Conditions Section 00 72 13, Article 10.
 - Estimated Monthly Payment Schedule, General Conditions Section 00 72 13, Article 10.
 - Preliminary Progress Schedule, General Conditions Section 00 72 13, Article 10.
 - Miami-Dade County Vendor Registration (Miami-Dade County Code Section 2.8-1(d)), General Conditions 00 72 13 Article 15.

- Required Listing of Subcontractors and Suppliers on County Contracts Certification (Section 10-34 of the Miami-Dade County Code) General Conditions Section 00 72 13, Article 15.
- Fair Subcontracting Policies Certification (Section 2-8.8 of the Miami-Dade County Code) GC Conditions Section 00 72 13, Article 15

2.4 CONDITIONS AFFECTING THE WORK

2.4.1 Site Inspections and Verification of Governing Dimensions: In executing the contract, the Contractor represents that he has, prior to bid, visited the site, become familiar with the conditions under which the work is to be performed and correlated his personal observations with the requirements of the Contract Documents or that he has chosen not to do so, in the event that a mandatory site visit is not specified in the Contract Documents. The Contractor accepts the responsibility for all errors in construction which could have been avoided by such examination and the opportunity to seek timely clarifications during the bidding process. The Contractor, before commencing work, shall verify all governing dimensions at the site, and shall examine all adjoining work on which his work is in any way dependent for its conformance with the intent of the Contract Documents and no disclaimer of responsibility for defective or non-conforming adjoining work will be considered unless notice of same has been filed by the Contractor, and agreed to in writing by the Owner through the Architect/Engineer before the Contractor begins any part of the Work. No disclaimer for defective or non-conforming adjoining work that was clearly foreseeable to the Contractor during a site visit (mandatory or non-mandatory) will be considered by the Owner.

2.4.2 The Contractor shall be responsible for taking steps reasonably necessary to ascertain the nature and location of the Work, and the general and local conditions which can affect the Work or the cost thereof. Failure by the Contractor to do so will not relieve him from responsibility for successfully performing work without additional expense to the Owner. The Owner will not be responsible for any understanding or representations concerning conditions, unless such understanding or representations are expressly stated in the Contract.

2.4 CONFORMITY WITH PLANS, SPECIFICATIONS AND OTHER CONTRACT DOCUMENTS

2.4.1 All work and all materials furnished shall be placed in reasonably close conformity with the lines, location, elevation, grades, grading sections, and in proper alignment and adjustment, cross sections, dimensions, material requirements, and testing requirements that are specified (including specified tolerances) in the Contract Documents. The Contractor shall provide all items, including but not limited to frames, forms, falsework,

- shoring, guides, anchors and temporary structures required to ensure these results.
- 2.4.2** No deviation from the approved Contract Documents shall be permitted without the prior written approval of the Architect/Engineer and/or Owner, by Work Order or Change Order, which approved deviation(s) shall be documented to the extent required by the Contract Documents. All deviations approved must be documented in the set of As-builts to be provided by the Contractor to the Owner.
- 2.4.3** No acceptance, order, measurement, payment, or certificate of or by the Architect/Engineer and/or the Owner or its employees or agents shall either stop the Owner from asserting any rights or operate as a waiver of any provision hereof or of any power or right herein reserved to the Owner or of any rights to damages herein provided.
- 2.4.4** The Contract Documents provide for a complete work and may have been prepared in divisions of various crafts, trades and other categories of work. The Contractor is responsible for the performance of all work under the Contract regardless of any such divisions and shall ensure that all of the Work is performed and completed.
- 2.4.5** Plans showing general outlines and details necessary for a comprehensive understanding of the Work form a part of the Contract Documents. The total number and the titles of the drawings constituting the Plans are given in Division 00 of the Project Manual, List of Drawing Sheets. All work under the Contract shall be performed in all respects in compliance with the requirements of the Contract Documents.
- 2.4.6** The organization of the Contract Documents into divisions, sections and articles, and the arrangement of Drawings does not restrict or limit the Contractor in dividing the Work among Subcontractors or in establishing the extent of work to be performed by any trade.
- 2.4.7** The Owner will provide the Contractor with one hard copy of the permit plans and the Project Manual and/or an electronic copy. The Contractor shall make all copies of all permit plans and Project Manuals as needed with one to be kept and updated by the Contractor as the As-Built set on the jobsite for the Contractor's use during the execution of the Contract. The Contractor shall provide, at no additional cost, the Owner and the Architect/Engineer with one copy each of the permit plans for their use. The Contractor may reproduce these documents for its use during the performance of the work under this Contract at no additional cost to the Owner.
- 2.4.8** The Contractor shall maintain and make available at the job site at least one copy of plans, referenced standards, approved shop drawings, approved samples and technical specifications and all Contract Documents, for the Contractor's and the Field Representative's use during the time that work covered by the standards and/or specifications is underway.
- 2.4.9** Where "as indicated," "as detailed," or words of similar import are used, it shall be understood that the reference is made to the Contract Documents unless stated otherwise.

- 2.4.10** In the event that an Article or Section from one document is referenced in another document, any general reference to Articles or Sections shall be understood to include sub-articles or subsections.
- 2.4.11** When a material, article, or equipment is designated by a brand name, and more than one brand name is listed, it will be understood that the design is based on one of the brand name listed products. The Contractor will be responsible for all coordination necessary to accommodate the material, article or equipment actually being provided without additional cost to the Owner.
- 2.4.12** All Requests for Information (RFIs) by the Contractor shall be in accordance with the Contract Documents.
- 2.4.13** **Request for Information (RFI):** Should it appear that the Work to be done or any of the matters relative thereto are not sufficiently detailed or explained in the Contract Documents, the Contractor shall provide to the Owner or Architect/Engineer a written RFI in sufficient detail to fully explain the information needed and why it is needed, or not understood. This RFI shall be provided in a timely manner to allow sufficient time for such further written explanations as may be necessary and shall conform to the explanation provided as part of the Contract. The Owner or Architect/Engineer's decision shall be final.
- 2.4.14** If the Architect/Engineer finds the materials furnished, work performed, or the finished product is not within reasonably close conformity with the Contract Documents but that the portion of the affected work will, in its opinion, result in a finished product having a level of safety, economy, durability, and workmanship acceptable to the Owner, it will advise the Owner of its determination that the affected work be accepted and remain in place. In this event, the Architect/Engineer will document its determination and recommend to the Owner a basis of acceptance which will provide for an adjustment in the Contract Price for the affected portion of the work. The Architect/Engineer's determination and recommended Contract Price adjustments will be based on the requirements of the Technical Specifications, good professional judgment and such tests or retests of the affected work as are, in its opinion, needed. Changes in the Contract Price will be made in a Change Order or Work Order, as applicable.
- 2.4.15** If the Architect/Engineer finds the materials furnished, work performed, or the finished product are not in reasonably close conformity with the Contract Documents and have resulted in an unacceptable finished product, the affected work or materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor in accordance with the Architect/Engineer's written orders.
- 2.4.16** For the purpose of this Article, the term "reasonably close conformity" shall not be construed as waiving the Contractor's responsibility to complete the work in accordance with the requirements of the Contract Documents. The term "reasonably close conformity" shall not be construed as waiving the Architect/Engineer's or the Owner's right to insist on strict compliance with the requirements of the Contract Documents during the Contractor's prosecution of the work, when, in the Architect/Engineer's or the Owner's

opinion, such compliance is essential to provide an acceptable finished portion of the work.

2.4.17 For the purpose of this Article, the term "reasonably close conformity" is also intended to provide the Architect/Engineer with the authority to use good professional judgment in his/her determinations as to acceptance of work that is not in strict conformity but will provide a finished product equal to or better than that intended by the requirements of the Contract Documents.

2.5 ERRORS, INCONSISTENCIES AND OMISSIONS:

2.5.1 The Contractor shall carefully study and compare all drawings, Contract Documents and other instructions; shall verify all figures on the Contract Drawings before laying out the Work; shall notify the Owner or Architect/Engineer of all errors, inconsistencies, or omissions which he may discover; and obtain specific instructions in writing during the bidding process and prior to submitting his Bid. The Contractor shall not take advantage of any apparent error or omission which may be found in the Contract Drawings or Contract Documents.

2.5.2 The Contractor shall be responsible for all errors in construction which could have been avoided by such examination and notification, and shall correct, at his own expense, all work improperly priced, scheduled or constructed through failure to notify the Owner or Architect/Engineer and to request specific instructions.

2.5.3 The Architect/Engineer shall have the right to correct apparent errors or omissions in the Plans and Technical Specifications and to make such interpretations as he may deem necessary for the proper fulfillment of the Contract Documents.

2.5.4 During the course of the work, should any conflicts, ambiguities, or discrepancies be found that are not addressed or any discrepancies between the Plans and the Technical Specifications to which the Contractor has failed to call attention before submitting the Bid, then the Architect/Engineer will interpret the intent of the Plans and Technical Specifications and the Contractor hereby agrees to abide by the Architect/Engineer's interpretation and agrees to carry out the work at no additional cost to the Owner in accordance with the decision of the Architect/Engineer. In such event the Contractor will be held to have included in the Bid the most expensive material and/or method of construction.

2.6 PRODUCT AND REFERENCE STANDARDS

2.6.1 When descriptive catalog designations including manufacturer's name, product brand name, or model number are referred to in the Contract Documents, such designations shall be considered as being those found in industry publications of current issue on the date of the first advertisement for bids.

- 2.6.2** When standards of Standards Organization such as ASTM, AASHTO, AWS or ANSI, trade societies, or trade associations are referred in the Contract Documents by specific date of issue, these shall be considered a part of this Contract. When such references do not bear a date of issue, the current published edition on the date of the first advertisement for bids shall be considered as part of the Contract.
- 2.6.3** Where in the Contract Documents an item is identified by a particular manufacturer's name, model or other code only that particular specified manufacturer, or model or other code, as applicable, shall be permitted. Provided however, the Owner only permit Contractor to use a product of like and equal or better quality and function if Contractor requests approval in writing from the Owner with sufficient evidence to allow Owner to confirm it is better or equal.
- 2.6.4** Whenever a particular manufacturer's product is required, to the exclusion of all others, appropriate language is included in the Contract Documents.
- 2.6.5** Wherever the terms, "as directed," "ordered," "permitted," "designated," "as approved," "approved equal," "or equal," "acceptable," and other words of similar meaning which authorize an exercise of judgment are used in the Contract Documents, such judgment shall be vested only in the Architect/Engineer and/or the Owner.

2.7 DEFECTIVE OR UNAUTHORIZED WORK

- 2.7.1** Work performed beyond the lines and grades shown on the Contract Drawings and/or approved Shop Drawings or established by the Owner, work performed without proper inspections, and Extra Work done without a Work Order or Change Order, will be unauthorized work and the Contractor will receive no compensation therefor. If required by the Owner, unauthorized work shall be remedied, removed or replaced by the Contractor at no additional cost to the Owner. Upon failure of the Contractor to remedy, remove or replace unauthorized work, the Owner may at its discretion, remedy, remove or replace the unauthorized work and the Contractor shall bear the responsibility for any and all costs and for delays resulting from such work.
- 2.7.2** Materials or assemblies not conforming to the requirements of the Contract Documents shall be considered unacceptable and shall be rejected. All work which has been rejected by either the Architect/Engineer, Consultant or the Field Representative shall be satisfactorily repaired or if it cannot be satisfactorily repaired, it shall be removed and replaced all at no additional cost to the Owner. Materials not conforming to the requirements of the Contract Documents shall be removed immediately from the site of the work and replaced with satisfactory material by the Contractor at no additional cost to the Owner. Rejected material or assemblies, the defects of which have been corrected by the Contractor, shall not be returned to the site of the work until such time as the Architect/Engineer has approved its use, in writing, in the Work.
- 2.7.3** Work that is defective or Work that fails to conform with the Contract Documents will be at the Contractor's risk, and no payment shall be made for such work. As specified in the Technical Specifications or at the option

of the Owner, an agreed equitable amount may be deducted from the Contract amount in lieu of replacement or repair of work not fully meeting the requirements of the Contract Documents. Acceptance by the Owner of such deduction shall not modify the requirements of any guarantees called for by the Contract Documents. Written authorization for such work must be obtained in the form of a Work Order or Change Order with the appropriate and acceptable credit to the Owner. In the event written authorization is not obtained, and upon the directions of the Field Representative, such work shall be removed or replaced by the Contractor at no additional cost to the Owner.

- 2.7.4** If either the Architect/Engineer or the Field Representative so requests, the Contractor shall at any time before final acceptance of the work, remove or uncover such portions of the finished work as may be directed. After examinations, the Contractor shall restore said portions of the work to the standard required by the Contract Documents. If the work thus exposed or examined proves acceptable, the uncovering or removing and the replacing of the covering or making good of parts removed shall be at the Owner's expense; but if the work so exposed or examined proves unacceptable, the uncovering or removing and the replacing of the covering or making good of the defective work shall be at the Contractor's expense.

2.8 CORRECTION OF WORK

- 2.8.1** No extension of time will be allowed the Contractor in connection with the correction of work that fails to conform with the Contract Documents.
- 2.8.2** The Contractor shall promptly correct all Work rejected by either the Architect/Engineer or the Field Representative as defective or as failing to conform to the Contract Documents whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all cost of correcting rejected Work, including the cost of the Architect/Engineer's services, the Field Representative and the Owner's additional services.
- 2.8.3** After being notified in writing by the Architect/Engineer, or Field Representative, of work that is not in accordance with the requirements of the Contract Documents, or of any defects in the Work, the Contractor shall promptly commence and prosecute with due diligence all work necessary to fulfill the terms of the Contract, and to complete the corrective Work within a reasonable period of time.
- 2.8.4** If the Contractor is notified by the Owner to correct defective or nonconforming work, and the Contractor fails to promptly proceed with corrective action in a reasonable time, the Owner may, upon written notice, accomplish the redesign, repair, rework or replacement of nonconforming work by the most expeditious means available and back charge the Contractor for the cost incurred. The cost of back charge work shall include all reasonable costs, including but not limited to A&E and/or consultant work if required, associated with the corrective action.
- 2.8.5** The Owner shall separately invoice or deduct from payments, otherwise due to the Contractor, the costs to promptly remedy non-conforming work. The Owner's right to back charge is in addition to any or all other rights and

remedies provided in this Contract, or by law. The performance of back charge work, on behalf of the Owner, shall not relieve the Contractor of any of its responsibilities under this Contract including but not limited to express or implied warranties, specified standards for quality, contractual liabilities and indemnifications, and the Contract Time.

- 2.8.6** The Contractor shall bear the cost of making good all work of separate contractors destroyed or damaged by such removal or correction.
- 2.8.7** Notwithstanding the foregoing provisions, in the event of an emergency, constituting an immediate hazard to the health or safety of personnel and/or property, lessees, or the general public, the Owner, without prior notice, has the right but not the obligation to undertake at the Contractor's expense, all work necessary to correct such hazardous condition when it was caused by work of the Contractor not being in accordance with the requirements of this Contract.
- 2.8.8** Nothing contained herein shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the Contract Documents.

ARTICLE 3 - ARCHITECT, ENGINEER, CONSULTANTS, AND THE FIELD REPRESENTATIVE**3.1 AUTHORITY OF THE ARCHITECT/ENGINEER AND THE CONSULTANTS**

- 3.1.1** The Architect/Engineer and/or Consultants shall respond to questions which may arise as to the quality and acceptability of materials furnished, work performed, and as to the manner of performance and rate of progress of the work. The Architect/Engineer shall decide all questions which may arise as to the interpretation of the Specifications or Plans relating to the Work, and the fulfillment of the Contract on the part of the Contractor.
- 3.1.2** The Architect/Engineer or Consultants are not authorized to revoke, alter, or waive any requirement of the Contract.
- 3.1.3** Where the Contract Documents provide for decisions or other actions by the Architect/Engineer, the same shall be final and binding upon the Contractor.
- 3.1.4** The Architect/Engineer and Consultants shall have free access to the Work and materials at all times to facilitate the performance of his duties.
- 3.1.5** The Architect/Engineer and Consultants shall have the right to reject any material or work performed which does not meet the requirements of the Contract Documents. When the Architect/Engineer or Consultants discover any work in progress that does not meet the requirements of the Contract Documents, the Architect/Engineer and Consultants shall reject that portion of the work affected and shall confirm such rejection in writing, as soon as practical, detailing the reasons for the rejection. Work rejected by the Architect/Engineer or Consultants will not be paid for.
- 3.1.6** The fact that the Architect/Engineer or Consultants have not made early discovery of materials furnished or work performed which does not meet the requirements of the Contract Documents, shall not bar the Architect/Engineer or Consultants from subsequently rejecting said materials or work.
- 3.1.7** The observation of the Work and actions by the Architect/Engineer and the Consultants, as herein provided, shall not be construed as undertaking supervisory control of the construction work or of means and methods employed by the Contractor or his subcontractors and shall not relieve the Contractor from any of his responsibilities or obligations under the Contract. The Contractor shall not request or attempt to require the Architect/Engineer or Consultants to undertake such supervisory control or to administer, to supervise, to inspect, to assist, or to act in any manner so as to relieve the Contractor from such responsibilities or obligations.
- 3.1.8** When any portion of the Work is planned to be built, assembled or performed away from the site, the Contractor shall in reasonable time but not less than seven (7) working days in advance notify the Architect/Engineer of such intentions, including where and when such work is to be performed. The Contractor shall also make arrangements for access thereto by the Architect/Engineer so that the aforementioned portions of the Work may be inspected as needed in order that same may be inspected by them.

3.2 AUTHORITY AND DUTIES OF THE FIELD REPRESENTATIVE

- 3.2.1** The Field Representative will administer the Contract and the orders of the Owner are to be given through the Field Representative. The Field Representative shall determine the amount and quality of the several kinds of work performed and materials furnished which are to be paid for under the Contract.
- 3.2.2** The Field Representative will observe the Contractor's work for compliance with the Contract Documents. Such observation shall extend to all or any part of the work done and to the preparation, fabrication, or manufacture of the material to be used.
- 3.2.3** The Field Representative shall call the Contractor's attention to faulty workmanship or defective materials and shall reject work and materials not conforming to the requirements of the Contract Documents. When the Field Representative discovers any work in progress that does not meet the requirements of the Contract Documents, the Field Representative shall reject that portion of the work affected and shall confirm such rejection in writing, as soon as practical, detailing the reasons for the rejection. Work rejected by the Field Representative will not be paid for.
- 3.2.4** The fact that the Field Representative has not made early discovery of materials furnished or work performed which does not meet the requirements of the Contract Documents, shall not bar the Field Representative from subsequently rejecting said materials or work and does not relieve the Contractor of his responsibility to meet the requirements of the Contract Documents.
- 3.2.5** When any work in progress does not meet the requirements of the Contract Documents, the Field Representative shall have the authority to order the Contractor to shut down that portion of the work affected and shall confirm this order in writing as soon as practicable, detailing the reasons for the shutdown. Work performed in violation of the Field Representative's order to shutdown will not be accepted or paid for.
- 3.2.6** The Field Representative is not authorized to revoke, alter, or waive any requirements of the Contract.
- 3.2.7** The Field Representative shall not act as a foreman or perform other duties for the Contractor, nor interfere with the management of the work by the Contractor.
- 3.2.8** Whenever the Contractor intends to build, assemble or perform any portions of the Work away from the site, the Contractor shall in reasonable time but not less than seven (7) working days in advance notify the Field Representative of such intentions, including where and when such work is to be performed. The Contractor shall also make arrangements for access thereto by the Field Representative and/or the Architect/Engineer so that the aforementioned portions of the Work may be inspected as needed in order that same may be inspected by them.
- 3.2.9** The administration of the Contract, observation of the Work, and actions by the Field Representative, as herein provided, shall not be construed as undertaking supervisory control of the construction work or of means and

methods employed by the Contractor or his subcontractors and shall not relieve the Contractor from any of his responsibilities or obligations under the Contract; the Contractor shall not request or attempt to require the Field Representative to undertake such supervisory control or to administer, to supervise, to inspect, to assist, or to act in any manner so as to relieve the Contractor from such responsibilities or obligations.

- 3.2.10** The Field Representative shall decide all questions relating to the rights of different contractors on the project.

3.3 OBSERVATION OF THE WORK

- 3.3.1** All materials and each part or detail of the Work shall be subject to observation by the Field Representative, the Architect/Engineer, and the Consultants. The Field Representative, Architect/Engineer, and the Consultants shall be allowed access to all parts of the Work and shall be furnished with such information and assistance by the Contractor as may be required for the observation of the Work.

- 3.3.2** Any work done or materials used without observation by the Field Representative may be ordered removed and replaced at the Contractor's expense unless the Field Representative failed to observe the work after having been given reasonable written notice (48 hours minimum).

- 3.3.3** Neither the Architect/Engineer, Consultants nor the Field Representative shall be responsible for any safety obligations imposed on the Contractor by applicable industry standards, licensing requirements, authorities having jurisdiction, laws or regulatory requirements.

3.4 OTHER AUTHORIZED INSPECTION

- 3.4.1** The Owner, including the Owner's agents and or consultants, the Lessee(s) and other agencies having jurisdiction over the work hereunder shall be afforded free access to the site to perform such inspections and tests as may be required to determine conformance of the Work with the Contract Documents.

ARTICLE 4 - OWNER**4.1 OWNER PROVIDED INFORMATION**

- 4.1.1** The records of borings, test excavations and other subsurface investigations, if any, are offered as information only and solely for the convenience of the Contractor. The Owner does not warrant or guarantee either that said records are complete or that the said records will disclose the actual subsurface conditions. The interpretation of the records and the conclusions drawn there from as to the actual existing subsurface conditions are the sole responsibility of the Contractor.
- 4.1.2** Any estimates of quantities of work or materials, based on said borings, test excavations and other subsurface investigations are not warranted to indicate the true quantities or distribution of quantities.

4.2 OWNER PROVIDED ITEMS

- 4.2.1** The Owner may contract a Threshold Inspector to perform inspection services during construction of the Project pursuant to Florida Statutes, as may be warranted by the size and scope of the project.
- 4.2.2** The Contractor shall schedule, coordinate delivery of, store, install, and otherwise incorporate into the Project any materials, equipment, or item(s) that may be donated to the Owner for the Project. Contractor shall maintain all responsibilities for the donated item(s) as if the item had been supplied by the Contractor.
- 4.2.3** If the Owner elects to pursue a direct purchase program, the Contractor shall aid the Owner in the procurement of tax-exempt materials and equipment pursuant to Article 14 – County Purchases.
- 4.2.4** The Contractor shall choose vendors, determine quantities, schedule, coordinate delivery of, store, install, and otherwise handle and incorporate into the Project any materials, equipment, or item(s) that the Owner may elect to purchase directly for the Project. Contractor shall maintain all responsibilities for the owner-purchased item(s) as if the item had been supplied by the Contractor.
- 4.2.5** Savings achieved through all Owner's direct purchase program shall become part of the project's contingency account, and the Contractor shall not be entitled to these funds unless authorized by work order or change order.

4.3 SAMPLING AND TESTING

- 4.3.1** Sampling and testing of all materials shall be as set forth in the Contract Documents. Except for quality control testing and any other testing that may be the direct responsibility of the Contractor as set forth in the Contract Documents, the testing of samples and materials will be made at the expense of the Owner by the project testing laboratory. The Contractor shall furnish the required samples without charge. Any and all fees for non-conforming materials or work shall be solely borne by the Contractor. The Contractor shall give sufficient notification (no less than 48 hours) to the

Field Representative of the placing of orders for or receipt of materials to permit testing.

4.3.2 The Field Representative may inspect, at its source, any specified material or assembly to be used in the Work. Manufacturing plants may be inspected from time to time for the purpose of determining compliance with specified manufacturing methods or materials to be used in the Work and to obtain samples required for its acceptance of the material or assembly. Should the Field Representative conduct plant inspections, the following shall exist:

- A) The Field Representative shall have the cooperation and assistance of the Contractor and the producer with whom he has contracted for materials.
- B) The Field Representative shall have full entry at all reasonable times to such parts of the plant that concern the manufacture or production of materials being furnished.
- C) If required by the Field Representative, the Contractor shall arrange for adequate office or working space that may be reasonably needed for conducting plant inspections. Office or working space should be conveniently located with respect to the plant.

4.3.3 It is understood and agreed that the Owner and the Architect/Engineer shall have the right to retest any material which has been tested and approved at the source of supply after it has been delivered to the site. The Field Representative shall have the right to reject only material which, when retested, does not meet the requirements of the Contract Documents. In such an event, the cost of re-testing shall be borne by the Contractor if it results in a rejected material.

4.3.4 All inspections and testing of materials, assemblies and equipment will be performed in Miami-Dade County. If the Contractor's material or manufacturing sources are such that inspections or tests cannot be made in Miami-Dade County, all traveling and lodging expenses in connections with such inspections and testing shall be borne by the Contractor.

4.4 ART IN PUBLIC PLACES

4.4.1 This project is subject to the Miami-Dade County Art in Public Places requirements, pursuant to Section 2-11.15 of the Code of Miami-Dade County, managed by the Miami-Dade County Department of Cultural Affairs as detailed in Procedure 358 in the Miami-Dade County Procedures Manual - see <http://www.miamidadepublicart.org/#tools> or <http://intra.miamidade.gov/managementandbudget/procedures.asp> or <http://intra.miamidade.gov/managementandbudget/library/procedures/358.pdf>

4.4.2 Miami-Dade County has or will commission an artist(s) for the design of integrated work(s) of art for this Project. The General Contractor shall closely coordinate all aspects of his work with the work of the artist at no additional cost to the Owner. Refer to "Art in Public Places Coordination" section 01 3110 for Additional Contractor's Responsibilities.

4.5 INTEREST OF PUBLIC OFFICIALS

4.5.1 No officer or employee of Miami-Dade County during his tenure or for two years thereafter shall have any interest, direct or indirect, in this Contract or the proceeds thereof.

ARTICLE 5 - CONTRACTOR**5.1 PRE-CONSTRUCTION MEETING**

5.1.1 A Pre-construction Meeting will be held prior to the issuance of the Notice to Proceed (NTP) to discuss the work to be performed under this Contract. The Contractor and his major Subcontractors shall be required to attend this meeting. The Contractor will be advised of the time, date and location of the meeting.

5.2 COMMENCEMENT AND PROSECUTION OF WORK

5.2.1 If the Contractor hereunder is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

5.2.2 The Contractor and its sub-contractor's shall hold valid current certificate(s) of competency for the type of work to be performed, in accordance with the qualifications requirements as set forth in Chapter 489 of the Florida Statutes and Chapter 10 of the Code of Miami- Dade County.

5.2.3 The Contractor shall maintain within Miami-Dade County, Florida, a duly authorized agent to accept service of legal process on its behalf, and shall keep the Owner advised of such agent's name and address, during the duration of the Contract, and for three (3) years after final payment or as long as Contractor has warranty obligations under these Contract Documents, whichever period terminates later.

5.2.4 Contingent upon the Contractor's satisfactory submittal of all required documentation, and after the execution of the Contract, the Owner will initiate a written notice to the Contractor to proceed with the work, which said Notice to Proceed (NTP) shall direct the Contractor to commence work on a certain day. The time within which all of the work is to be completed following the giving of the Notice to Proceed shall be as stipulated in the Bid Form of these Contract Documents.

5.2.5 No work is to be performed at the Work site until the Contractor is in compliance with the Insurance Specifications, has furnished satisfactory evidence of required insurance to the Owner and obtained all required permits.

5.2.6 The Contractor shall commence the Work on the day stated in the Notice to Proceed and shall prosecute the Work in a manner that will insure completion within the specified Contract time, as time is of the essence.

5.3 CONTRACTOR'S RESPONSIBILITY FOR THE WORK

5.3.1 The Contractor shall be responsible for the complete performance for all of the Work under the Contract, and for the methods, means, and equipment used in performing the Contract and for all materials, tools, apparatus and property of every description used in connection therewith.

5.3.2 Contractor shall negotiate and subcontract the Work in a manner that the County's Ordinances and the Community Small Business Enterprise and Community Workforce Program goals for the Project can be met.

- 5.3.3** The Contractor shall give constant attention to the Work to facilitate the progress thereof, and he shall cooperate with the Architect/Engineer, Consultants and the Field Representative and with other contractors in every way possible.
- 5.3.4** The Contractor shall maintain the Work during construction and until the Work is accepted by the Owner.
- 5.3.5** Until Final Acceptance by the Owner of any part or all of the Work as provided in these Contract Documents, all work performed and materials delivered shall be under the charge and care of the Contractor, and he shall take every necessary precaution to protect against loss or damage to any part of the Work by the action of the elements or from any other cause whatsoever, whether arising from execution or from the non-execution of the Work. The Contractor shall rebuild, repair, restore, and make good at his own expense all loss or damage to any portion of the Work occasioned by any of the foregoing causes before its completion and acceptance.
- 5.3.6** The Contractor shall make no arrangements with any person to permit occupancy or use of any land, structure or building within the Work Site for any purpose whatsoever, either with or without compensation, in conflict with any agreement between the Owner and any property owner, former property owner or tenant of such land, structure or building without obtaining prior written approval from the Owner. The Contractor shall not occupy County-owned property outside the Work Site without obtaining prior written approval from the County.
- 5.3.7** The Contractor shall bear the risk of injury, loss or damage to any and all parts of the Work for whatever cause, whether arising from the execution or from the non-execution of the Work. The Contractor shall provide security including, but not limited to, security guards, temporary drainage systems and erection of temporary structures and temporary fencing as necessary to protect the Work and materials from damage.
- 5.3.8** The Contractor shall be responsible for scheduling and coordinating the work of all crafts and trades required to perform the Work and to complete the Work within the prescribed time. Any inefficiency or loss of productivity in the labor, materials, or Special Equipment of the Contractor or his Subcontractors of any tier, from any cause, shall be the responsibility of the Contractor. No reimbursement of any Indirect Costs or any Direct Costs can be requested by or granted to the Contractor or any of his Subcontractors of any tier for inefficiency or loss of productivity in labor, materials, or Special Equipment. Additional Direct Costs may only be paid to the Contractor as a result of additional work added to the Contract scope of work.
- 5.3.9** Contractor shall receive from Subcontractors and separate contractors, and review, all certificates of insurance, shop drawings, product data, samples and other submittals; coordinate them with information contained in the Contract Documents and transmit to the Architect/Engineer and the Field Representative those recommended for approval; and develop an electronic routing schedule and log of all submittals which log shall be shared with the Architect/Engineer and Owner.

- 5.3.10** The Contractor shall comply with all legal load restrictions in the hauling of materials on public roads beyond the limits of the Work. A special permit will not relieve the Contractor of liability for damage that may result from the moving of material or equipment. The operation of equipment of such weight or so loaded to cause damage to structures or to any other type of construction will not be permitted. Hauling of materials over the base course or surface course under construction shall be limited and not cause any damage. The Contractor shall be responsible for all damage done by its hauling equipment and shall correct such damage at its own expense.
- 5.3.11** The Contractor shall be responsible for materials not delivered to the site for which any progress payment has been made to the same extent as if the materials were so delivered.
- 5.3.12** The Contractor's responsibility for material shall be the same for Owner-furnished material, upon receipt of said material from the Owner, under this Contract as for Contractor-furnished material.
- 5.3.13** Upon acceptance of the Contractor's baseline schedule and after the acceptance of a revised schedule, the Contractor will submit written confirmation within seven (7) work days from all his Subcontractors agreeing to work within the timeframes specified in the Contractor's schedule. This confirmation shall include a rough manpower curve. Failure to submit such confirmation shall not relieve the Contractor from completing the Work within the Contract Time, nor shall that be a basis for Contractor or sub-contractor's request for additional time or compensation. However, failure to submit such confirmation may be a basis for the Owner to deny future requests for additional time or compensation.

5.4 CONTRACTOR'S KEY PERSONNEL FACILITIES AND EQUIPMENT

- 5.4.1** The Contractor shall employ and maintain proper staffing levels, labor and equipment at all times for the duration of the Contract, and shall have at all times on the site of the Work, key personnel capable of reading and thoroughly understanding the Contract Documents, and be able to effectively communicate with the owner, Field Representative, Architect/Engineer, Consultants, and Subcontractors. Key personnel shall have full authority to promptly supply all materials, tools, plant, equipment, and labor as may be required for prosecuting the Work to full completion in the manner and time required by the Contract Documents. All workers shall have sufficient skill and experience to properly perform the work assigned to them. Workers engaged in skilled work or special work shall have sufficient experience in such work and in the operation of the equipment required to perform the work with skill.
- 5.4.2** The Contractor shall employ key personnel to include a competent project executive, project manager(s), superintendent(s) and necessary assistants who shall be in full-time attendance at the project site for the duration of the work. The Contractor shall provide a superintendent at the site at all times who is competent in the type of work being performed to act as the Contractor's agent, and shall give that superintendent the full authority to receive instruction from the Field Representative or Architect/Engineer and to execute the order or directions of the Field Representative or

- Architect/Engineer, including the prompt supply of all materials, tools, equipment, labor, and incidentals that may be required. The Contractor shall furnish such superintendence regardless of the amount of work that is subcontracted, and the superintendent shall read, speak, write and understand English. The Contractor shall also maintain at least one other employee on the work site during Project working hours who speaks and understands English. This superintendent shall be responsible for keeping written daily logs of the work on the project.
- 5.4.3** The competency of the superintendent shall be demonstrated through licensure or certification in contracting, engineering, trade or experience as applicable to the work being performed. Proof of licensure, certification or qualification of the superintendent must be provided to the Owner at the pre-construction meeting and prior to the NTP and is subject to the approval of the Architect/Engineer or Field Representative after Contractor submittal of said requirements.
- 5.4.4** In the event that the Field Representative or Architect/Engineer determines, through the course of the actual work progress, that the superintendent lacks the knowledge or expertise necessary to execute the work in an efficient and competent manner, in keeping with all current codes and best practices, the Field Representative or Architect/Engineer shall notify the Contractor in writing and the superintendent shall be replaced by the Contractor with a person acceptable to the Field Representative or Architect/Engineer within five (5) working days. The Contractor's failure to replace the superintendent in the time allotted shall be cause for the Owner to suspend work with such delays chargeable to the Contractor as Liquidated Damages as specified elsewhere in this contract.
- 5.4.5** Ten percent (10%) of the Contractor's next monthly payment shall be withheld from the next progress payment due the Contractor when (a) either the project executive, project manager(s), or superintendents are at any time for any reason (other than illness, vacation or resignation of employment) not available for work on the Project, and (b) the Contractor has not provided a replacement or substitute satisfactory to the Owner, in its sole discretion. The withheld portion of the Contract Sum shall be paid to the Contractor with first payment due the Contractor after the Contractor has made available the required persons.
- 5.4.6** The Contractor shall furnish all labor, materials, services and equipment sufficient for the prosecution of the work in an acceptable manner and at a satisfactory rate of progress.
- 5.4.7** Contractor shall retain and coordinate the professional services of surveyors, and any special consultants as may be required to complete the Work at no additional cost to the Owner.
- 5.4.8** All equipment, tools, and machinery used in the prosecution of the Work shall be maintained in a safe working condition and shall be appropriate for the work to be performed. All proposed equipment shall be of sufficient size and in such mechanical condition as to meet the requirements of the Work, producing at a minimum, a satisfactory quality of work. Equipment used on any portion of the Work shall be such that no injury to previously completed work, or adjacent property, will result from its use.

5.4.9 Contractor shall provide temporary construction office facilities, to include a separate air-conditioned trailer with toilet facilities, equipped to operate as a satellite office for the Field Representatives with appropriate office furniture for a minimum of four (4) staff members (desks, rolling chairs, secure filing cabinets, conference table and chairs, equipment and communications (not limited to internet, phones, scanner/printer and fax machine, etc.); provide separate temporary Project facilities, equipment, materials and services for common use among Subcontractors, and any other provisions per Division 1 – General Requirements - Section 01 5000 Temporary Facilities and Controls of the Contract Documents.

5.5 DAILY LOGS, WEEKLY CONSTRUCTION COORDINATION MEETINGS, AND MONTHLY PROGRESS REPORTS

5.5.1 Contractor shall keep an electronic daily log containing a record of weather, Subcontractors' work on the project, number of workers, work accomplished, deliveries received, problems encountered, and other similar relevant data as the Field Representative may require. The Contractor shall make the log available to the Owner and Architect/Engineer on a weekly basis or upon request by the Owner.

5.5.2 The Contractor shall submit to the Architect/Engineer and to the Field Representative the daily manpower count, by trade and position, no later than noon of the day following the day covered.

5.5.3 Contractor shall schedule at a minimum weekly construction coordination meetings, produce and electronically distribute meeting minutes, and chair weekly construction progress meetings. These meetings are intended to determine job progress, identify job problems, assist in solving and preventing job problems, and promote coordination with all entities involved in the Contract and with Owner Consultants and other contractors. The Contractor shall cause Subcontractors and Suppliers to attend as he deems advisable, or as requested by the Architect/Engineer. No less than two (2) working days prior to each meeting, the Contractor shall provide and distribute an agenda for the meeting, along with a progress report. The same distribution shall include minutes from the past week's progress meeting. Meetings shall be held on site at the Contractor's trailer, unless otherwise agreed by the Field Representative, and all project documentation shall be readily accessible for such meetings.

5.5.4 Contractor shall record the progress of the Project; submit written monthly construction progress reports to the Owner, Architect/Engineer, and Consultants pursuant to Division 01 General Requirements - Section 01 3216 Construction Schedule of the Specifications.

5.6 2-WEEK LOOK AHEAD

5.6.1 A two (2) week look ahead shall be provided by the Contractor no less than two (2) working days prior to each construction progress meeting. The two (2) week look ahead shall have enough detailed information as to the type of work being performed, the trade performing the work, the duration of the work, the expected completion date, the scheduled man power, and any

potential conflicts on the work as foreseen. The two (2) week look ahead shall be reviewed during the meeting.

5.7 SHOP DRAWINGS

- 5.7.1** The Contractor is responsible for the timely preparation of detailed shop drawings necessary for the fabrication, erection and construction of all parts of the Work in conformity with the Contract Documents and requirements of Division 1 General Requirements Section 01 3216 of the Project Manual.
- 5.7.2** The Contractor is responsible to submit to the Owner and Architect/Engineer an overall shop drawing schedule at the beginning of the Project for review and approval.
- 5.7.3** If the re-submittal of any shop drawing is in excess of two (2) times for the same item, it will be the basis for additional compensation for the Architect/Engineer and/or Consultant(s) time and effort. Contractor will be responsible for such additional costs.
- 5.7.4** **RIGHTS IN SHOP DRAWINGS:** Shop Drawings submitted to the Architect/Engineer by the Contractor, pursuant to the Work, may be duplicated by the Owner and the Owner may use and disclose, in any manner and for any purpose as the Owner deems appropriate. This paragraph shall be included in all subcontracts hereunder at all tiers.

5.8 CONSTRUCTION SCHEDULES

- 5.8.1** The construction of this project will be planned and recorded with a conventional Critical Path Method (CPM) Format using a Computerized Project Planner Format Primavera Project Planner as specified in Division 1 of the Project Manual. The Construction Schedules shall be used for coordination, monitoring, analysis of any delay claims, and payment of all work under the Contract including all activities of subcontractors, vendors, and suppliers. The Contractor shall be solely responsible for the preparation, revisions and updating of the Construction Schedules.
- 5.8.2** As a condition precedent to any progress payment, the Contractor shall update the Project Schedule every month prior to submitting an application for payment, showing actual progress versus scheduled progress. The Owner, Architect and Consultants will review the updated Project Schedule to evaluate the progress of the Work and allocate responsibility, if the Project is behind schedule. The Contractor is not to revise the Project Schedule as part of the payment application. Revised schedules are to be submitted separately for review and acceptance.
- 5.8.3** If at any time the submitted product, in the opinion of the Owner, does not accurately reflect the critical path items or proper durations, does not exhibit proper float, or in any way does not represent an industry standard product, it will be rejected and transmitted back to the Contractor for corrections within four (4) working days at no additional cost to the Owner. No additional time to the Contract will be provided for corrections to the Project Schedule. The Owner reserves the right to require such information from the Contractor as may be necessary to determine the accuracy of the Project Schedule and any updates thereof. Failure to provide the monthly

Project Schedule will preclude the Contractor from submitting a delay claim and receiving full progress payment(s). The Contractor will indemnify the Owner from subordinate delay claims.

5.8.4 Contractor shall prosecute the Work in accordance with the approved Project Schedule or most recently approved revision to the Project Schedule. In the event that progress along the critical path is delayed for reasons unrelated to the action or inaction of the Owner and its representatives, the Contractor shall revise his planning to include additional forces, equipment, shifts or hours as necessary to meet the time or times of completion specified in this Contract and submit such plan to the Owner for review and approval. In addition, the Contractor shall revise the Project Schedule to reflect these recovery actions and submit it to the Owner for review and approval. Additional costs resulting from non-excusable delays will be borne by the Contractor. Delayed progress is defined as:

- A) A delay in the start or finish of any activity on the critical path (critical path is defined as the path with the least amount of float) of the approved Project Schedule or most recently approved revision to the Schedule; or
- B) A delay in the start or finish of any non-critical activity which consumes more than the available float shown on the approved Project Schedule or most recently approved revision to the Project Schedule, thereby making the activity critical and late; or
- C) A projected completion date shown on a schedule update which is later than the contractual completion date; or
- D) Any combination of the above.

5.8.5 Unless the Architect/Engineer certifies that the revised Project Schedule accurately reflects the status of the Project, an amount equal to the Architect/Engineer's estimated cost to the Owner for obtaining a revised Project Schedule shall be deducted from the Monthly Requisition for Payment. The Contractor's failure to provide a conforming Project Schedule shall not relieve the Contractor from his responsibility to complete the project within the Contract requirements.

5.8.6 Failure of the Contractor to comply with the requirements under this provision will be grounds for determination that the Contractor is not prosecuting the Work with such diligence as will ensure completion within the Contract Time. Upon such determination, the Owner may terminate the Contractor's right to proceed with the Work, or any separate part thereof, in accordance with the Contract Documents. If in the Contractor's estimation, the cause(s) of delay are beyond the Contractor's control, the Contractor shall strictly adhere to the sections of the Contract Documents related to extensions of time, claims and others as appropriate.

5.9 SAFETY AND FIRE PREVENTION

5.9.1 The Contractor shall comply with the rules and regulations of the Florida Department of Commerce regarding Industrial Safety under Florida Statutes, Safety Rules Workers Compensation Laws and with United States Williams Steiger Occupational Safety and Health Act of 1970 commonly

- referred to as "OSHA," as applicable, and other national consensus standards of safety pertaining to particular trades.
- 5.9.2** The Contractor shall assign a qualified Safety Officer for the Project and hold safety meetings onsite at regular intervals, these meetings shall be announced so that the Owner may attend.
- 5.9.3** The Contractor shall not endanger, by cutting, digging, loading or otherwise, the structural integrity or overall safety of any structure, installation, facility, work in progress or work completed.
- 5.9.4** Materials stored upon the Site or along the route of the work shall be so placed and the work shall be so conducted as to cause no obstruction to traffic other than as provided in these Contract Documents.
- 5.9.5** The Contractor shall furnish and erect signs, barricades, lights, flags and other protective devices as may be required, to protect pedestrian and vehicular traffic and the work. All such signs, barricades, lights, flags and other protective devices shall be in accordance with the requirements of the Contract Documents and applicable safety standards.
- 5.9.6** The Contractor shall furnish flaggers in sufficient numbers to protect and divert vehicular and pedestrian traffic from working areas closed to or affecting traffic, or to protect any new work.
- 5.9.7** The Contractor and all Subcontractors shall be governed by the provisions of the Miami-Dade County, Florida, Fire Prevention and Safety Code, and shall take all necessary precautions to guard against and eliminate all possible fire hazards and to prevent injury to persons or fire damage to any construction, building materials, equipment, temporary field offices, storage sheds, and all other property, both public and private, particularly when gas or arc welding and torch cutting is taking place.
- 5.9.8** Contractor shall develop procedures for implementation and enforcement of the Safety Program at the Project Site, incorporate the Safety Program in Subcontracts, and oversee implementation of safety procedures.
- 5.9.9** Prior to commencement of the work, the Contractor shall provide a Safety Program and Safety Manual, which establishes procedures for implementation and enforcement of safety in the Project, and is consistent with the Specifications for the approval of the Owner. Approval of the Safety Program and Safety Manual by the Owner does not constitute responsibility for its implementation.
- 5.9.10** In order to provide safety controls for protection to the life and health of employees and other persons, for prevention of damage to property, materials, supplies and equipment, and for avoidance of work interruptions in the performance of the Contract, the Contractor shall comply with all pertinent provisions of the Safety Manual and shall take or cause to be taken such additional measures as may be determined necessary for the purpose.
- 5.9.11** Prior to commencement of the work, the Contractor shall provide a Hurricane Plan, which establishes procedures for implementation and enforcement at times of Hurricane Watch and Warning for Owner approval.

Approval of the Hurricane Plan by the Owner does not constitute responsibility for its implementation.

5.10 ACCIDENT PREVENTION

- 5.10.1** Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
- A) All persons on the Site or who may be affected by the Work;
 - B) All the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and other property at the Site or adjacent thereto, including trees, shrubs lawns, walks, pavements, roadways, structures, utilities, and underground facilities not designated for removal, relocation, or replacement in the course of construction.
- 5.10.2** Contractor shall comply with all applicable laws and regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss and shall erect and maintain all necessary safeguards for such safety and protection.
- 5.10.3** Upon notification from the Owner or its representative(s), the Contractor shall promptly correct any deficiencies affecting the safety and well-being of the construction workers and the public that have been identified by the notice.
- 5.10.4** Should a situation of imminent danger be identified, work in the affected area must be suspended immediately until the condition has been corrected. Imminent danger is defined as the exposure or vulnerability to harm or risk that is impending or about to occur as defined by the Field Representative or the Architect/Engineer. The Contractor will not be entitled to future claims alleging impacts caused by the Owner stoppage of the Work due to safety reasons.

5.11 EMERGENCIES

- 5.11.1** In an emergency affecting the safety of life, the Work, or adjacent property, the Contractor shall notify the Field Representative as early as possible that an emergency exists. In the meantime, without special instruction from the Owner as to the manner of dealing with the emergency, the Contractor shall act at his own discretion to prevent such threatened loss or injury. As emergency work proceeds, the Field Representative may issue instructions, which the Contractor shall follow. The amount of time extension and/or compensation to which the Contractor is entitled on account of emergency work, if any, shall be limited to emergencies not caused by actions or inactions of the Contractor and determined in accordance with the Contract Documents, where applicable.
- 5.11.2** For purposes of this Article, an emergency is defined as an act or event that has already occurred, not caused by actions or inactions of the Contractor, which, if no immediate action is taken may affect the safety of life, the Work, or adjacent property. This article does not apply to steps taken by the Contractor to protect the Work, adjacent structures, utilities,

existing vegetation, or preparations the Contractor may make prior to storms or hurricanes or other acts of God.

5.12 ENVIRONMENTAL CONSIDERATIONS AND PROTECTION

- 5.12.1 Air pollution:** The Contractor shall use emissions control devices on gasoline or diesel powered construction equipment and minimize idling and unnecessary operation of equipment to prevent and control air pollution in accordance with criteria issued by Federal, State and local agencies having relevant jurisdiction.
- 5.12.2 Dust Control:** The Contractor shall employ appropriate measures to control the generation and accumulation of dust at the site. Sprinkling with water or other suitable means shall be used to prevent the dispersal of substantial amounts of dust produced by the work. Collection and removal measures shall be employed to prevent accumulation of dust deposits.
- 5.12.3 Flammable Materials:** The Contractor shall store petroleum products, paint and other flammable materials in designated locations and in compliance with fire safety regulations. Spillages shall be collected and legally disposed of promptly and in a manner consistent with fire safety regulations and environmental protection regulations issued by Federal, State and local agencies having relevant jurisdiction.
- 5.12.4 Noise Controls:** The Contractor shall minimize noise caused by work operations. The Contractor shall provide machinery and equipment fitted with efficient noise-suppression devices for protection of employees and public and shall schedule working hours and operations to minimize public disturbance in vicinity of work. The Contractor shall employ sound barriers as directed by the Architect/Engineer.
- 5.12.5 Fumes:** The Contractor shall not conduct operations that will result in the production of noxious, flammable, explosive or odoriferous fumes in locations or in quantities that constitute a hazard to health or safety or an objectionable environment for workers or the public.
- 5.12.6 Adjacent Occupancies:** The Contractor shall make every effort to minimize or eliminate any impacts to adjacent uses paying extra attention to areas that are close to populations with children and/or elderly members of the public. This includes but is not limited to nearby public ways or transportation stops, and any other areas inside the Site or adjacent to.
- 5.12.7** No additional payment will be made to the Contractor for signs, barricades, lights, flags, watch persons, flaggers, fire extinguishing apparatus and personnel, and/or other protective devices.
- 5.12.8 Florida Trench Act:** The Contractor and all his subcontractors performing trench excavation on this Contract shall comply with the Florida Trench Safety Act (Sections 553.60-553.64, Florida Statutes) and the Occupational Safety and Health Administrations' (OSHA) trench excavation safety standards, 29 C.F.R., s.1926.650, Subpart P, including all subsequent revisions or updates to these standards as adopted by the Department of Labor and Employment Security (DLES). The Contractor shall consider all available geotechnical information in his design of the trench excavation

safety system. Inspections required by OSHA trench excavation safety standards shall be provided by the Contractor.

- 5.12.9** The Contractor shall comply with all Federal, State, and local laws and regulations controlling pollution of the environment. The Contractor shall take necessary precautions to prevent pollution of water including streams, lakes, ponds, underground waters, aquifers and reservoirs with fuels, oils, bitumens, chemicals, or other harmful materials and to prevent pollution of the atmosphere from particulate and gaseous matter.

5.13 AS-BUILT INFORMATION

- 5.13.1** A complete set of Contract Documents will be supplied to the Contractor for recording As-Built information. These Contract Documents shall be kept on the job site at all times and all changes marked in red as the work progresses. The Field Representative will coordinate the review of As-Built Drawings/Specifications at least weekly by the responsible architectural or engineering discipline(s). An As-Built Drawings/Specifications Review Log will be signed by each architectural or engineering discipline representative attesting to its review of the As-Built Drawings/Specifications. A copy of the log will be attached to the minutes of the Weekly Construction Meeting. The Field Representative shall report on the status of As-Built Drawings/Specifications at the Weekly Construction Meeting. Upon completion of the Work and prior to approval of the Application for Final Payment, the complete set of As-Built Drawings/Specifications will be delivered to the Field Representative, as one (1) hard copy and in an electronic format.
- 5.13.2** Drawings/Specifications is current as of the date of the Contractor's Monthly Requisition for Payment, an amount equal to the Architect/Engineer's estimated cost to the Owner to make them current will be deducted from the Monthly Requisition for Payment. Certification by the Architect/Engineer of the current status does not certify that the information contained in the As-Built Drawings/Specifications is accurate.
- 5.13.3** The Contractor shall provide complete and accurate As-Built information to the same degree of detail as the Contract Documents. Dimensioned features shall be re-dimensioned as necessary in As-Built submittals and unaltered design dimensions clearly verified. Work requiring survey layout will be recorded by submission of a Florida Registered Land Surveyor's certified survey.
- 5.13.4** Incomplete or incorrect As-Built information shall constitute "faulty workmanship" subject to the remedies set forth in the Contract Documents including those provided under the Performance Bond.
- 5.13.5** The Contractor shall submit, as a part of his monthly pay request, his certification that As-Built drawings/Specifications have been brought up to date as specified in this Article, that supplemental data, surveys, etc. have been recorded and that records are transmitted to the Architect/Engineer or available for review. The maintenance and updating of As-Built records shall constitute an essential step in the completion of the various items of Work under the contract which shall be reflected in the payment to be made for such items of work.

5.14 QUALITY OF WORK - WORKMANSHIP

5.14.1 Work under this Contract shall be performed in a skillful and workmanlike manner. Unless otherwise indicated in the Contract Documents, the Contractor shall be solely responsible for means and methods and for the coordination of all trades through completion of the Work and without damage to the existing or newly installed components and surfaces. The Architect/Engineer or Field Representative may, in writing, require the Contractor to remove from the Work any employee the Architect/Engineer or Field Representative determines incompetent, careless or otherwise objectionable. Such request shall be at no cost to the Owner.

5.15 MATERIALS - QUALITY OF MATERIALS

5.15.1 The Contractor warrants to the Owner, and the Architect/Engineer that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that the work will be of good quality, free from faults and defects in materials and workmanship for a period of one year from the date of Substantial Completion, unless otherwise required under this Contract. Work not conforming to these standards may be considered defective. If required by the Architect/Engineer, Consultants, or the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

5.15.2 The Owner will have no responsibility to the Contractor concerning changes in material cost due to fluctuations in monetary exchange rates or materials value.

5.16 MATERIALS – APPROVAL, ACCEPTANCE, SALVAGE AND DISPOSAL

5.16.1 The Contractor shall submit a complete list of the sources of supply and the manufacturers of all items of materials, equipment and machinery prior to the commencement of any work. In order to expedite the acceptance of materials, the Architect/Engineer may require the Contractor to furnish complete statements as to the origin, composition, and manufacture of all materials to be used in the Work. Such statements shall be furnished sufficiently in advance of the delivery of such materials.

5.16.2 Source of Supply and Quality of Materials: The Contractor shall furnish all materials and products required to complete the Work except those designated to be furnished by the Owner.

A) Notwithstanding prior inspection and approval by the Architect/Engineer, only materials conforming to the requirements of the Contract Documents shall be incorporated in the Work.

B) The materials shall be manufactured, handled and incorporated so as to ensure completed work in accordance with the Contract Documents.

5.16.3 The materials used on the Work shall conform to the requirements of the Contract Documents and may be subject to inspection, testing and approval by the Architect/Engineer and/or Owner before incorporation in the Work. Unless otherwise specified, such materials that are manufactured or processed shall be new (as compared to used or reprocessed).

- 5.16.4** At the Architect/Engineer's option, materials may be approved at the source of supply before delivery is slated. If it is found after trial that sources of supply for previously approved materials do not produce specified products, the Contractor shall furnish materials from other sources at no additional cost to the Owner.
- 5.16.5** Any work in which untested materials are used without approval or written permission of the Architect/Engineer shall be performed at the Contractor's risk. Materials found to be unacceptable and unauthorized will not be paid for and, if directed by the Architect/Engineer, shall be removed at the Contractor's expense. Unless otherwise designated, Quality Assurance tests performed in accordance with the requirements of Contract Documents will be made by the Architect/Engineer or the Project Testing Laboratory at the expense of the Owner. Samples will be taken by the Architect/Engineer or the Project Testing Laboratory. All materials being used are subject to inspection, test, or rejection at any time prior to or during incorporation into the work and until Final Acceptance of the Work. Copies of all tests will be furnished to the Contractor's representative at his request.
- 5.16.6** Samples of all materials to be tested, upon which the acceptance or rejection thereof is to be based, shall be taken by the Architect/Engineer or the Project Testing Laboratory. Materials may be sampled either prior to shipment or after being received at the Site.
- 5.16.7** The Contractor shall provide such facilities as the Architect/ Engineer or the Testing Laboratory may require for conducting field tests and for collecting and forwarding samples. The Contractor shall not use or incorporate into the work any materials represented by the samples until tests have been made and the materials found to be acceptable. Only materials conforming to the requirements of the Contract Documents shall be used in the Work.
- 5.16.8** Ownership of all salvaged equipment and materials, surplus excavation, waste and excess materials, etc. shall remain with the Contractor, unless stated otherwise in the Contract Documents, who shall legally dispose of such equipment, materials and surplus excavation, etc. at a legal disposal site(s) provided by and at the expense of the Contractor, away from the project site and in compliance with all local, state and federal requirements for disposing of waste and excess materials. The Architect/Engineer may direct the Contractor to dispose of all or any class of salvage material to a fill or storage site on or adjacent to the work area, at no additional cost to the Owner.
- 5.16.9** Prior to disposing of material outside the Work Site, the Contractor shall obtain written permission from the owner on whose property the disposal is to be made. The Contractor shall file with the Architect/Engineer said permit, or a certified copy thereof, together with a written release from the property owner absolving the Owner from any and all responsibility in connection with the disposal of material on said property.

5.17 MATERIALS AND EQUIPMENT – HANDLING AND STORAGE

- 5.17.1** Before commencing work, the Contractor shall consult with the Architect/Engineer and/or Owner as to available space for temporary storage of materials, location of temporary structures, if any, equipment and other property of the Contractor. Locations determined for such storage of materials, temporary structures, equipment and other property shall be temporary, and the Contractor shall be required to relocate the same as directed by the Architect/Engineer to avoid interference with operations of the Owner or with the work of other contractors on the job site. Temporary structures shall be neat in appearance, shall not constitute a fire hazard and shall be properly maintained.
- 5.17.2** Any space that the Contractor may require for plant, equipment, storage or other purposes, in addition to that set forth above, shall be procured by the Contractor and the cost thereof shall be included in the price(s) Bid for the Work. Stored materials, structures, equipment and other property shall remain the property of the Contractor and he shall be solely responsible for the protection of such property from theft, and damage of any sort. To this end, the Contractor shall provide at no additional cost to the Owner all secured enclosures, permits, security personnel, material inventory programs and any other means necessary for the protection of his property. The granting of rights of storage on Owner property shall in no way obligate the Owner for protection or replacement of loss of such stored property.
- 5.17.3** Materials shall be so stored as to assure the preservation of their quality and fitness for the work. Stored materials, even though approved before storage, may again be inspected prior to their use in the Work. Stored materials shall be located and labeled so as to facilitate their prompt inspection. The Contractor shall coordinate the storage of all materials with the Architect/Engineer. Materials shall be stored on Owner property or in approved bonded warehouse(s). Unless otherwise shown on the Plans, the storage of materials and the location of the Contractor's plant and parked equipment or vehicles shall be as directed by the Architect/Engineer and/or the Field Representative.
- 5.17.4** Unless otherwise specified or directed by the Architect/Engineer, all storage sites shall be restored to their original condition by the Contractor at no additional cost to the Owner.
- 5.17.5** Unless otherwise specified in the Bid Solicitation, prices quoted shall be F.O.B. final destination. Freight costs shall be included in the proposed price.
- 5.17.6** Materials shall be transported, handled and stored by the Contractor in a manner which will ensure the preservation of their quality, performance, appearance and fitness for the Work. Materials shall be stored in a manner to facilitate inspection.
- 5.17.7** The Contractor shall make all necessary arrangements with the owners of material sources. The Contractor shall pay all costs in connection with making such arrangements, exploring, developing and using material sources. The Owner will have no responsibility to the Contractor concerning local material sources.

5.18 MATERIALS - PROPERTY RIGHTS

5.18.1 The Contractor shall have no property right in materials after they have been attached or affixed to the Work or the soil, or after payment has been made by the Owner to the Contractor for materials delivered to the site of the Work, or stored subject to or under the control of the Owner, as provided in these Contract Documents. However, the Contractor shall be responsible for the security of the material on-site until Final Acceptance by the Owner.

5.19 SIGNS

5.19.1 The Contractor will provide, at a minimum, a construction sign as called for in the Contract Documents and Division 01 General Requirements, Section 01 5000 – Temporary Facilities and Controls. This sign shall contain the required acknowledgement of project funding sources as outlined by the Owner.

5.19.2 In the event that the Contractor intends to put up other signage on or around the site that is not called for in the Construction Documents it shall be subject to review and approval by the Owner.

5.20 PAYMENT OF WAGE RATES AND BENEFITS

5.20.1 The Contractor and each Subcontractor under him shall pay or cause to be paid, to all employees under them, the wages and benefits as reflected in the Wage and Benefits Schedules incorporated into the Bid Forms of these Contract Documents. The Contractor and each Subcontractor under him shall comply with all of the requirements of the Miami-Dade County Wage Rates and Benefits Requirements.

5.21 USE OF COUNTY NAME IN CONTRACTOR ADVERTISING OR PUBLIC RELATIONS

5.21.1 The Owner reserves the right to review and approve any Owner-related copy prior to publication by the Contractor. The Contractor shall not allow the Owner-related copy to be published in Contractor's advertisement or public relations programs until submitting the Owner-related copy and receiving prior approval from the Owner.

5.21.2 The Contractor shall agree that published information on Owner or the Owner's program, and/or its Department of Cultural Affairs, shall be factual and in no way imply that the County endorses Contractor's firm, service or product. The Contractor shall insert the substance of this provision, including the preceding sentence, in each subcontract, supply contract, or purchase order.

ARTICLE 6 – SUBCONTRACTORS**6.1 ASSIGNMENT OF CONTRACT – SUBCONTRACTING PORTIONS OF THE WORK**

6.1.1 The Contractor shall not assign this Contract or sublet it as a whole without the written consent of the Owner, nor shall the Contractor assign any moneys due or to become due the Contractor hereunder, without the previous written notice of the Owner.

6.1.2 The Contractor will be permitted to subcontract portions of the Work to competent Subcontractors. Such Subcontractors shall hold valid current certificate(s) of competency for the type of work to be performed, in accordance with the qualifications requirements as set forth in the Florida Statutes and the Code of Miami-Dade County.

6.1.3 Nothing contained herein shall create any contractual relationship between the Owner and any level of Subcontractor, materialman or supplier.

6.1.4 Acts and omissions of all of the Contractor's Subcontractors at any tier, their agents and employees, material suppliers, and consultants shall be the responsibility of the Contractor. The Contractor shall incorporate in each such subcontract all provisions, terms and conditions applicable to the Project that constitute obligations to be assumed and effected by him under the Contract Documents.

6.1.5 All work performed for the Contractor by a Subcontractor shall be pursuant to an appropriate agreement between the Contractor and the Subcontractor which shall contain provisions that:

A) Preserve and protect the rights of the Owner and any of its authorized representatives under the Contract, including but not limited to, the Architect/Engineer, Consultants and Field Representative, with respect to the Work to be performed under the subcontract so that the subcontracting thereof will not prejudice such rights;

B) Require that such Work be performed in accordance with the requirements of the Contract Documents including the Contractor's accepted schedule;

C) Require submission to the Contractor of applications for payment under each subcontract to which the Contractor is a part, in reasonable time to enable the Contractor to apply for payment in accordance with any and all payment provisions of the Contract Documents;

D) Require that all claims for additional costs, extensions of time, damages for delays or otherwise with respect to subcontracted portions of the Work shall be certified and submitted to the Contractor (via any Subcontractor or Sub-subcontractor or Supplier where appropriate) in sufficient time so that the Contractor may comply in the manner provided in the Contract Documents for like claims by the Contractor upon the Owner;

E) Require specific consent to all relevant provisions of the Contract Documents; and;

F) Incorporate all flow-down clauses specifically called for in the Contract.

6.2 APPROVAL OF SUBCONTRACTOR

- 6.2.1** Prior to entering into any subcontract for Work to be performed on the Contract, the Contractor shall secure the approval of the Owner regarding the prospective subcontractor's qualifications, employment data and compliance with SBE program requirements. The forms used to provide the required information shall be the same as those included in the Forms for Bidding. The Owner will review the submittal from each Subcontractor, and will furnish written notification to the Contractor concerning approval of the award of the subcontract. If the Owner objects to the proposed award of the complete submittal of the required information, the Contractor may furnish written notice of another subcontractor for consideration. The Owner may, at its discretion, waive or reduce subcontractor information submittal requirements as it deems appropriate.
- 6.2.2** In accordance with Ordinance No. 97-104, codified in Miami-Dade County Code Sections 2-8.1 and 10-33.01, the Contractor shall not, without written consent of the Owner, either replace any subcontractor or permit any such subcontract to be assigned or transferred, or allow that portion of the Work to be performed by anyone other than the approved subcontractor, except he may perform the work himself with qualified personnel upon written notice to the Owner in accordance with applicable law.

6.3 WORK PERFORMED BY EQUIPMENT – RENTAL AGREEMENT

- 6.3.1** The amount of work performed under equipment rental agreements shall not be considered Subcontractor work. However, for work to be performed by equipment-rental agreement, the Contractor shall notify the Architect/Engineer in writing of such intention before using the rented equipment, and shall indicate whether the equipment is being rented on an operated or non-operated basis. The Contractor's written notice shall contain a listing and description of the equipment and a description of the particular work to be performed with such equipment. As an exception to the above requirements for a written notice to the Architect/Engineer, such notice will not be required for equipment to be rented (without operators) from an equipment dealer or from a firm whose principal business is the renting or leasing of equipment.
- 6.3.2** The operators of rented equipment, whether rented on an operated or a non-operated basis, will be subject to wage rate requirements applicable to the Project. If equipment is being rented without operators, the Contractor shall be required to carry the operators on his own payroll. When equipment is rented on an operated basis, the Contractor, when required by the Contract or requested by the Architect/Engineer, shall submit payrolls from the lessor with the names of the operators shown thereon.

ARTICLE 7 – MISCELLANEOUS PROVISIONS**7.1 PERMITS, REGULATIONS, AND INSPECTIONS**

- 7.1.1** The Contractor shall observe and comply with all applicable Federal, State, County and other laws, codes, ordinances, rules and regulations of the Federal, State, County and Municipal governments, all authorities having jurisdiction, and any and all programs developed in compliance therewith, in any manner affecting the conduct of the Work. The Contractor shall be responsible for obtaining all necessary licenses and permits in connection with the prosecution of the Work and shall apply for and procure all permits, certificates, inspections and licenses, pay all charges, taxes, royalties and fees, and give all notices necessary and incidental to the due and lawful prosecution of the Work, except that the Contractor will be reimbursed by the Owner for the actual costs of permit fees including the Planning, Development, and Regulation Permit Fees, Department of Environmental Resource Management (DERM), Water and Sewer Department (WASD), Environmental Protection Agency (EPA), Department of Environmental Protection (DEP), South Florida Water Management District (SFWMD) and United States Army Corps of Engineers (USACE) Permit Fees, License Fees, Impact Fees, and Inspection Fees paid to any governmental entity in connection with the construction of the project; reimbursement will be made from funds available under the General Allowance Account or, at the Owner's option, the reimbursement will be made directly from other Owner's funds.
- 7.1.2** No time extensions for obtaining the required permits will be allowed for delays caused by revisions to the project unless such revisions are directly caused by the Owner.
- 7.1.3** The Owner will not pay or reimburse the Contractor for any penalties relating to his permits or fees as a result of the Contractor's failure to timely obtain all his permits, inspections, approvals, etc.
- 7.1.4** The Contractor shall coordinate any necessary inspections as may be required by the Threshold Inspector, if applicable, and provide the Threshold Inspector, in a timely manner, with updated and approved Construction Documents, including but not limited to shop drawings (reinforcing, formwork, shoring and re-shoring, precast structural components, etc.), sketches and correspondences that may affect the Threshold Inspector's work.
- 7.1.5** Dewatering of excavations shall be performed in accordance with the applicable provisions of the County's Department of Regulatory and Economic Resources (RER), Florida Department of Environmental Protection (DEP), U.S. Environmental Protection Agency (EPA) and the South Florida Water Management District (SFWMD) Dewatering Permits and/or any and all authorities having jurisdiction and any other requirements specified in the Contract Documents. The means and methods of dewatering shall be determined by the Contractor who shall bear the full cost of same as part of the contract price.
- 7.1.7** All construction activities shall be subject to the pollution prevention requirements established under the National Pollutant Discharge

Elimination System (NPDES) program under the Clean Water Act regulating storm water discharge from construction sites.

- 7.1.8** Upon completion of all of the work contemplated under the Contract Documents, the Contractor shall obtain and deliver to the Field Representative such Certificate(s) of Occupancy or Certificate(s) of Completion as required by the Florida Building Code and/or authority having jurisdiction.

7.2 GOVERNING LAW

- 7.2.1** The Contractor shall comply with the latest version of the Florida Building Code or the Code under which the Contract Documents were approved, whichever is applicable at the time the Work is performed.
- 7.2.2** The Contractor shall, during the term of this Contract and in the prosecution of the Work, be governed by the statutes, regulatory orders, ordinances and procedures of the United States of America, the State of Florida and Miami-Dade County including but not limited to the Florida Building Code and the provisions of the Code of Miami-Dade County governing Small Business Enterprises (SBEs) as applicable.
- 7.2.3** Specifically, the Contractor and his Subcontractors shall comply with Miami-Dade County Resolution Nos. R-1386-09 and R-138-10 governing the treatment of SBE firms.
- 7.2.4** The Contractor shall be subject to and comply with all the provisions of Miami-Dade County Code Section 2-8.4.1, which provides that, whenever any individual or corporation or other entity attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement, the County shall, whenever practicable, terminate the Contract. The Contractor is further directed to Section 10-38 of the Miami-Dade County Code which provides for the debarment of County contractors.
- 7.2.5** In addition, the Contractor agrees to abide by all Federal, State, and County procedures, as may be amended from time to time, regarding how documents to which the Contractor has access are handled, copied, and distributed, particularly documents that contain sensitive security information.

7.3 HISTORICAL, SCIENTIFIC AND ARCHAEOLOGICAL DISCOVERIES

- 7.3.1** Should the Contractor encounter, during its operations, any building, part of a building, structure, or object that is incongruous with its surroundings, he shall immediately cease operations in that location and notify the Field Representative. The Field Representative will immediately investigate the Contractor's finding and will direct the Contractor to either resume its operations or to suspend operations as directed. All articles of historical, scientific or archaeological interest uncovered by the Contractor during progress of the Work shall be preserved and reported immediately to the Architect/Engineer and/or Field Representative. Further operations of the

Contractor with respect to the find, including disposition of the articles, will be decided by the Owner.

- 7.3.2** Unless otherwise specified in this subsection, the Contractor is advised that the site of the work is not within any National Register of Historic Places property, district, or site, and does not contain any building, structure, or object listed in the current National Register of Historic Places published by the United States Department of Interior.
- 7.3.3** Should the Field Representative order suspension of the Contractor's operations in order to protect an archaeological or historical finding, or order the Contractor to perform extra work, such extra work shall be covered by an appropriate Work Order or Change Order. If appropriate, the delay may be considered a Compensable Excusable Delay.

7.4 COORDINATION AND ACCESS

- 7.4.1** In the event of interference between the work of the Contractor and other contractors working concurrently at the Site, the Field Representative will instruct the Contractor as to which work has priority in performance and such instructions shall be binding upon the Contractor.
- 7.4.2** Utility companies, railroads, and municipal agencies having facilities within the limits of the Work shall have access to their facilities at all times for inspection and repair.

7.5 UTILITIES-INTERFERENCE WITH EXISTING UTILITIES

- 7.5.1** Unless otherwise specified in the Contract Documents, the Contractor shall provide all utility services (e.g. telephone/data, power, lighting, water, sewer), necessary for the performance of its work, in accordance with the requirements of Division 1 of the Project Manual.
- 7.5.2** Attention of the Contractor is specifically directed to the need for careful control of all aspects of his work to prevent damage and/or interruption to any and all utilities, including but not limited to, cables, ducts, water mains, sewers, fire mains, telephone cables, fuel lines, radar cables, and any other existing overhead or underground utilities and structures.
- 7.5.3** Before commencing work in any given area, the Contractor shall contact utility companies to identify any potential conflicts. Further, the Contractor shall also carefully review the Plans, survey and search the site for utility locations, and determine possible utility conflicts. All known above and underground utilities, including, but not limited to, electrical, telephone, communications, lighting cables, fuel lines, sewer, drainage and water pipes, and other existing structures are shown on the Plans for reference purposes only, but no guarantee is expressed or implied that the information is accurate or complete. It shall be the sole responsibility of the Contractor to ascertain and/or verify the location of any and all such utilities or structures using magnetic and electronic detectors and by hand excavation or other appropriate measures before performing any work that could result in damage to such existing utilities or structures. The Contractor shall make

- a thorough search of the particular location for underground utilities or structures whether or not shown on the drawings, before excavation work is commenced in any particular location. To this end the Contractor shall provide and maintain throughout the term of the Contract, electronic and magnetic detecting devices capable of locating underground utilities or structures. The Contractor shall, after locating primary and critical existing utilities, mark their location with indelible material or other means satisfactory to the Field Representative and safely maintain clear above ground physical identification during the work.
- 7.5.4** During the construction of new structures, and other foundation work, conflicts may occur with existing underground utilities or structures. The Contractor shall immediately call these conflicts to the attention of the Architect/Engineer and Field Representative, in writing. The Field Representative will issue instructions regarding a solution to the conflict.
- 7.5.5** In the event of damage to, or accidental disruption of utilities or other facilities as a result of the Contractor's operations, the Contractor shall take immediate steps to repair or replace all damage and to restore all services. Further, the Contractor shall engage any additional outside services which may be necessary to prosecute repairs on a continuous "around the clock" basis until services are restored. The Contractor shall also provide and operate any supplemental temporary services to maintain uninterrupted use of the facilities. The Contractor shall be responsible for all methods, means, materials, and processes necessary to protect, repair, and restore all existing facilities, property, structures, equipment or finishes damaged in any manner through its negligence during execution of the work. All costs involved in making repairs and restoring disrupted service resulting from the Contractor's work shall be borne by the Contractor and the Contractor shall be fully responsible for any and all claims resulting from the damage.
- 7.6 UTILITIES - PROTECTION OF EXISTING FACILITIES, VEGETATION, STRUCTURES, UTILITIES AND IMPROVEMENTS**
- 7.6.1** The Contractor shall preserve and protect existing vegetation such as trees, shrubs, and grass on or adjacent to the work site which are not indicated to be removed and which do not unreasonably interfere with the construction Work and he shall replace in kind the vegetation, shrubs and grass damaged by him at his own expense.
- 7.6.2** The Contractor shall protect from damage all utilities, foundations, walls or other parts of adjacent, abutting or overhead buildings, railroads, roads, bridges, structures, surface and subsurface structures at or near the site of the Work and shall repair or restore any damage to such facilities, resulting from failure to comply with the requirements of this Contract or the failure to exercise reasonable care in the performance of the Work. If, after receipt of notification from the Architect/Engineer, the Contractor fails to or refuses to repair any such damage promptly, the Owner may have the necessary Work performed and charge the cost thereof to the Contractor.
- 7.6.3** At points where the Contractor's operations are adjacent to utility facilities, damage to which might result in expense, loss, disruption of service or other undue inconvenience to the public or to the adjacent owners, Work shall not be commenced until all arrangements necessary for the protection

thereof have been made by the Contractor. The Contractor shall be solely and directly responsible to the owners and operators of such utilities for any damage, injury, expense, loss, inconvenience, or delay, caused by the Contractor's operations .

7.6.4 The Contractor shall not repair or attempt to repair utility damage but shall immediately contact the utility owner. The Contractor shall obtain the name, address and telephone number of each utility company that the work will affect and the person in such utility company to contact. He shall submit to the Architect/Engineer and Owner said names, addresses and telephone numbers.

7.7 UTILITIES - TEMPORARY UTILITIES, DRAINAGE, ETC.

7.7.1 Any temporary utilities, drainage, etc., which may be required to maintain operations of the Owner's or County's facilities, other affected facilities, or the Work in progress during the construction period, shall be furnished, installed and maintained by the Contractor at no additional cost to the Owner. All fees, charges, and cost for labor and materials, including the furnishing of temporary equipment and the connection(s) thereof, required for the maintenance of temporary utility services in lieu of existing utilities services disrupted by the Work shall be furnished by the Contractor at his expense, except where otherwise specified. When such temporary services are no longer required, the Contractor shall remove all temporary equipment and connections and leave the facilities and existing permanent apparatus in as good condition as existed prior to making such temporary connections. No such utilities, drainage, etc., shall be installed or operated without the prior approval of the Field Representative.

7.7.2 The Contractor shall furnish temporary heat or air-conditioning wherever required to prevent injury to work and materials through dampness and cold. Use of open salamander heaters or any temporary heating devices which may be fire hazards or may cause smoke damage to finished work will not be permitted. Minimum and maximum temperature requirements specified for various materials shall be strictly observed and monitored by the Contractor.

7.8 PUBLIC RIGHTS-OF-WAY

7.8.1 The attention of the Contractor is hereby directed to the requirements of Miami-Dade County Code Section 2-103.1, "Construction of Public Utilities or Works in Public Rights-Of-Way". The Contractor shall restore to the preexisting condition the public right-of-way and any legally permitted landscaping and any adjacent private property damaged during construction within forty five (45) days of completion or shall be subject to a civil fine of five hundred (\$500.00) dollars per day.

7.9 FIRE HYDRANTS, ALARM BOXES, AND STANDPIPES

7.9.1 The Contractor shall maintain access to fire hydrants and fire alarm boxes throughout the prosecution of the Work. Hydrants, alarm boxes and

standpipe connections shall be kept clear and visible at all times unless approved otherwise. If visibility cannot be maintained, the Contractor shall provide clearly visible signs showing the location of the fire hydrant, fire alarm box or standpipe connection. The Contractor shall promptly notify the authority having jurisdiction of any impairment to any fire systems.

7.10 AUDIT RIGHTS / REVIEW OF RECORDS /INSPECTOR GENERAL

7.10.1 The Contractor shall make available to the Owner and its duly authorized representatives at its office at all reasonable times the records, materials, and other evidence regarding the acquisition (bid preparation) and performance of this contract, for examination, audit, or reproduction, until five (5) years after final payment under this contract or for any longer period required by statute or by other clauses of this Contract. This includes the inspection of all payroll records, invoices for materials, books of account, project correspondence and project-related files and all relevant records pertinent to the Contract. The Owner retains the right to audit accounts and access all files, correspondence and documents in reference to all work performed under this Contract. The Owner shall be provided full access upon request to all documents, including those in possession of Subcontractors or suppliers. In case of any litigation regarding this project, such rights shall extend until final settlement of such litigation. Failure to allow the Owner access shall be deemed a waiver of Contractor's claims. In addition:

A) If this Contract is completely or partially terminated, the Contractor shall make available records relating to the work terminated until five (5) years after any resulting final termination settlement; and

B) The Contractor shall make available records relating to appeals or to litigation or the settlement of claims arising under or relating to this Contract until such appeals, litigation, or claims are finally resolved.

7.10.2 The Contractor shall maintain a banking account within Miami-Dade County for all payments to laborers, Subcontractors and vendors furnishing labor and materials under this Contract. All records shall be maintained in Miami-Dade County for the term of this Contract.

7.10.3 The Miami-Dade Office of Inspector General is authorized and empowered to review past, present and proposed programs, contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of witnesses and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to retain the services of independent private sector inspectors general to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process including but not limited to project design, bid specifications, (bid/proposal) submittals, activities of the Contractor/Vendor/Consultant, its officers, agents and employees,

lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

- 7.10.4** The Inspector General shall have the right to inspect and copy all documents and records in the Contractor/Vendor/Consultant's possession, custody or control which in the Inspector General's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements from and with successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, (bid/proposal) and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records and supporting documentation for the aforesaid documents and records.
- 7.10.5** Upon ten (10) days written notice to the Contractor, the Contractor shall make all requested records and documents available to the Inspector General for inspection and copying. The Inspector General is empowered to retain the services of independent private sector inspectors general to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process including but not limited to Project design, bid specifications, (bid/proposal) submittals, activities of the Contractor/ Vendor/ Consultant, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with the Contract Documents and to detect fraud and corruption.
- 7.10.6** The provisions in this section shall apply to the Contractor/Vendor/Consultant, its officers, agents, employees, subcontractors and suppliers. The Contractor/Vendor/Consultant shall incorporate the provisions in this section in all subcontracts and all other agreements executed by the Contractor/Vendor/Consultant in connection with the performance of this contract.
- 7.10.7** Nothing in this section shall impair any independent right to the County to conduct audits or investigative activities. The provisions of this section are neither intended nor shall they be construed to impose any liability on the County by the Contractor/Vendor/Consultant or third parties.
- 7.10.8** The County shall have the right but not the obligation to retain the services of an independent private sector inspector general (IPSIG) who may be engaged to audit, investigate, monitor, oversee, inspect and review the operations, activities and performance of the Contractor and County in connection with this contract. The scope of services performed by an IPSIG may include, but are not limited to, monitoring and investigating compliance with contract specifications; project costs; and investigating and preventing corruption and fraud.
- 7.10.9** The IPSIG may perform its services at all levels of the contracting and procurement process, including but not limited to, project design, establishment of bid specifications, bid submittals, activities of Contractor, its officers, agents and employees, lobbyists, County staff and elected officials.

- 7.10.10** Contractor shall make all requested records and documents available to the IPSIG for inspection and copying. The IPSIG shall have the right to examine all documents and records in the Contractor's possession, custody or control which, in the IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to, original estimate files; change order estimate files; worksheets; proposals and agreements from and with successful and unsuccessful subcontractors and suppliers; all project-related correspondence, memoranda, instructions, financial documents, construction documents, bid and contract documents; back-charge documents; all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received; payroll and personnel records; and supporting documentation for the aforesaid documents and records.
- 7.10.11** The provisions in this section shall apply to the Contractor, its officers, agents and employees. The Contractor shall incorporate the provisions in this section in all subcontracts and all other agreements executed by the Contractor in connection with the performance of the contract.
- 7.10.12** Nothing in this contract shall impair any independent right of the County to conduct audit or investigative activities. The provisions of this section are neither intended nor shall they be construed to impose any liability on the County by the Contractor or third parties.

7.11 SUCCESSORS AND ASSIGNS

- 7.11.1** The Owner and the Contractor each bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract Documents. The Contractor shall not assign the Contract or sublet it as a whole without the written consent of the Owner, nor shall the Contractor assign any moneys due or to become due the Contractor hereunder, without the previous written notice of the Owner. Consent will not be given to any proposed assignment which would relieve the Contractor or his Surety of their responsibilities under the Contract.

7.12 WRITTEN NOTICE

- 7.12.1** Written notice to the Contractor shall be deemed to have been duly served if delivered in person to the individual or member of the firm or to any officer of the corporation for whom it was intended or if delivered at or sent by registered or certified mail to the last business address known to those who give the notice.
- 7.12.2** Written notice to the Owner shall be deemed to have been duly served if delivered in person, delivered at or sent by registered or certified mail to the Director of the Miami-Dade County Department of Cultural Affairs, 111 NW 1st Street, Suite 625, Miami, FL 33128.

7.13 NON-DISCRIMINATION

- 7.13.1** The Corporation shall not discriminate in the allocation of space, in the charges imposed or in any other respect arising out of this Agreement, on

the basis of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression, or status as victim of domestic violence, dating violence or stalking, in accordance with Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972 as amended (42 U.S.C. 2000d et seq.), the Americans with Disabilities Act (ADA) of 1990, Section 504 of the Rehabilitation Act of 1973, and Miami-Dade County ordinances No. 97-170, § 1, 2-25-97 and No. 98-17, § 1, 12-1-98.

7.14 PATENT AND COPYRIGHT

7.14.1 If the Contractor is required or desires to use any design, device, material, or process covered by letters of patent or copyright, he shall provide for such use by suitable legal agreement with the patentee or owner. The Contractor and the surety shall indemnify and save harmless the Owner, the Field Representative, the Architect/Engineer and Consultants from any and all claims for infringement by reason of the use of any such patented design, device, material or process, or any trademark or copyright, and shall indemnify the Owner for any costs, expenses, and damages which it may be obliged to pay by reason of an infringement, at any time during the prosecution or after the completion of the work.

7.14.2 The Contractor shall warrant that the materials, equipment or devices used on or incorporated in the Work shall be delivered free of any rightful claim of any third party for infringement of any United States patent or copyright. The Contractor shall defend, or may settle, at his expense, any suit or proceeding against the Owner or the Architect/Engineer, or Consultants, so far as based on a claimed patent or copyright infringement which would result in a breach of this warranty, and the Contractor shall pay all damages and costs awarded therein against the Owner or the Architect/Engineer due to such breach. The Contractor shall report to the Architect/Engineer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Contract of which the Contractor has knowledge. In the event of any claim or suit against the Owner on account of any alleged patent or copyright infringement arising out of the performance of this Contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Owner when requested, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Contractor.

7.14.3 The Contractor shall bear all costs arising from the use of patented materials, equipment, devices or processes used on or incorporated in the Work. In such case materials, equipment, devices or processes are held to constitute an infringement and their use enjoined, the Contractor, at his expense shall:

A) Secure for the Owner the right to continue using said materials, equipment, devices or processes by suspension of the injunction or by procuring a license or licenses; or

- B) Replace such materials, equipment, devices or processes with non-infringing materials, equipment, devices or processes; or
- C) Modify them so that they become non-infringing or remove the enjoined materials, equipment, devices or processes and refund the sum paid therefore without prejudice to any other rights of the Owner.
- 7.14.4** The preceding paragraph shall not apply to any materials, equipment or devices, specified by the Owner or the Architect/Engineer or manufactured to the design of the Owner or the Architect/Engineer or in accordance with the details contained in the Contract Documents; and as to any such materials, equipment or devices the Contractor assumes no liability whatsoever for patent or copyright infringement and the Owner will hold the Contractor harmless against any infringement claims arising therefrom.
- 7.14.5** Patent rights to patentable invention, item or ideas of every kind or nature arising out of the Work, as well as information, designs, specifications, know-how, data and findings shall be made available for public use, unless the Owner shall, in specific cases where it is legally permissible, determine that it is in the public interest that it not be so made available.
- 7.14.6** The sense of this article shall be included in all subcontracts. The foregoing states the entire liability of the Contractor for patent or copy infringement by use of said materials, equipment or devices.

7.14 SEVERABILITY

- 7.14.1** In the event any article, section, sub-article, paragraph, sentence, clause or phrase contained in the Contract Documents shall be determined, declared or adjudged invalid, illegal, unconstitutional or otherwise unenforceable, such determination, declaration or adjudication shall in no manner affect the other articles, sections, sub-articles, paragraphs, sentences, clauses or phrases of the Contract Documents, which shall remain in full force and effect as if the article, section, sub-article, paragraph, sentence, clause or phrase declared, determined or adjudged invalid, illegal, unconstitutional or otherwise unenforceable was not originally contained in the Contract Documents.

7.15 CONFLICT OF INTEREST

- 7.15.1** The Contractor or his employees shall not enter into any Contract involving services or property with a person or business prohibited from transacting such business with Miami-Dade County pursuant to Section 2-11.1 of the Code of Miami-Dade County, Florida, known as the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance.
- 7.15.2** In the event the Contractor, or any of its officers, partners, principals or employees are convicted of a crime arising out of, or in connection with, the work to be done or payment to be made under this Contract, this Contract, in whole or any part thereof may, at the discretion of the Owner, be terminated without prejudice to any other rights and remedies of the Owner under the law.

ARTICLE 8 - CHANGES AND/OR SUBSTITUTIONS**8.1 REQUEST FOR SUBSTITUTIONS**

- 8.1.1** No substitution requests will be accepted after the bid request period.
- 8.1.2** Acceptance on another project, by the Owner, of a product other than that specified for this project does not constitute evidence of its equality with the product specified, nor its suitability for this project.

8.2 SUBSTITUTIONS

- 8.2.1** For convenience in designation in the Contract Documents, certain materials, articles, or equipment may be designated by a brand or a trade name or the name of the manufacturer, together with catalog designation or other identifying information. When Contract Documents specifically disallow substitution, the specified product shall be provided. Alternative material, article, or equipment which is of equal quality and of the required characteristics for the purpose intended may be proposed **ONLY DURING THE BIDDING PERIOD**.
- 8.2.2** When the Contract Documents specify the use of certain methods and equipment, such methods and equipment shall be used unless others are authorized in writing by the Architect/Engineer. If the Contractor desires to use a method or type of equipment other than specified in the Contract, he may request permission **DURING THE BIDDING PERIOD** from the Architect/Engineer to do so. The request shall be in writing and shall include a full description of the methods and equipment proposed and of the reasons for desiring to make the change. If approval is given, it will be on the condition that the Contractor will be fully responsible for producing work in conformity with Contract requirements. If, after trial use of the substituted methods or equipment, the Architect/Engineer determines that the work produced does not meet Contract requirements, the Contractor shall discontinue the use of the substitute method or equipment and shall complete the remaining work with the specified methods and equipment. The Contractor shall remove any deficient work and replace it with work of specified quality, or take such other corrective action as the Architect/Engineer may direct, at no additional cost to the Owner. No change will be made to the Contract price(s) nor in Contract Time as a result of authorizing a change in methods or equipment under this Article.
- 8.2.3** During bidding period, no request for substitution will be considered unless accompanied by complete information and descriptive data necessary to determine the quality of the proposed materials, articles or equipment. Samples shall be provided when requested by the Architect/Engineer. The burden of proof as to the comparative quality or suitability of the proposed materials, articles or equipment shall be upon the Contractor. The Architect/Engineer's and the Owner's decision in such matters shall be final. In the event that the Architect/Engineer rejects the use of such substitute materials, articles or equipment, then one of the particular products designated by brand name shall be provided.
- 8.2.4** If any mechanical, electrical, structural, or other changes are required for the proper installation and fit of alternative materials, articles, or

equipment, or because of deviations from the Contract Documents, such changes shall be shown in the substitution request and such changes shall be made without additional cost to the Owner.

8.3 CHANGES IN THE WORK

8.3.1 Increases to the Contract Amount shall be authorized by a Work Order or Change Order executed by the Contractor, the Contractor's Surety and the Owner. Decreases to the Contract amount shall be by Work Order or Change Order as determined by the Owner.

8.3.2 The Owner reserves the right to, at any time, without notice to the sureties and without invalidating the Contract, by written notice or order designated as a Change Notice or Change Order, make any change in the Work within the general scope of the Contract including but not limited to changes:

- A) In the Contract Documents;
- B) In the method or manner of performance of the Work;
- C) In Owner-furnished facilities, equipment, materials, services, or site; or
- D) Directing acceleration in performance of the Work.

8.3.3 In the event the Owner exercises its right to change, delete or add work under the Contract, such work will be ordered and paid for as provided for in the Contract Documents.

8.3.4 The cost or credit to the Owner for any change in the work shall be determined in accordance with the provisions of the Contract Documents. The Contractor shall not be compensated for effort expended in preparing and submitting price quotes.

8.3.5 In the event the Contractor fails to provide the full cost and time estimate for the change work or refuses to execute a full accord Change Order, the Owner will, at its sole discretion:

- A) Determine the total cost and time impacts of the change and compensate the Contractor and/or extend the Contract Time, if applicable, through a unilateral Change Order signed only by the Owner, or;
- B) Direct the Contractor to proceed with the Work under the Force Account provisions of this article.

8.3.6 Failure of the Contractor to submit his total and final estimated cost and time impact within the time period specified on the Change Notice form shall constitute a waiver by the Contractor to claim additional costs or time beyond that which has been determined by the Owner.

8.3.7 Any disputes arising out of an Owner determination shall be resolved in accordance with the disputes provisions in the Contract Documents. Pending the Owner's final decision, the Contractor shall proceed diligently with the performance of the Work under the Contract.

8.3.8 A cost of bonds for Change Orders that impact the Contract price shall be established by the Contractor's actual reimbursement costs, as approved by the Owner, based on the original Contract Amount and the original amount reimbursed to the Contractor for bonds at the commencement of the

- Work. This cost of bonds shall be added to all credit amounts allowed by the Owner.
- 8.3.9** For Change Orders paid under the Allowance Account, no additional bond cost will be allowed unless the Allowance Account is not included in the original Contract Amount. In this case, additional bond costs for these Change Orders will be considered.
- 8.3.10** Any claim for payment of Extra Work that is not covered by a Change Order or Work Order will be rejected by the Owner.
- 8.3.11** Changes in the Work covered by Unit Prices, as stated in the Contract Documents shall be all inclusive. These prices will include all Direct and Indirect Costs, remobilization and demobilization associated with the change, means and methods of execution, engineering and any associated work necessary. To be compensable, units must be measured daily by the Contractor and approved in writing by the Architect/Engineer.

8.4 MARK-UPS

- 8.4.1** The following percentages will be allowed as mark-ups on Extra Work over Direct Costs for all negotiated adjustments to the Contract Amount or for work performed on either a negotiated lump sum basis or a force account basis (time and materials work) under this article:
- A) FOR EXTRA WORK PERFORMED BY THE CONTRACTOR'S OWN FORCES: The Contractor shall be paid a maximum of fifteen percent (15%) times the actual Direct Cost as direct compensation for Indirect Costs including Overhead, profit and all other costs associated with the work.
- B) FOR EXTRA WORK PERFORMED BY A SUBCONTRACTOR'S FORCES: The Contractor/Sub-Contractor agrees that his proposed cost to perform said Extra Work will in no event include Overhead in excess of fifteen percent (15%). The Contractor may then add five percent (5%) over the Subcontractor's or sub-tier Subcontractor's actual Direct Cost as direct compensation for the Contractor's overhead and all other costs associated with the Subcontractor's Work at all tiers.
- C) FOR EXTRA WORK INVOLVING COMPENSABLE TIME EXTENSIONS: If a compensable time extension is approved, the Contractor will be paid the daily rate stipulated in the Bid Form.
- D) DELETED WORK: There will be no additional credit added to all Contractor's and/or Subcontractor's negotiated credit amounts for deleted work not performed.

8.5 CHANGE ORDER SUBMITTAL TIME

- 8.5.1** Changes in the work may be initiated by the issuance of a Change Notice by the Architect/Engineer. The Contractor shall submit a proposal to the Architect/Engineer and the Owner for their review within twenty-one days (21) after receipt of a Change Notice. The Contractor shall maintain this proposal, for acceptance by the Owner, for a minimum of ninety (90) calendar days after submittal to the Owner.

8.6 ALLOWANCE ACCOUNT

- 8.6.1** Certain portions of work which may be required to be performed by the Contractor under this Contract are unforeseeable, and the value of such work, if any, is included in the Contract as a specific line item(s) entitled 'Allowance Account(s).'
- 8.6.2** The Allowance Account (General) may be used at the Owner's discretion to reimburse the Contractor for the actual costs for furnishing all labor, materials, equipment and services necessary for modifications or extra work required to complete the Project because of unforeseeable conditions; for performing minor construction changes required to resolve: oversight in design, Owner oversight, unforeseen conditions, revised regulations, technological and product development, operational changes, schedule requirements, program interface, emergencies, delays, etc.
- 8.6.3** Other Allowance Account(s) (Dedicated) may be used as specified in the Contract Documents.
- 8.6.4** For Time Allowance Account reference Article 11 Contract Completion.
- 8.6.5** These values, if any, are to be included in the Total Contract Amount, but are not chargeable against the Total Contract Amount unless and until the Contractor is directed to perform work contemplated in the Allowance Account(s) by a written Work Order(s) issued by the Architect/Engineer and authorized by the Owner.
- 8.6.6** At such time as work is to be performed under the Allowance Account(s), if any, the work shall be incorporated into the Construction Schedule and the Schedule of Values, without additional charge to the Owner, and shall in all respects be integrated into the construction as a part of the Contract as awarded.
- 8.6.7** The Work Order for the required work will be issued by the Architect/Engineer/Owner upon receipt from the Contractor of a satisfactory proposal for performance of the work, and the acceptance thereof by the Architect/Engineer and the Owner.
- 8.6.8** If the Contractor and the Owner are unable to agree upon an amount of compensation or; if the nature of the work is such that a Unit Price or Lump Sum price is not economically practical or if the change work is deemed essential to the Project and actual conditions require work to be swiftly conducted to avoid or minimize delays, the Work Order may be issued to perform the work on a Force Account basis. In the event that an equitable adjustment for the said change work cannot be arrived at, either by mutual agreement or under the dispute provisions of the Contract Documents, the compensation hereunder will be the total compensation for this work.
- 8.6.9** The unexpended amounts under the allowance accounts shall remain with the Owner and the Contractor shall have no claim to the same.
- 8.6.10** The Contractor shall solicit not less than three (3) competitive bids from appropriate subcontractors and materials suppliers when so directed by the Architect/Engineer or Owner, for performance of the work in accordance with such Plans and Specifications as may be required and as may be furnished by the Architect/Engineer. The Contractor shall submit the

- solicited bids to the Architect/Engineer and Owner for approval or rejection. If the bids are rejected by the Architect/Engineer and/or Owner, the Contractor shall solicit additional bids for submittal.
- 8.6.11** No Work Orders shall be issued against an Allowance Account if such Work Orders in the aggregate exceed the authorized amount of that Allowance Account, provided however that such excess may be authorized by appropriate Change Order.
- 8.6.12** For Change Orders paid under the Allowance Account, no additional bond cost will be allowed unless the Allowance Account is not included in the original Contract Amount. In this case, additional bond costs for these Change Orders will be considered.
- 8.6.13** At Final Acceptance, the Contract Price shall be decreased to reflect unexpended amounts under the Allowance Accounts.

8.7 DELETION OR ADDITION OF WORK

- 8.7.1** Work Orders and Change Orders will be issued for a defined scope, time impact if any, and agreed-upon cost; and Contractor shall accept the Work Order or Change Order amount as full accord and satisfaction of all time and monies due him in connection with the work performed under such Work Order or Change Order. In consideration of and conditional upon payment to Contractor by the Owner of the Work Order or Change Order amount, the Contractor releases County, its officers, employees and agents from, and waives and relinquishes, any and all claims, disputes or causes of action it has or may have against the County, its officers, employees and agents for all events arising out of or in connection with the Work Order or Change Order.
- 8.7.2** All final measurements of Work shall be performed by the Architect/Engineer who shall afford the Contractor an opportunity to witness or to participate in the measurements and to review all calculations relating to final measurements.
- 8.7.3** In the event the Owner exercises its right to delete any portion(s) of the work contemplated herein, such deletion will be ordered and the Contract Total Amount and Time will be adjusted as provided for in these Contract Documents by Change Order or by Work Order, as appropriate.
- 8.7.4** In the event the Owner exercises its right to add to any portion of the work contemplated herein, such addition will be ordered and the Contract Total Amount and Contract Time will be adjusted as provided for in these Contract Documents, by Change Order or by Work Order as appropriate. In the event of a dispute between Owner and Contractor as to the adjustment to the Amount or the Time, the dispute shall be handled in accordance with Article 9 – Claims for Additional Compensation of these General Conditions.
- 8.7.5** The Work Order or Change Order shall include, as a minimum:
- A) Detailed scope of work to be added, deleted or modified;
 - B) Detailed breakdown of cost of work to be added, deleted or modified;

- C) The Contract time extension, or Contract time reduction in the case of deleted work, required to perform the work to be added, deleted or modified;
 - D) Full release of claims associated with the Contract through the date of the change order, or a reservation of claims identified as to each claim reserved, the scope of the work, the maximum cost of the work, and the maximum number of days of Contract time requested, shall be specified.
- 8.7.6** In the event of a dispute between Owner and Contractor as to the adjustment to the amount of time, the dispute shall be handled in accordance with these General Conditions.

8.8 DELETED WORK – LUMP SUM ITEM(S)

- 8.8.1** The Contractor shall credit the Owner for the reasonable value of the deleted work determined from the approved Schedule of Values, subject to approval by the Architect/Engineer. If the reasonable value of the deleted work cannot be readily ascertained from the Schedule of Values submitted in accordance with these General Conditions, or if requested by the Architect/Engineer or Owner, the Contractor shall supply all data required by the Architect/Engineer or Owner, including the actual agreements executed by the Contractor with the Subcontractors and suppliers affected by the deleted work, to substantiate the amount of the credit to be given the Owner. The Contractor shall also submit for the Owner's approval a revised schedule of values reflecting the work remaining under the Contract following the deletion.

8.9 DELETED WORK – MAJOR UNIT PRICE ITEM(S)

- 8.9.1** If 100% of the work under any major unit price item is deleted, then the Contractor will not receive any payment for the value of the deleted work.
- 8.9.2** If a quantity not greater than 25% of the work under a major unit price item is deleted, the Contractor shall be paid only for the quantity of such items completed times the Contract Unit Price.
- 8.9.3** If less than 100%, but more than 25% of the work under any major unit price item is deleted, then the Contractor and the Owner may negotiate a new equitable unit price for such item and the Contractor shall be paid for the actual quantity of such item of work performed at such negotiated unit price. If the Owner and the Contractor cannot reach agreement for an equitable Unit Price, for any item, then the entire work shall be performed as Work not covered by Unit Prices.
- 8.9.4** All final measurement for unit price work shall be performed by the Architect/Engineer who shall afford the Contractor an opportunity to witness or to participate in the measurements and to review all calculations relating to final measurement.
- 8.9.5** The Contractor shall submit to the Architect/Engineer all data required to substantiate the amount of compensation requested therefore. In no event shall the Contractor be entitled to compensation greater than the aggregate amount of all the Unit Prices times the original bid quantities of Work reflected in the Bid Form.

8.9.6 No compensation will be made in any case for loss of anticipatory profits, loss of bonding capacity or consequential damages.

8.10 DELETED WORK – MINOR UNIT PRICE ITEM(S)

8.10.1 If work under any minor unit price item is deleted, then the Contractor shall be paid only for the quantity of the work completed times the original Contract Unit Price. The Contractor shall not be entitled to any additional compensation if actual quantities of work performed are less than the estimated quantities shown on the Schedule of Prices Bid in the Bid Form.

8.10.2 The Contractor shall be reimbursed for any actual reasonable expenses incurred prior to the notice of deletion of work as a result of preparing to perform the work deleted. The Contractor shall submit to the Architect/Engineer all data required to substantiate the amount of compensation requested therefore. In no event shall the Contractor be entitled to compensation greater than the aggregate amount of the Unit Price times the original bid quantity of Work shown on the Schedule of Prices Bid in the Bid Form.

8.10.3 No payment(s) shall be made to the Contractor by the Owner for loss of anticipated profit(s) from any deleted work.

8.11 ADDED WORK - MAJOR UNIT PRICE

8.11.1 If any additional unit price work is ordered which does not change the original Contract quantity of any major unit price item(s) by more than 25%, the Contractor shall perform the work as ordered and shall be paid for the actual quantity of such item of work performed at the appropriate original Contract Unit Price.

8.11.2 If additional unit price work is ordered which changes the original Contract quantity of any major unit price item by more than 25%, then the Owner and the Contractor shall negotiate a new equitable unit price for such item, and the Contractor shall be paid for the actual quantity of such item of work performed at such negotiated unit price.

8.11.3 If the Owner and the Contractor cannot reach agreement on an equitable Unit Price for any such item, then the entire work to be performed under such item shall be paid as Extra Work not Covered by Contract Prices as specified in Section 8.13

8.12 ADDED WORK - MINOR UNIT PRICE WORK

8.12.1 If additional unit price work is ordered under any minor unit price item(s), then the Contractor shall perform the work as directed and shall be paid for the actual quantity of such item(s) of work performed at the appropriate original Contract Unit Price(s).

8.12.2 All trade discounts, rebates, refunds, and all returns from sale of surplus materials and equipment shall accrue to the Owner and shall be credited to the Cost of the Work. All penalties incurred due to any fault of the Contractor shall not be paid or reimbursed to the Contractor by the Owner and shall be borne solely by the Contractor.

8.13 EXTRA WORK NOT COVERED BY CONTRACT PRICES

- 8.13.1** All additional work ordered, work changed or deleted shall be authorized by Work Order(s) or Change Order(s). All changed or added work so authorized shall be performed by the Contractor at the time and in the manner specified.
- 8.13.2** If work is ordered, changed, or deleted which is not covered by Unit Prices, then the Owner and the Contractor shall negotiate an equitable adjustment to the Contract Price for the Direct Costs for the performance of such work. Direct Costs, as described in Article 1, are limited to site labor costs, permanent materials costs and Special Equipment Costs. Indirect Costs for Work ordered, changed or deleted may be reimbursed for Excusable and Compensable Delay as defined in these Contract Documents.
- 8.13.3** In order to reimburse the Contractor for additional Direct Costs, either by Work Order, Change Order or any other means, the Contractor must have additional work added to the Contract Scope of Work. The additional cost of idle or inefficient labor, from any cause, or the additional cost of labor made idle or inefficient from any cause will not be considered a reimbursable additional Direct Cost. Special Equipment or Machinery, which is made idle or inefficient by the Work ordered, changed or deleted, may be reimbursable if approved by the Architect/Engineer as an unavoidable cost to the Contractor, caused by the Owner.

8.14 SPECIAL EQUIPMENT OR MACHINERY AUTHORIZATION

- 8.14.1** No compensation for Special Equipment or Machinery shall be made without written authorization from the Architect/Engineer. The Architect/Engineer shall review and evaluate any Special Equipment or Machinery proposed by the Contractor for use on a force account basis. As part of its evaluation, the Architect/Engineer shall determine whether any of the Special Equipment or Machinery being proposed by the Contractor will be concurrently used on the Project, including approved changes, or on other force account work on the Project. If the Architect/Engineer determines that such a concurrent use of Special Equipment or Machinery is being proposed by the Contractor, prior to the authorization of such Special Equipment or Machinery, the Architect/Engineer and thereto Contractor shall establish a straight-line prorated billing mechanism based on the actual percentage of time that the equipment or machinery is required to be used on the force account work(s).
- 8.14.2** Special Equipment or Machinery which is approved for use by the Architect/Engineer shall be reviewed and accounted for on a daily basis as provided in the Comparison of Record and Statement paragraphs in 8.16 "Force Account" of this Section of the Contract.

8.15 COST FOR SPECIAL EQUIPMENT OR MACHINERY – MOBILIZED OR NOT MOBILIZED

- 8.15.1** Costs of Special Equipment or Machinery, not already mobilized on the project site, approved by the Architect/Engineer, shall be calculated using the current issue of the AED Manual plus any required mobilization. The

selection of which of the AED rates (daily, weekly, monthly) to be used to calculate these costs shall be as follows:

- A) Between one day and seven days, use the daily rate.
- B) Between seven days and thirty days, use the weekly rate.
- C) Greater than thirty days, use the monthly rate.
- D) For less than one day hourly rates use the daily rate divided by 8.
- E) For overtime hourly rates use the daily rate divided by 8, the weekly rate divided by 40, or the monthly rate divided by 176 as appropriate.

8.15.2 Costs for Special Equipment and Machinery already mobilized on the project site shall not exceed the monthly rate stated in the AED Manual, divided by 176, per hour that the Special Equipment and Machinery is in use on the work plus any required re-mobilization.

8.15.3 The cost calculation shall not combine rates within the range of a time extension. It shall use decimals of the time extension rate that the extension falls under. For example, the cost calculation for a piece of Special Equipment with an approved delay of forty five days shall be 1.5 months times the monthly rate, not one month at the monthly rate, plus two weeks at the weekly rate, plus one day at the daily rate.

8.15.4 For indirect costs, the Contractor shall be allowed a percentage mark-up as set forth in Section 8.4 Mark-ups of these General Conditions.

8.16 FORCE ACCOUNT

8.16.1 If the Owner and the Contractor cannot reach agreement on an equitable adjustment to the Contract Price as prescribed above or cannot reach agreement on an equitable adjustment to the Contract Price for work not covered by Unit Price Items, or cannot reach an agreement on an equitable Unit Price for Additional Major Unit Price work as specified above, then the extra work will be performed on a force account basis as directed by the Architect/Engineer and paid for as specified below.

8.16.2 In the event extra work is performed on a force account basis, then the Contractor and the Subcontractor(s), as appropriate, shall maintain itemized daily records of costs, quantities, labor and the use of authorized Special Equipment or Machinery. Copies of such records, maintained as follows, shall be furnished to the Architect/Engineer and the Owner daily for approval, subject to audit.

8.16.3 COMPARISON OF RECORD: The Contractor, including his Subcontractor(s) of any tier performing the work, and the Architect/Engineer shall compare records of the cost of force account work at the end of each day. Agreement shall be indicated by signature of the Contractor, the Subcontractor performing the work, the Architect/Engineer, and the Owner, or their duly authorized representatives.

8.16.4 STATEMENT: No payment will be made for work performed on a force account basis until the Contractor has furnished the Architect/Engineer and the Owner with duplicate itemized statements of the cost of such force account work detailed as follows:

- A) Name, classification, date, daily hours, total hours, rate and extension for each laborer, tradesman, and foreman.
 - B) Designation, dates, daily hours, total hours, rental rate, and extension of each unit of special machinery and equipment.
 - C) Quantities of materials, prices, and extensions.
 - D) Transportation of materials.
- 8.16.5** The statements shall be accompanied and supported by a receipted invoice of all materials used and transportation charges. However, if materials used on the force account work are not specifically purchased for such work but are taken from the Contractor's stock, then in lieu of the invoices the Contractor shall furnish an affidavit certifying that such materials were taken from its stock, that the quantity claimed was actually used, and that the price and transportation claimed represent the actual cost to the Contractor.

8.17 INEFICIENCY OF THE PROSECTION OF THE WORK

- 8.17.1** If in the Owner's or Architect/Engineer's opinion, the Contractor or any of its Subcontractors, in performing Force Account Work, is not making efficient use of labor, materials or equipment or is proceeding in a manner which makes Force Account Work unnecessarily more expensive to the Owner, the Owner or Architect/Engineer may, in whole or part, direct the Contractor in the deployment of labor, material and equipment.
- 8.17.2** By way of illustration, inefficiency may arise in the following ways, including but not limited to:
- A) The timing of the Work;
 - B) The use of unnecessary labor or equipment;
 - C) The use of a higher percentage of journeymen than in non-force account Work;
 - D) The failure to procure materials at lowest price, or;
 - E) Using materials of quality higher than necessary.

8.18 DELAYS - NON-EXCUSABLE AND EXCUSABLE DELAYS

8.18.1 A NON-EXCUSABLE DELAY is any delay which extends the completion of the Work or portion of the Work beyond the Contract Time and which is caused by the act, fault or omission of the Contractor or any Subcontractor, materialman, supplier or vendor to the Contractor. Delays in obtaining permits caused by the Contractor's actions or lack of actions are Non-Excusable Delays. A Non-Excusable Delay shall not be cause for granting a Contract Time extension and shall subject the Contractor to liquidated damages.

8.18.2 AN EXCUSABLE DELAY is any delay which extends the completion of the Work and which is caused by circumstances beyond the control of the Contractor or its Subcontractors, materialmen, suppliers or vendors. The Contractor may be granted a Contract Time extension for each day the Work is delayed beyond the Contract Time due to an Excusable Delay.

- 8.18.3** The Contractor shall document its claim for any time extension in accordance with the requirements of Article 9 – “Claims for additional compensation” of these General Conditions. Failure of the Contractor to comply with all requirements as to any particular event of Project delay shall be deemed conclusively to constitute a waiver, abandonment or relinquishment of any and all claims resulting from that particular event of Project delay.
- 8.18.4** An Excusable Delay may be Compensable or Non-Compensable. The Contractor shall be entitled to Liquidated Indirect Costs for Compensable Excusable Delay, in accordance with the Contract Documents.
- 8.18.5** AN EXCUSABLE DELAY IS COMPENSABLE WHEN:
- A) The delay causes the work to extend beyond the Contract Time, and
 - B) The delay is caused by circumstances beyond the control of the Contractor or its Subcontractors, materialmen, suppliers or vendors, and
 - C) The delay is caused by an act or omission of the Owner, or of the Architect/Engineer, provided however, delays caused by permitting agencies, whether or not part of Miami-Dade County, are non-compensable excusable delays to the extent that such delays were not caused by the Contractor; permitting delays caused by the Contractor are non-excusable delays.
- 8.18.6** AN EXCUSABLE DELAY IS NON-COMPENSABLE WHEN:
- A) It is caused by circumstances beyond the control of the Contractor, its Subcontractors, materialmen, suppliers and vendors, and is also caused by circumstances beyond the control of the Owner, the Architect/Engineer, and/or the Consultants such as delay(s) caused by the permitting agencies, whether or not part of Miami-Dade County, to the extent that such delays were not caused by the Contractor, or
 - B) It is caused jointly or concurrently by the Contractor or its subcontractors, materialmen, suppliers or vendors and by the Owner, the Architect/Engineer, and/or Consultants, then the Contractor shall be entitled only to a time extension and no further compensation for the delay, or
 - C) The delay does not cause the Work to extend beyond the Contract Time.
- 8.18.7** Weather may be grounds for Non-Compensable Excusable Delay if the inclement weather is unusually frequent or unusually severe, occurs when no inside work is being performed, and delays the completion of the Work.
- 8.18.8** In no event shall the Contractor be compensated for interim delays which do not extend the Contract Time.
- 8.18.9** In no event shall Contractor be compensated for delays except for delays exceeding the Contract Time stipulated in the Bid Forms.
- 8.19** **CONCURRENT DELAYS**
- 8.19.1** Concurrent delays involve two or more delays to the critical path occurring at the same time, either of which had it occurred alone, would have affected the end date of the Project. In that event, the Contractor's sole remedy is

a time extension and relief of Liquidated Damages with no compensation for extended cost for the concurrency delay period.

8.19.2 The compensability of concurrent delays depends on the types of delays involved. The following shall determine the effects of concurrent delays on time extensions and compensable costs:

A) EXCUSABLE DELAY CONCURRENT WITH A NON-EXCUSABLE DELAY: For excusable delays concurrent with non-excusable delays, the Contractor is entitled to a time extension only. For example, it rains the day footings are to be excavated (excusable delay) but the excavation equipment was down for repairs (non-excusable delays).

B) NON-EXCUSABLE DELAY CONCURRENT WITH A COMPENSABLE DELAY: For non-excusable delays concurrent with compensable delays, the Contractor is entitled to a time extension only. For example, if the Owner introduces a design change for a beam but the Contractor has failed to submit the shop drawings for said beam in a timely manner. This would be an example of a non-excusable delay (late shop drawings) concurrent with a compensable delay (Owner introducing design change).

C) EXCUSABLE DELAY CONCURRENT WITH A COMPENSABLE DELAY: For excusable delays concurrent with compensable delays, the Contractor is entitled to a time extension only. For example, the Owner does not provide the necessary right-of-way to begin construction (compensable delay) but the Contractor's forces are on strike (excusable delay).

8.20 DIFFERING SITE CONDITIONS

8.20.1 The Contractor shall immediately, and before such conditions are disturbed, notify the Architect/Engineer in writing of:

A) Subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents; or

B) Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

8.20.2 The Architect/Engineer will promptly investigate the conditions, and if such conditions materially differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under the Contract, the Contractor may file a request for a Contract change order to the Owner within the time frames provided in the Contract Documents.

8.20.3 No claim of the Contractor under this article will be allowed unless the Contractor has given the notice required in the Contract Documents.

8.20.4 No claim by the Contractor for a Contract change hereunder will be allowed if asserted after final payment under this Contract.

8.20.5 If the Owner is not given written notice prior to the conditions being disturbed, the Contractor will be deemed to have waived his right to assert a claim for additional time and compensation arising out of such changed conditions.

8.21 LIQUIDATED DAMAGES AND LIQUIDATED INDIRECT COSTS

8.21.1 LIQUIDATED DAMAGES: The parties to the Contract agree that time, in the completion of the Work, is of the essence. The Owner and the Contractor recognize and agree that the precise amount of actual damages for delay in the performance and completion of the Work is impossible to determine as of the date of execution of the Contract and that proof of the precise amount will be difficult. Therefore, the Contractor shall be assessed Liquidated Damages on a daily basis for each Day the Contract Time is exceeded due to a Non-Excusable Delay. These Liquidated Damages shall be assessed, not as a penalty, but as compensation to the Owner for expenses which are difficult to quantify with any certainty and which were incurred by the Owner due to the delay. The amount of Liquidated Damages assessed shall be an amount, as stipulated in the **Bid Form** per day for each calendar day which the Project is delayed due to a Non-Excusable Delay.

8.21.2 LIQUIDATED INDIRECT COST: The parties to the Contract agree that time, in the completion of the Work, is of the essence. The Owner and the Contractor recognize and agree that the precise amount of the **Contractor's Indirect Costs** for delay in the performance and completion of the Work is impossible to determine as of the date of execution of the Contract, and that proof of the precise amount will be difficult. Therefore, Liquidated Indirect Costs recoverable by the Contractor shall be assessed on a daily basis for each Day the Contract Time is delayed due to Compensable Excusable Delay. These Liquidated Indirect Costs shall be paid to compensate the Contractor for all indirect expenses caused by the Compensable Excusable Delay and shall include, but not be limited to, all profit, interest, home office overhead, field office overhead, acceleration, loss of earnings, loss of productivity, loss of bonding capacity, loss of opportunity and all other indirect costs incurred by Contractor or its subcontractors, materialmen, suppliers and vendors. The amount of Liquidated Indirect Costs recoverable shall be an amount, as stipulated in the **Bid Form**, per day for each day the Contract is delayed due to Compensable Excusable Delay. There shall be no Liquidated Indirect Costs payable for time directly related to Extra Work for which a Change Order has been issued. Though this section is referred to as indirect costs this is only in relation to the direct cost of added work, this section is intended to be complete compensation for any and all time related damages.

8.21.3 In the event the Contractor fails to perform any other covenant or condition of this Contract relating to the Work, the Contractor shall become liable to the Owner for any actual damages which the Owner may sustain as a result of such failure on the part of the Contractor.

8.21.4 Nothing in this Article shall be construed as limiting the right of the Owner to terminate the Contract, to require the Surety to complete said Project, and to claim damages for the failure of the Contractor to abide by each and every one of the terms of this Contract as set forth and provided for in the Contract Documents or to assess Liquidated Damages during the course of the Work.

8.21.5 Completing the Work within the specified time is of the utmost importance. The Liquidated Damages rates have been determined based on the best

information available at the time of bidding and represent a good faith effort by the County to quantify the damages that the County will incur if the individual milestones in the Contract are not timely achieved. Therefore, in accordance with Article 8 - Changes/Substitutions "Liquidated Damages/Liquidated Indirect Costs" of the General Contract Conditions, for failure to complete the work within the number of days stipulated, the Contractor and his sureties will be assessed Liquidated Damages as stipulated in the Bid Form.

ARTICLE 9 - CLAIMS FOR ADDITIONAL COMPENSATION**9.1 CLAIMS AND DAMAGES**

- 9.1.1** False Claims (County Ordinance No. 99-152) Procedures contained in the False Claims Ordinance, Miami-Dade County Code, Article XV Sections 21-255 through 21-266; prohibiting presentation, maintenance, or prosecution of false or fraudulent claims against the County; requiring forfeiture of any claim containing false or fraudulent allegations or statements; imposing penalties for submission of false or fraudulent claims; providing both county and private enforcement.
- 9.1.2** No claims for additional compensation, time extension or for any other relief under the Contract shall be recognized, processed, or treated in any manner unless the same is presented in accordance with this Article. Failure to present and process any claim in accordance with this Article shall be conclusively deemed a waiver, abandonment or relinquishment of any such claim, it being expressly understood and agreed that the timely presentation of claims, in sufficient detail to allow proper investigation and prompt resolution thereof, is essential to the administration of this Contract.
- 9.1.3** It is the intention of this Article that differences between the parties arising under and by virtue of the Contract shall be brought to the attention of the Architect/Engineer and the Field Representative at the earliest possible time in order that such matters may be settled, if possible, or other appropriate action promptly taken.
- 9.1.4** The notice requirements of this Article are in addition to those required in other articles of these Contract Documents.
- 9.1.5** The Contractor shall segregate all costs associated with each individual claim including but not limited to labor, equipment, material, subcontractor and supplier costs, and all other costs related to the claim. In the event that the Contractor has multiple claims, the Contractor will segregate each claim individually including the respective costs associated with each claim. Failure to segregate claims and their respective costs will be grounds for the Owner's rejection of the claim. No "total cost claims" shall be allowed under this Contract.
- 9.1.6** The Contractor must maintain a cost accounting system as a condition for making a claim against the Owner. The cost accounting system must segregate the costs of the work under the Contract (non-claims-related) from claims-related and other Contractor costs through the use of a job cost ledger and be otherwise in compliance with general accounting principles.
- 9.1.7** The Contractor assumes all risk for the following items, none of which shall be the subject of any claim and none of which shall be compensated for except as they may have been included in the compensation for indirect costs:
- 1) Loss of anticipated profits on this or any other project;
 - 2) Loss of anticipated profit(s) from any deleted work;

- 3) Home office expenses or any direct costs incurred allocated from the headquarters of the Contractor;
 - 4) Loss of bonding capacity or capability;
 - 5) Losses due to other projects not bid upon;
 - 6) Loss of business opportunities;
 - 7) Loss of productivity on this or any other project;
 - 8) Loss of interest income on funds not paid;
 - 9) Costs to prepare, negotiate or prosecute claims;
 - 10) Costs spent to achieve compliance with applicable laws and ordinances (excepting only sales taxes paid shall be reimbursable expense subject to the provisions of the Contract Documents).
- 9.1.8** The Owner and the Architect/Engineer will review and evaluate the Contractor's claims. It will be the responsibility of the Contractor to furnish, when requested by the Owner and/or Architect/Engineer, such further information and details as may be required to determine the facts or contentions involved in the claims. The cost of claims preparation or Change Order negotiations shall not be reimbursable under this Contract.
- 9.1.9** Any work performed by the Contractor prior to Notice-to-Proceed (NTP) shall not be the basis for a claim of any kind from the Contractor.
- 9.1.10** The Architect/Engineer and the Field Representative shall be allowed full and complete access to all personnel, documents, work sites or other information reasonably necessary to investigate any claim. Within sixty (60) days after a claim has been received, the claim shall either be recognized or if the claim is not recognized within sixty (60) days it shall be deemed denied. If the claim is recognized, the parties shall attempt to negotiate a satisfactory settlement of the claim, which settlement shall be included in a subsequent Work Order or Change Order. If the parties fail to reach an agreement on a recognized claim, the Owner shall pay to the Contractor the amount of money it deems reasonable, less any appropriate retention, to compensate the Contractor for the recognized claim.
- 9.1.11** The Contractor shall not cease work on account of any denied claim or any recognized claim upon which an agreement cannot be reached.
- 9.1.12** Failure of the Contractor to make a specific reservation of rights regarding any disputed amounts in the body of the Change Order which contains the payment shall be construed as a waiver, abandonment, or relinquishment of all claims for additional monies resulting from the claims embodied in said Change Order. However, once the Contractor has properly reserved rights to any claim, no further reservations of rights shall be required and the Contractor shall not be required to repeat the reservation in any subsequent change order. Prior reservation of rights may however be modified, by express reference, in subsequent change orders. Notwithstanding the aforementioned, at the time of final payment under the Contract, the Contractor shall specify all claims which have been denied and all claims for which rights have been reserved in accordance with this

section. Failure to so specify any particular claim shall be constructed as a waiver, abandonment, or relinquishment of such claim.

9.2 NOTICE AND SUBMITTAL TIME

9.2.1 The Contractor will not be entitled to additional time or compensation otherwise payable for any act or failure to act by the Owner, the happening of any event or occurrence, or any other cause, unless he shall have given the Owner and the Architect/Engineer a written notice of claim therefore as specified in this article.

9.2.2 The Contractor shall provide **immediate verbal notification** of any delay to the Owner and the Architect/Engineer, paying particular attention to those instances where delays in presenting the claim would result in the conditions causing the claim to change, thereby requiring an immediate need to examine the job site or other conditions to ascertain the nature of the claim before the condition(s) disappear or become unobservable.

9.2.3 Each and every claim shall be made **in writing** and delivered to the Field Representative and the Architect/Engineer as soon as reasonably practicable after the event, occurrence or non-occurrence which gives rise to such claim, however, **in no event later than ten (10) days after the event or occurrence**, or in the case of non-occurrence, within ten (10) days after the time when performance should have occurred, including a **time impact analysis (TIA), to be submitted in accordance with this Article**, if the claim includes a request for contract time extension.

9.2.4 The written notice of claim shall set forth the reasons for which the Contractor believes additional compensation and/or time will or may be due, the nature of the costs involved and the approximate amount of the potential claim.

9.2.5 In the case of continuing or on-going claim events, the Contractor shall be allowed to periodically amend the claim to more accurately reflect the impact of said claim, until the end of the claim event.

9.2.6 The Architect/Engineer and the Field Representative shall be allowed full and complete access to all personnel, documents, work sites or other information reasonably necessary to investigate any claim. Within sixty (60) days after a claim has been received, the claim shall either be rejected with an explanation as to why it was rejected or acknowledged. Once the claim is acknowledged, the parties shall attempt to negotiate a satisfactory settlement of the claim, which settlement shall be included in a subsequent Work Order or Change Order. If the parties fail to reach an agreement on a recognized claim, the Owner shall pay to the Contractor the amount of money it deems reasonable, less any appropriate retention, to compensate the Contractor for the recognized claim.

9.3 EACH AND EVERY CLAIM SHALL INCLUDE:

9.3.1 The date of the event or occurrence giving rise to the claim. In the case of a claim arising from a claimed nonperformance, the date when it is claimed that performance should have occurred shall be stated.

- 9.3.2** The exact nature of the claim, including sufficient detail to identify the basis for the claim, including by way of example only, such detail as drawing numbers, specification sections, job site location, affected trades, contract clauses relied upon, schedule references, correspondence or any other details reasonably necessary to state the claim.
- 9.3.3** The claim shall clearly state whether additional monies are part of the claim. If known, the dollar value associated with the claim shall be stated. If unknown, the notice shall indicate the types of expenses, costs or other monetary items that are reasonably expected to be part of the claim amount.
- 9.4** The **dollar value** associated with the claim, along with all supporting documentation, shall be delivered **within thirty (30) days after completion of the work** that is subject of the claim. It shall be broken down into Direct and Indirect Costs. The Direct Costs shall be calculated as Changes in the Work. Indirect Costs shall be as stipulated in the Bid Form.
- 9.4.1** Cost information shall be submitted in sufficient detail to allow for review. The basis for the budgeted or actual costs shall include man-hours by trade, labor rates, material and equipment costs, etc. These costs shall be broken down by pay item and Construction Specification Institute (CSI) Division and include:
- A) Copies of all the Contractor's bid documents, bid quotes, faxed quotes, etc.
 - B) Copies of all executed subcontracts.
 - C) Other related budget documents as requested by the Architect/Engineer.
 - D) The documentation for actual cost shall, as a minimum, include:
 - 1) Time sheets/crew sheets
 - 2) Materials invoices
 - 3) Equipment invoices
 - 4) Rental agreements
 - 5) Subcontractors' payments
 - 6) Other related documents as required by the Owner and/or Architect/Engineer.
- 9.4.2** The Contractor shall make all his books, employees, work sites and records available to the Owner or its representatives for inspection and audit.
- 9.4.3** Each claim must be **certified** by the Contractor as required by the Miami-Dade Code, False Claims Act (see Code Section 21-255, et seq.), and accompanied by all materials required by Miami-Dade County Code Section 21-257. A "certified claim" shall be made under oath by a person duly authorized by the claimant, and shall contain a statement that:
- A) The claim is made in good faith;
 - B) The claim's supporting data is accurate and complete to the best of the person's knowledge and belief;

- C) The amount of the claim accurately reflects the amount that the claimant believes is due from the Owner; and
- D) The certifying person is duly authorized by the claimant to certify the claim.

9.4.4 No reservation of rights will be effective to preserve any claims that are not fully documented and submitted in accordance with the requirements of this Article.

9.5 TIME RELATED CLAIMS

9.5.1 Any claim for additional monies that also involves a request for a Contract time extension shall be submitted together with the amount of time being requested and the supporting data including applicable scheduling references supporting the claim. Scheduling references shall include a month-by-month time impact analysis (TIA) using the currently approved overall project schedule and demonstrating the effect of the delay or change on the Contract completion date for each monthly update period that the change or delay affects. The TIA must clearly show the impact on the currently approved schedule, and conclusively prove the validity of the proposed extension.

9.5.2 Properly scheduling the work is a duty of the Contractor to the Owner. The Owner shall not incur additional liability due to the Contractor's failure to accurately model its plan of construction or from unsolicited changes to the Project Schedule. For purposes of the evaluation of time, delays, available float, due dates etc., the most recent revised schedule will not become the Project Schedule until at least 10 working days after it is transmitted to the Owner or its representative. Prior to such time the logic and sequences of the previous update shall remain in effect and be used for analysis. The intent of this section is to allow the Owner sufficient time to respond to the Contractor's change of plans without incurring liability for previously unknown causes of delays or disruptions; delays that would not have occurred under the previous plan of construction. Nothing in this section shall be construed to prevent the Owner's rejection of the Contractor's schedule.

9.5.3 Where the Contractor does not submit a TIA for a specific change or delay within the period of time specified herein, then it is expressly understood that the particular change or delay has no time impact on the Contract completion date and no time extension is required or shall be subsequently granted.

9.5.4 With regard to any and all claims for additional compensation resulting from delays to the Work, it is expressly understood and agreed as follows:

- A) The claimed delay shall not result from a cause specified in the Contract Documents as a Non-excusable Delay.
- B) Notice of the claim shall have been provided in accordance with and within the time specified in this Article.

9.5.5 In order to substantiate time-related claims (delays, disruptions, impacts, etc.), the Contractor shall, if applicable and as determined by the Owner, submit the following information:

- A) Copy of Contractor's notice of claim in accordance with this article. Failure to submit the notice is sufficient grounds to deny the claim.
 - B) The approved, as-planned Schedule in accordance with the applicable section of the Contract Documents and a copy in electronic storage media, if applicable.
 - C) The as-built Schedule reflecting changes to the approved schedule up to the time of the impact in question and a copy in electronic storage media, if applicable.
 - D) The basis for the duration of the start and finish dates of each impact activity and the reason for choosing the successor and predecessor events affected in the schedule shall be explained. Also, the basis for the duration of any lead/lags inserted into the schedule and the duration in related activity duration shall be explained.
 - E) A marked-up as-built Schedule indicating the causes responsible for changes between the as-planned and as-built schedule and establishing the required cause and effect relationships.
 - F) The Contractor is to attempt to mitigate all delays, including Owner caused delays, through reasonable and prudent methods if such can be done with no additional cost. Examples might include continuing work in follow on areas, refocusing resources from non-critical to critical work, etc. Reasonable steps to minimize the impact of a delay are precedent to claim for additional time. The intent of this section is not to induce any additional cost or undue risk to the contractor or to be used by the Owner as a basis to refuse a legitimate request for additional time. However, a delay to a critical work task is initially only a delay to the model of construction [Project Schedule]. It is not acceptable for the Contractor to "bank" delays to the Project, while no cost/low risk options to mitigate still exist.
- 9.5.6** After indicating specific time related changes on the as-built schedule, the documentation must be segregated into separate packages with each package documenting a specific duration change identified previously. This documentation package shall include Change Orders, Change Notices, Work Orders, written directions, meeting minutes, etc., related to the change in duration.
- 9.5.7** **Weather** As part of its scheduling responsibilities the Contractor must take into account typical construction delays resulting from adverse weather. Subject to compliance with the preceding, the Contractor may request additional time for unusually severe weather. However, such requests must meet the following criteria.
- 1. The weather must be unusually severe. The Contractor must demonstrate that the weather significantly exceeded typical precipitation, wind conditions or other relevant condition for the time period in question.
 - 2. The minimum time reviewed when assessing the severity of the weather against historical norms shall be 1 month. It will not be sufficient to demonstrate that there was an impacted week, or day. The Contractor must show that over the course of a month long

period the impact to its construction efforts exceeded what could have been reasonably anticipated.

3. The critical work at the time must be affected by the weather. For example, if the critical task was in the interior of the building, the review of a submittal, or the procurement of a material, the weather would have to be so severe that it prevented these tasks from occurring; i.e. flooding of the building, the shutdown of offices, or the shutdown of roads.
 4. The delay to the critical work must result in a delay to the schedule that exceeds a current contract required completion date.
- 9.5.8** Subject to the above criteria, no day with less than .16 inches of precipitation shall be considered as a day lost to rain.
- 9.5.9** The Owner may at its sole discretion waive some or all of the criteria above if conditions at the site warrant additional consideration or equitable adjustment due to Force Majeure weather events. However, this shall not be construed to imply that the Owner might owe additional money for weather related delays. Additional time remains the contractor's sole remedy for any and all weather related delays.
- 9.5.10** An extension of time will not be granted for a delay to the critical path caused by a **shortage of materials**, except Owner-furnished materials, unless the Contractor furnishes to the Architect/Engineer documentary proof that he has diligently made every effort to obtain such materials from every known source within reasonable reach of the Work. The Contractor shall also submit proof, in the form of a CPM network analysis data, that the inability to obtain such materials when originally planned, did in fact cause a delay in final completion of the Work which could not be compensated for by revising the sequence of his operations. Only the physical shortage of material will be considered under these provisions as a cause for a non-compensable extension of time. No consideration will be given to any claim that material could not be obtained at a reasonable, practical, or economical cost, unless it is shown to the satisfaction of the Architect/Engineer that such material could have been obtained only at exorbitant prices, entirely inconsistent with current rates taking into account the quantities involved and the usual practices in obtaining such quantities. Furthermore the Contractor must demonstrate that they allowed sufficient time in their planning of the work to quantify and order the materials.
- 9.5.11** **Delays Caused by Consultant and/or the Owner:** If the Contractor's performance of the Work along the critical path is delayed by any condition or action directly caused by the Owner, and which was not foreseeable by the Contractor at the time the Contract was entered into, the Contractor shall, provide notification in accordance with the Contract Documents, of any such delay and of the anticipated results thereof. The Contractor shall cooperate with the Owner and use its best efforts to minimize the impact on the schedule of any such delay. In instances where a Contract change extends the Contract beyond the completion date, the Contractor may claim Liquidated Indirect Costs as specified in the paragraph in this article dealing with Liquidated Indirect Costs. These delays shall be considered compensable, except for the period in which these delays may be

concurrent with Contractor-caused delays. If a delay on the part of the Owner is concurrent, that is, if it occurs at the same time as a Contractor-caused delay, the Owner-caused delay shall be considered an excusable delay for the portion of the Owner-caused delay which is concurrent with the Contractor-caused delay.

9.5.12 Delays Beyond Contractor's Control Not Caused by Consultant and/ or the Owner: If Contractor's performance of the Work along the critical path is delayed by any conditions beyond the control and without the fault or negligence of Contractor and not caused by the Owner, and which was not foreseeable by Contractor at the time this Contract was entered into, Contractor shall, provide immediate verbal notification with written notification in accordance with the Contract Documents, of any such delay and of the anticipated results thereof. Within two (2) calendars days of the termination of any such delay, Contractor shall file a written notice with the Architect/Engineer specifying the actual duration of the delay. If the Owner determines that the delay was beyond the control and without the fault or negligence of the Contractor and not foreseeable by the Contractor at the time this Contract was entered into, the Owner will determine the duration of the delay and may extend the time of performance of this Contract provided, however, that Contractor shall cooperate with the Owner and use its best efforts to minimize the impact on the schedule of any such delay. These delays shall be considered excusable and the Contractor shall not be entitled to, and hereby expressly waives recovery of, any damages suffered by reason of the delays contemplated by this paragraph and extension of time shall constitute Contractor's sole remedy for such delays.

9.5.13 In addition to the delays in the Work specified in this section, delays in the Work directly caused by an act or omission by an **owner of an adjoining property** will not be considered an Owner-controlled delay. An owner of an adjoining property is a person, firm, corporation, partnership, or other organization who either owns or occupies, or both, structures or parcels or both, immediately adjacent to the Work Site. Extension of time for those delays will be considered excusable, non-compensable and shall be treated as specified in this article, provided that:

- A) The Contractor has, in accordance with this article, given to the Architect/Engineer immediate verbal justification, with written confirmation within forty-eight (48) hours of the delay; and
- B) The Contractor establishes, to the satisfaction of the Architect/Engineer, that:
 - a. The delay was caused directly by an act or omission by the owner of the adjoining property; and
 - b. The Contractor has taken reasonable precautions and has made substantial effort to minimize the delay.

9.6 SUSPENSION OF CONTRACTORS

9.5.1 The attention of the Contractor is hereby directed to the requirements of MDC Administrative Order No. 3-42, which prescribes evaluation and determination standards and procedures pertaining to responsible past

performance for Construction Contractors, Engineering, Architecture, Landscape Architecture, Land Surveying, and Mapping Firms (A&E), Design-Build and Construction Manager at Risk companies, herein referred to as Firms. This Administrative Order establishes a method predicated on past performance to restrict access to County contracts when a Firm has not performed up to expectations on some types of contracts while maintaining good performance on others. This Firm evaluation process provides a mechanism to suspend a Firm from specific segments of County work where it has been determined that the Firm has performed inadequately.

9.7 DISPUTES

9.5.2 Any litigation which may arise out of this Contract shall be commenced either in the Eleventh Judicial Circuit Court in and for Miami-Dade County, Florida, or in the United States District Court, Southern District of Florida.

END OF ARTCLE

ARTICLE 10 - PAYMENTS

10.1 SCOPE OF PAYMENT

- 10.1.1** The Contractor shall receive and accept compensation provided for in the Contract as full payment for furnishing all materials, for performing all work under the Contract in a complete and acceptable manner, and for all risk, loss, damage, or expense of whatever character arising out of the nature of the work or the prosecution thereof, to the provisions of the Contract Documents.
- 10.1.2** When the "Basis of Payment" Article of a Technical Specification requires that the contract price (price bid) include compensation for certain work or material essential to the item, this same work or material will not also be measured for payment under any other contract item which may appear elsewhere in the Contract, Plans, or Specifications.
- 10.1.3** When the accepted quantities/scope(s) of work vary from the quantities/scope(s) in the Bid Form, the Contractor shall accept as payment in full, so far as Contract items are concerned, payment at the original contract bid price for the accepted quantities/scope(s) of work actually completed and accepted. No allowance, except as provided for in subsection titled "Deletion or Addition of Work," will be made for any increased expense, loss of expected reimbursement, or loss of anticipated profits suffered or claimed by the Contractor which results directly from such alterations or indirectly from its unbalanced allocation of overhead and profit among the Contract items, or from any other cause.
- 10.1.4** The Contractor's attention is directed to Miami-Dade County Code Section 2-8.1.4, providing for expedited payments to small businesses by County agencies; creating dispute resolution procedures for payment of County obligations; and requiring the Contractor to issue prompt payments, and have the same dispute resolution procedures as the County, for all small business subcontractors. Failure of the Contractor to issue prompt payment to small businesses, or to adhere to its dispute resolution procedures, may be cause for suspension, termination, and debarment, in accordance with the terms of the County contract and debarment procedures of the County

10.2 ACCOUNTS RECEIVABLE ADJUSTMENTS

- 10.2.1** In accordance with Miami-Dade County Implementing Order 3-9, Accounts Receivable Adjustments, if money is owed by the Contractor to the County, whether under this Contract or for any other purpose, the County reserves the right to retain such amount from payment due by County to the

Contractor under this Contract. Such retained amount shall be applied to the amount owed by the Contractor to the County. The Contractor shall have no further claim to such retained amounts which shall be deemed full accord and satisfaction of the amount due by the County to the Contractor for the applicable payment due herein.

10.3 SCHEDULE OF VALUES, ESTIMATED MONTHLY PARTIAL PAYMENTS, AND CONSTRUCTION SCHEDULE

10.3.1 Final Bid Take off (Miami-Dade County Section 21-265). As a condition of Award, a Final Bid Take Off will be required. The successful bidder shall maintain a final bid takeoff; that is, the final detailed estimate, tabulation, or worksheet prepared by the bidder in anticipation of the bid submitted and which shall reflect the final bid price. The final bid takeoff shall be broken down in sufficient detail to reflect labor and materials for the scoped bid and shall separate line items for Builder's risk insurance, Performance and Payment Bond, Contractor's overhead, and Contractor's Profit. The final bid takeoff is a condition precedent to submitting a claim under the Contract and must be provided prior to Contract award.

10.3.2 Within fifteen (15) days after award recommendation of the Contract in accordance with the Instructions to Bidders, the successful low Bidder shall prepare and submit to the Field Representative the following items for acceptance by the Architect/Engineer and the Owner:

- A) Preliminary Schedule of Values, to be broken down in sufficient detail as to be determined by the Owner;
- B) Schedule of Estimated Monthly Partial Payments for the duration of the project;
- C) Summary Construction Progress Schedule within the time frames specified in Division 1- General Requirements, Section 01 3216 Construction Schedule.

10.3.3 No payments will be made until the preliminary Schedule of Values (item A) and Schedule of Estimated Monthly Partial Payments (item B) required as specified above are received and accepted by the Architect/Engineer and the Owner.

10.3.4 No payments will be made until the Construction Progress schedule (item C) is submitted reviewed and accepted by the Architect/Engineer and the Owner as per timelines specified under Division 1 – General Requirements, Section 01 3216 Construction Schedule. No Partial Payments will be made until the Construction Progress Schedule are received and accepted by Architect and the Owner.

10.3.5 Finalized Schedule of Values and Finalized Estimated monthly payments (item A and B) shall be submitted and accepted by the Architect/Engineer and Owner prior to any payments. No Partial Payments will be made until the Schedule of Values and Monthly Partial Payments are received and accepted by Architect and the Owner.

- 10.3.6** The Schedule of Values shall be prepared on the form provided by the Owner and shall relate to the activities and monetary values shown in the approved Overall Construction Progress Schedule. It will include a complete and detailed breakdown of all project costs by the Specification Sections and Subsections for each of the major items of the work. It shall be revised when requested by the Field Representative if any of the values of items of work in the Schedule of Values appear to be incorrect or unbalanced. No such revisions shall in any manner affect the Total Contract Amount. Supporting data acceptable to the Field Representative will be required to substantiate the Schedule of Values. The approved Schedule of Values shall be used in the preparation of the Partial Payments and shall be used in determining the equitable value of work to be deleted from a lump sum contract or a lump sum item.
- 10.3.7** The Schedule of Estimated Monthly Partial Payments shall be realistic, and shall conform to the construction schedules. The Schedule of Estimated Monthly Partial Payments may be adjusted, from time to time, to reflect changes, if any, in the Overall Project Schedule.
- 10.3.8** The Contractor may request payments, on a monthly basis, as the work progresses. Payments shall be based on prepared applications for payment (specific form to be reviewed and approved by the Architect and Owner) showing the value of work performed each month including work completed and materials delivered and properly stored on the Site.
- 10.3.9** The Contractor shall prepare each application for payment with required attachments and submit same to the Field Representative for approval by the Architect/Engineer. The Owner will require a minimum of two (2) copies of each application for payment.
- 10.3.10** The Contractor must submit all documents required per Section 00 43 93 Payment Submittal Checklist.
- 10.3.11** Each application for payment shall clearly indicate and include the following:
- A) The amount previously paid to the Contractor on account of the Work;
 - B) The total amount requested in the application for payment;
 - C) The balance remaining to meet the Contract Sum in accordance with the latest approved Schedule of Values;
 - D) The amount of Owner-approved Change Orders listed individually;
 - E) A breakdown of Owner-approved charges to the Allowance Account;
 - F) Supporting documentation for the breakdown described above, as directed by the Owner, including but not limited to an accounting of materials purchased and stored off the project site;
 - G) Accounting for Sales Tax Savings for Owner purchases (if applicable);
 - H) The Contractor's partial waiver and release or Consent of Surety;
 - I) A list of each Subcontractor and Supplier, at every tier, who performed Work or provided materials to the Project during the period covered by the application for payment;

- J) Partial waivers and releases from each Subcontractor and Supplier who performed work on the Project during the period covered by the application for payment or Consent of Surety;
 - K) An updated Project Schedule per Division 1 – General Requirements - Section 01 3216 Construction Schedule of the Specifications;
 - L) An updated SBE Plan;
 - M) A monthly SBE Employment Utilization report included in Document 01 2000.6 (M300A);
 - N) Certified payroll reports utilizing applicable wage rates for the Contractor and for each Subcontractor and Sub subcontractor, at every tier, who performed work on the Project during the period covered by the Application for Payment;
 - O) Site progress aerial photographs and interior photographs when applicable;
 - P) Such other information, evidence and substantiation as the Owner and/or Architect/Engineer may require with respect to the nature and extent of all obligations incurred for or in connection with the work;
 - Q) The amount to be paid to the Contractor as well as the amount to be paid to each of the Contractor's Subcontractors and suppliers;
 - R) The Contractor shall submit with each monthly invoice the certified payroll forms for all employees on the job in accordance with applicable Responsible Wages and Benefits (Ordinance No. 90-143 and codified in Miami-Dade County Code Section 2-11.16). Failure to provide this information will cause the Field Representative and/or Architect/Engineer to return the invoice to the Contractor until such time as the Contractor properly submits the information; and
 - S) The Contractor shall certify that the work for which payment is requested has been done and that the materials listed are stored where indicated.
- 10.3.12** Those items on the progress payment application that, in accordance with the applicable sections of the Contract Documents, compensate for Force Account Work, for materials not yet incorporated in the work, or for work under change orders negotiated on a cost-reimbursable basis will, under procedures of the Owner, be subject to the Owner's audit review of the Contractor's records supporting the payment application.
- 10.3.13** Audits will be performed so as not to interfere with timely processing of Applications for Payment. If audit indicates the Contractor has been overpaid under a previous payment application, that overpayment will be credited against current progress payment applications.
- 10.3.14** For a period of five (5) years from Final Acceptance of the Contract, the Contractor shall maintain and make available for audit inspection and copying by the Owner, State and the Government and their authorized representatives, all records subject to audit review.
- 10.3.15** The quantity of work performed and its value will be determined based on field measurement and observation made by the Field Representative and

from the approved Schedule of Values, and any changes in the work as may be authorized by the Owner.

10.3.16 The value of materials on hand but not incorporated in the work will be determined by the Field Representative, based on actual invoice costs to the Contractor, and such value will be included in the monthly Applications for Payment only if the materials have been properly stored on the Site, provided that such materials meet the requirements of the Contract, Plans, and Specifications and are delivered to acceptable sites on the project site or in bonded warehouses that are acceptable to the Owner. Such delivered costs of stored or stockpiled materials may be included in the next partial payment after the following conditions are met:

- A) The material has been and must continue to be stored and stockpiled in a manner acceptable to the Field Representative at or on the approved site.
- B) The Contractor has furnished the Field Representative with acceptable evidence of the quantity and quality of such stored or stockpiled materials.
- C) The Contractor has furnished the Field Representative with satisfactory evidence that the material and transportation costs have been paid.
- D) The Contractor has furnished the Owner legal title (free of liens or encumbrances of any kind) to the material so stored and stockpiled.
- E) The Contractor has furnished the Owner evidence that the material so stored or stockpiled is insured against loss by damage to or disappearance of such materials at any time prior to use in the work. It is understood and agreed that the transfer of title and the Owner's payment for such stored or stockpiled materials shall in no way relieve the Contractor of its responsibility for furnishing and placing such materials in accordance with the requirements of the Contract, Plans, and Specifications and does not waive Owner's claim to reject defective materials when it is delivered to the job site.
- F) In no case will the amount of partial payments for materials on hand exceed the contract price for such materials or the contract price for the contract item in which the material is intended to be used, or the value for such materials established in the approved Schedule of Values. Payment for material furnished and delivered as indicated above will be based on 100% of the cost to the Contractor and retention will be withheld as specified in the Contract Documents. In any event, partial payments for materials on hand will not exceed 70% of the item's Bid Price, including taxes and shipping, or the agreed amount within the Schedule of Values.
- G) No partial payment will be made for stored or stockpiled living or perishable plant materials.
- H) The Contractor shall bear all costs associated with the partial payment of stored or stockpiled materials in accordance with the provisions of this Article.

- 10.3.17** Materials may be subject to being purchased by the Owner directly under the County's "Direct Material Purchase Program" and installed by the Contractor, as applicable, in accordance with Article 14 – County Purchases.
- 10.3.18** Except as provided hereafter, the Owner shall retain ten percent (10%) of the value of such work and materials, including approved Change Orders, until 50-percent completion of such services, pursuant to Florida Statutes Chapter 255.05. At Final Acceptance all remaining retainage will be released with the Final Payment.
- 10.3.19** The Contractor agrees that no substitution of securities for retainage amounts will be permitted under the Contract.
- 10.3.20** The Owner shall pay the Contractor the balance not retained as aforesaid, after deducting therefrom all previous payments. The estimates will be approximate only and all partial or monthly estimates and payments shall be subject to correction in the Application for Payment rendered following discovery of an error in any previous Application for Payment.
- 10.3.21** In the event the Contractor's monthly Pay Estimates vary substantially from the approved Schedule of Estimated Partial Monthly Payments, the Contractor shall submit a revised Schedule of Estimated Monthly Partial Payments to the Architect/Engineer and Owner for approval.
- 10.3.22** In the event the Surety on the Performance and Payment Bonds given by the Contractor becomes insolvent, or is placed in the hands of a receiver, or has its right to do business in the State of Florida suspended or revoked as provided by law, the Owner shall withhold payment of any Application(s) for Payment filed and certified by the Architect/Engineer until the Contractor shall give a good and sufficient Bond(s) as required by the Contract Documents, in lieu of the Bond(s) so executed by such Surety.
- 10.3.23** If any work or material is discovered, which in the opinion of the Architect/Engineer, the Consultants, or the Field Representative is defective, or should a reasonable doubt arise on the part of either the Architect/Engineer or the Field Representative as to the integrity of any part of the work completed previous to the final acceptance and payment, there will be deducted from the first Application for Payment rendered after the discovery of such work, an amount equal in value to the defective or questioned work, and this work will not be included in any subsequent Applications for Payment until the defects have been remedied or the causes for doubt removed.
- 10.3.24** If the Contractor fails to complete the Work, prior to or on the Contract completion date, no further Payments will be made after the date of Contract completion date until the Contractor delivers to the Owner a written consent of the Contractor's Surety covering all payments to be made thereafter, without affecting the validity of the Performance and Payment Bonds.
- 10.3.25** Unit price bid items shall be paid for in accordance with the Bid Form. The Schedule of Values shall clearly indicate the amount to be paid by the Contractor to each individual Subcontractor.

- 10.3.26** The unit prices shall be in proper balance and shall be subject to approval by the Owner. In the preparation of estimates, the Owner, at its sole discretion, may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the Work Site may also be taken into consideration under this Article when the Contractor furnishes satisfactory evidence that it will be utilized on the work covered by this Contract.
- 10.3.27** Material and work covered by progress payments shall become the sole property of the Owner. This provision shall not be construed as relieving the Contractor from the sole responsibility for material and work upon which payments have been made, the restoration of damaged work or as waiving the right of the Owner to require the fulfillment of the terms of the Contract.
- 10.3.28** No progress payments will knowingly be made for work not in accordance with this Contract.
- 10.3.29** Applications for progress payments shall be in the format as prescribed by the Owner. These applications shall be supported by evidence, which is required by this article or which is requested by the Owner and/or Architect and Engineer.
- 10.3.30** If any claim is filed against the project for labor, materials, supplies or equipment which the Owner has determined to have been incorporated on the site and the Contractor has not paid for, the Owner will have the right to retain from payments otherwise due the Contractor, in addition to other amounts properly withheld under this Article or under other provisions of the Contract, an amount equal to such amounts claimed.
- 10.3.31** Payment of the Contract lump sum price for General Requirements, if applicable, will be made in the following manner:
- A) The General Requirements Lump Sum amount, including cost for bonds and insurance, shall be paid in proportion to the total percent of completion. The Owner will consider requests for payment for bonds and insurance under the General Requirements after receipt of certified invoices from the Contractor showing that the Contractor has paid them.
 - B) The Owner reserves its right to withhold payment for General Requirements, in whole or in part, at the Owner's sole discretion, in accordance with Paragraphs below.
- 10.3.32** In addition to the provisions of this article and other relevant sections of the Contract Documents, payment may also be withheld proportionately for the following reasons:
- A) Reasonable doubt that the Work can be completed for the unpaid balance of the Contract Sum,
 - B) Reasonable indication that the Work will not be completed within the Contract Time,
 - C) Damage to another Contractor,
 - D) Unsatisfactory prosecution of the Work by the Contractor,

- E) Failure of the Contractor, or his Subcontractors, to pay wage rates, when applicable as required by the Contract,
- F) Failure to comply with the insurance requirements listed in the Contract Documents may result in the Owner's withholding or delaying payment to the Contractor.

10.4 PROMPT PAYMENT

- 10.4.1** Payment for work represented by monthly applications for payment will be made within twenty-five (25) business days after receipt by the County of a complete application for payment. In case of a dispute in one or more of the amounts in an application for payment, only the amounts not being disputed will be paid.
- 10.4.2** Progress payments will be made in accordance with the Miami-Dade County Code, Florida Statute, s. 218.70 Florida Prompt Payment Act, and Florida Statute, s. 218.735.
- 10.4.3** The Contractor's attention is directed to Florida Statute, s. 218.735, revising provisions regarding timely payment, revising deadlines for the payment of contractors, subcontractors, sub-subcontractors, material-men and suppliers. The Contractor shall remit payment due to subcontractors within ten (10) days after the contractors' receipt of payment. The subcontractor shall remit payment due to sub-subcontractors and suppliers within seven (7) days after the subcontractors' receipt of payment. Dispute resolution is provided within the Statute.

10.5 SUBCONTRACTOR'S AFFIDAVITS FOR PAYMENTS

- 10.5.1** Every request by the Contractor for payment of work performed, except the first draw, shall be accompanied by releases of claim as required by Section 10-35 of the Code of Miami-Dade County, such affidavits to be in substantially the form as bound herein.

10.6 FINAL PAYMENT

- 10.6.1** After Final Acceptance of the Work, a request for Final Payment prepared by the Contractor shall be submitted to the Field Representative for approval by the Architect/Engineer and the Owner and subsequent payment to the Contractor.
- 10.6.2** Except as may be noted on the Contractor's Affidavit and Release of All Claims, the Contractor hereby agrees to accept Final Payment as full payment for performing and completing the Work, for furnishing all labor, materials, services, equipment and everything necessary for or incidental to, and for all incidental expenses in connection with, for all loss by damage to or destruction of the Work due to any cause whatsoever, for any additional expenses because of delays or unforeseen difficulties encountered, for settlement of claims, agreed upon deductions in lieu of removal and replacement of defective work, and for replacement of defective work and materials.
- 10.6.3** Except as may be noted on the Contractor's Affidavit and Release of All Claims, acceptance of the Final Payment shall constitute an accord and

- satisfaction between the Owner and the Contractor. In case of unresolved Subcontractor claims against the Contractor, the Owner will withhold all disputed amounts unless the Contractor provides a fully executed Consent of Surety in a form acceptable to the Owner.
- 10.6.4** Prior to Final Acceptance of the Work, the Contractor shall prepare and submit a proposed final application for payment to the Architect/Engineer showing the proposed total amount due the Contractor, segregated as to Bid Item quantities, force account work, and other bases for payments; deductions made or to be made for prior payment; amounts to be retained; any claims the Contractor intends to file at that time or a statement that no claims will be filed; and any unsettled claims, stating amounts. Prior applications and payments shall be subject to correction in the proposed final application for payment. Claims filed with the final application for payment must be otherwise timely under these General Conditions.
- 10.6.5** The Owner will review the Contractor's proposed final application for payment and necessary changes or corrections will be forwarded to the Contractor. Within ten (10) days thereafter, the Contractor shall submit a final application for payment incorporating changes or corrections made by the Architect/Engineer together with additional claims resulting therefrom. Upon approval by the Owner, the corrected proposed final application for payment will become the approved final application for payment.
- 10.6.6** If the Contractor files no claims with the final application for payment and no claims remain unsettled within thirty (30) days after final inspection of the Work by the Architect/Engineer and the Owner, and agreements are reached on all questions regarding the final application for payment, the Owner, in exchange for an executed release of all claims and properly executed close-out documents specified in Paragraph 3 below, will pay the entire sum found due on the approved final application for payment.
- 10.6.7** Upon final determination of any and all claims, the Owner, in exchange for properly executed close-out documents specified in Article 11 – Contract Completion, will pay the entire sum found due on the approved final application for payment, including the amount, if any, allowed on approved claims.
- 10.6.8** In accordance with Sections 2-8.8 of the County Code (as amended by Ordinance No. 11-90), an entity contracting with the County as a condition of final payment under a contract, the Contractor shall identify all subcontractors used in the work, the amount of each subcontract, and the amount paid to each subcontractor. In the event that the Contractor intends to pay less than the subcontract amount, the Contractor shall deliver to the Owner a statement explaining the discrepancy or any disputed amount
- 10.6.9** The release from the Contractor will be from any claims arising from the Work under the Contract. If the Contractor's claim to amounts payable under the Contract has been authorized by the Owner for assignment pursuant to the relevant sections of the Contract Documents, a release may be required from the assignee.

- 10.6.10** Final payment will be made within thirty (30) days after approval of the final notice and resolution of Contractor's claims, or thirty (30) days after Final Acceptance of the Work by the Owner, whichever is later. If a final application for payment has not been approved within thirty (30) days after final inspection of the Work, the Owner shall make payment of sums not in dispute without prejudice to the rights of either the Owner or the Contractor in connection with any disputed items.
- 10.6.11** Prior to payment of a claim settlement, the claim may be audited by the Owner and may be subject to approval by the funding agencies.
- 10.6.12** Final payment made in accordance with this article will be conclusive and binding against both parties to the Contract on all questions relating to the amount of work done and the compensation paid therefore.
- 10.6.13** With the final application for payment, the Contractor shall return and submit final releases of claim from himself, from each Subcontractor of record and from other Subcontractors or material suppliers who may have notified the Owner that they were furnishing labor or materials for this project. These releases from Subcontractors and suppliers shall be final, originals, notarized and executed on the form provided by the Owner and included in the Contract Documents, all in accordance with all applicable Florida Statutes. In addition, the Contractor shall execute and return to the Owner all the enclosed close-out documents. In the event that all of the above releases cannot be furnished, the Contractor may, at the Owner's sole discretion after the Contractor demonstrates justifiable reasons, submit a Consent of Surety to Final Payment in a form acceptable to the Owner, recognizing lack of such releases of claim. Furthermore, the Contractor and the Surety shall agree in writing, in a form acceptable to the Owner, to indemnify, defend and hold harmless the Owner from any claims of Subcontractors and suppliers who refuse to execute final releases.
- 10.6.14** The making of final payment shall constitute a waiver of all claims by the Owner except those arising from:
- A) Faulty or defective Work appearing after Final Completion;
 - B) Failure of the Work to comply with the requirements of the Contract Documents, discovered after Final Completion;
 - C) The performance of audits to seek reimbursement of any overpayments discovered as a result of an audit as provided in the Contract Documents;
 - D) The enforcement of those provisions of the Contract Documents which specifically provide that they survive the completion of the Work;
 - E) The enforcement of the terms of the Payment and Performance Bonds against the Surety;
 - F) Terms of all warranties/guarantees required by the Contract Document;
- 10.6.15** The acceptance of final payment shall constitute a waiver of all claims by the Contractor.

10.7 TAXES

- 10.7.1** Except as may be otherwise provided for in the Contract Documents, the price or prices bid for the Work shall include full compensation for all federal, state, local and foreign taxes, fees and duties that the Contractor is or may be required to pay and the Contractor shall be responsible for the payment thereof during the prosecution of the work.
- 10.7.2** The Contractor's attention is directed to the fact that materials and supplies necessary for the completion of this Contract are subject to the Florida Sales and Use Tax, in accordance with Section 212.08, Florida Statutes, as amended. The Contractor shall not collect taxes upon making delivery to the Owner.
- 10.7.3** The Owner, at its sole discretion, upon request of the Contractor and where appropriate, may furnish to the Contractor appropriate evidence to establish exemption from any taxes, fees or duties which may be applicable to the agreement and from which the Owner is exempt.

10.8 PAYMENTS TO SUBCONTRACTORS AND SUPPLIERS

- 10.8.1** The Contractor shall pay all Subcontractors for and on account of work performed by such Subcontractors in accordance with the terms of their respective subcontracts and in accordance with Ordinance Nos. 94-40, and 02-29, Miami-Dade County Code Section 10-33.02 and Florida Statute s. 218.735.
- 10.8.2** Before the Contractor can receive any payment, except the first payment, for monies due him as a result of a percentage of the work completed, he must provide the Architect/Engineer with duly executed release of claim from all subcontractors and suppliers who have performed any work or supplied any material on the project as of the date, stating that said subcontractors or suppliers have been paid their proportionate share of all previous payments.
- 10.8.3** In the event such affidavits cannot be furnished, the Contractor may, at the Owner's sole discretion after the Contractor demonstrates justifiable reasons, submit an executed Consent of Surety to Requisition using the form provided in the Contract Documents identifying the subcontractors and the amounts for which the Statement of Satisfaction cannot be furnished.
- 10.8.4** The Contractor's failure to provide a Consent of Surety to Requisition Payment will result in the amount in dispute being withheld until (1) the Statement of Satisfaction is furnished, or (2) Consent of Surety to Requisition Payment is furnished.
- 10.8.5** The Subcontractor(s) shall submit with each certified monthly invoice the Certified Payroll forms for all employees on the job in accordance with applicable Provisions. Failure to provide this information will cause the Architect/Engineer to return the invoice to the Contractor until such time as the Contractor properly submits the information.

10.9 ACCOUNTS RECEIVABLE ADJUSTMENTS

10.9.1 In accordance with Miami-Dade County Implementing Order 3-9, Accounts Receivable Adjustments, if money is owed by the Contractor to the County, whether under this Contract or for any other purpose, the County reserves the right to retain such amount from payment due by County to the Contractor under this Contract. Such retained amount shall be applied to the amount owed by the Contractor to the County. The Contractor shall have no further claim to such retained amounts which shall be deemed full accord and satisfaction of the amount due by the County to the Contractor for the applicable payment due herein.

END OF ARTICLE

ARTICLE 11 - CONTRACT COMPLETION**11.1 NOTICE TO PROCEED (NTP)**

11.1.1 The Owner may issue authorization to obtain permits to the Contractor after the Contractor has executed the Contract and has delivered the specified bonds and certificates of insurance in forms acceptable to the Owner, for the limited purpose of obtaining all necessary permits to complete the work. If the Contractor is unable to obtain all necessary permits within thirty (30) days, through no fault of the Contractor, the Owner has the option, but not the obligation, to terminate the Contract, without fault to the Contractor or the Owner, effective immediately upon written notice by the Owner or give the Contractor additional time to obtain the permits. Upon the Contractor providing satisfactory evidence of obtaining the permits and a preliminary Project Schedule, estimated monthly payment schedule and a preliminary Schedule of Values, the Owner will issue a Notice to Proceed. Except as specifically authorized in writing by the Owner, the Contractor is not authorized to perform work (other than obtaining permits) under the Contract until the effective date of the Notice to Proceed, upon which the Contractor shall commence work and shall diligently prosecute the Work to completion within the time limits specified. The Contract time commences on the start date shown on the Notice to Proceed.

11.1.2 Any Work Performed by the Contractor (other than obtaining permits) prior to Notice-To-Proceed shall be at the Contractor's own risk and shall not be considered as the basis for any claim.

11.1.3 Reference Division 1 General Requirements Section 01 3216 for Construction Schedule.

11.1.4 Reference Division 1 General Requirements Section 01 7900 for Contractor's Close out procedures.

11.2 TIME FOR COMPLETION OF CONTRACT

11.2.1 TIME IS OF THE ESSENCE. The work to be performed under this Contract shall commence on the effective date of the Notice to Proceed and be completed, including all punch list work, within the time specified in the Bid Form after the effective start date of said Notice to Proceed.

11.3 SHOP DRAWINGS SUBMITTAL SCHEDULE

11.3.1 Unless otherwise required by the Contract Documents, the Contractor shall present a comprehensive schedule of shop drawings to be submitted prior to the first request for payment, or no later than fifteen (15) days after NTP, to be reviewed and accepted by the Architect/Engineer, Consultants and or the Owner.

11.2.1 The Contractor shall schedule shop drawing preparation and approval, and subsequent fabrication and delivery to the site, of all necessary equipment and materials to comply with both the quality of materials and work and the established completion time.

11.4 SCHEDULE OF VALUES SUBMITTAL

11.4.1 The Contractor shall submit a Schedule of Values as required in ARTICLE 10 Section 10.2.1, and the submittal and approval of the Schedule of Values is a condition of issuance of the NTP.

11.4.2 Pursuant to Resolution R-138-10, it is required that the scope of work of Small Business Enterprise (SBE) subcontractors utilized to satisfy an established SBE goal be separately stated and accounted for in any schedule of values requested by the County.

11.5 TIME CONTINGENCY ALLOWANCE

11.5.1 This project has allocated an Owner controlled time contingency based on the overall project schedule, as specified in the **Bid Form**.

11.6 DETERMINATION AND EXTENSION OF CONTRACT TIME

11.6.1 All work under this Contract shall be completed within the number of calendar days stipulated in the Bid Form, counting from the effective date of the Notice-to-Proceed and including all Saturdays, Sundays, holidays and non-work days. All calendar days elapsing between the effective dates of the Field Representative's orders to suspend and resume all work, due to causes not the fault of the Contractor, its Subcontractors or Suppliers, as specified in these General Conditions, shall be considered as Excusable Delays; request(s) for time extension shall be in accordance with the requirements of these General Conditions.

11.7 USE AND POSSESSION

11.7.1 The Owner shall have the right to beneficially occupy, take possession of or use any completed or partially completed portions of the Work. Such possession or use will not be deemed an acceptance of work not completed in accordance with the Contract. While the Owner is in such possession, the Contractor, notwithstanding the provisions of the Contract Documents, will be relieved of the responsibility for loss or damage to the Work other than that resulting from the Contractor's fault or negligence or breach of warranty. If such prior possession or use by the Owner delays the progress of the Work or causes additional expense to the Contractor, a Contract change in the Contract price or the time of completion will be made and the Contract will be modified in writing accordingly.

11.8 BENEFICIAL OCCUPANCY AND SUBSTANTIAL COMPLETION

11.8.1 Prior to Beneficial Occupancy or Substantial Completion, the Contractor shall obtain a **Certificate of Occupancy** from the Building and Zoning Department.

11.8.2 Beneficial Occupancy shall occur when the Owner in its sole discretion determines that a portion of the Work may be occupied. The Owner may take Beneficial Occupancy in accordance with the provisions of the Contract Documents. If known that the Owner intends to take Beneficial Occupancy of any portion of the Work, such will be stated in the Contract Documents. If not known prior to the time of receipt of Bids, the Owner will give written

notice to the Contractor through the Field Representative, within a reasonable time of taking any such Beneficial Occupancy.

- 11.8.3** Beneficial Occupancy or issuance of a Certificate of Substantial Completion shall not constitute Final Acceptance of the Work, nor shall it relieve the Contractor of any responsibility for the correction of work or for the performance of work not complete at the time of Beneficial Occupancy or Substantial Completion.
- 11.8.4** Prior to the anticipated date of Beneficial Occupancy or Substantial Completion, the Contractor shall instruct Owner personnel as necessary for the proper operation and maintenance of all equipment and machinery that will serve the work.
- 11.8.5** Prior to the date of Beneficial Occupancy or Substantial Completion, the Architect/Engineer, the Consultants, and the Field Representative will inspect the Work and begin the preparation of a Punch List covering those items of incomplete or defective work which the Contractor shall complete and correct prior to Final Acceptance.
- 11.8.6** The Contractor shall not be responsible for normal wear resulting from the Owner's use of the Work after Beneficial Occupancy or Substantial Completion. However, any damage to the Work not attributable to normal wear resulting from the Owner's use shall be repaired by the Contractor at no additional cost to the Owner.
- 11.8.7** Until the final acceptance of the Work, excepting only those portions of the Work declared Substantially Completed, the Contractor shall have the charge and care thereof and shall take every precaution against injury or damage to any part due to the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the Work. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the Work occasioned by any of the above causes before Final Acceptance and shall bear the expense thereof.
- 11.8.8** If the Work is suspended for any cause whatever, the Contractor shall be responsible for the Work and shall take such precautions necessary to prevent damage to the Work. The Contractor shall protect the Work from erosion, provide for normal drainage and shall erect necessary temporary structures, signs, or other facilities as necessary to protect the Work.

11.9 WARRANTIES OF THE WORK

- 11.9.1** The Guaranty period for the entire Work covered by the Performance and Payment Bonds shall not begin until Final Acceptance of all work under the Contract and will be for a period of **one (1) year** unless otherwise stipulated in the Contract Documents. Reference Roof warranty required for twenty (20) years.
- 11.9.2** If, within one year after the date of Final Acceptance or within such longer period of time as may be prescribed by statute of limitations or other law or by the terms of any applicable special Warranty required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct such work within ten (10) days after receipt of a written notice from the Owner to do so. In

- the event the Contractor fails to comply, the Owner may proceed to have such work done at the Contractor's expense and the Contractor and/or its surety will pay the cost thereof upon demand. The Owner shall be entitled to all costs, including reasonable attorney's fees, necessarily incurred upon the Contractor's refusal to pay the above costs.
- 11.9.3** The Guaranty period for material and equipment covered by Contractor's and Subcontractors' guarantees shall start at the time of Final Completion and will be for a period of one year at a minimum or as otherwise stipulated in the Contract Documents.
- 11.9.4** The Contractor hereby Warrants and Guarantees that all work shall be in accordance with the Contract Documents. The Contractor will submit a written Guarantee in the form found in the Contract Documents prior to Final Acceptance. The Contractor further agrees that it will correct all defects discovered within one year or within such longer period of time as may be prescribed by statute of limitations or other law or by the terms of any applicable special Warranty required by the Contract Documents, of the date of Final Acceptance and that it will commence work on such repairs within ten (10) days after being notified by the Owner of the need for this work.
- 11.9.5** The Contractor will correct all latent defects discovered within ten (10) years after Final Acceptance provided that the Owner shall notify the Contractor of each latent defect within the time specified by law. The Contractor, without prejudice to the terms of the Contract, shall be liable to the Owner for all damages sustained by the Owner resulting from latent defects, fraud, or such gross mistakes as may amount to fraud, discovered after the stated guarantee and warranty periods have expired. If the Contractor fails to act within ten (10) days, the Owner reserves the right to have the work performed by others at the expense of the Contractor, and the Contractor agrees to pay the Owner the cost thereof upon demand. The Owner shall also be entitled to reasonable attorney's fees, necessarily incurred upon the Contractor's refusal to pay the above costs.
- 11.9.6** This one-year period shall be covered by the Surety Performance Bond as specified in this Contract, except that in the case of defects or failure in a part of the work which the Owner takes possession of prior to Substantial Completion, such a period shall commence on the date the Owner takes possession. Upon receiving notification from the Owner or any public body, to whom the ownership of the Work has been transferred or who has agreed to maintain the Work, the Contractor shall immediately remedy, repair, or replace, without cost to the Owner or other notifying party and to the entire satisfaction of the notifying party, defects, damages, or imperfections due to faulty materials or workmanship appearing in said Work within said period of not less than one year. Remedial work shall carry the same Warranty as the original work starting with the date of acceptance of the replacement or repair. Payment to the Contractor will not relieve him of any obligation under the Contract.
- 11.9.7** The Contractor, at no additional expense to the Owner, shall also remedy damage to equipment, the site, or the buildings or the contents thereof, which is the result of any failure or defect in the Work, and restore any Work

- damaged in fulfilling the requirements of the Contract. Should the Contractor fail to remedy any such failure or defect within ten (10) days after receipt of notice thereof, the Owner will have the right to replace, repair, or otherwise remedy such failure or defect and deduct all costs from the Contractor's pay request or Payment and Performance Bond if final payment has been made.
- 11.9.8** Subcontractors', manufacturers' and suppliers' Warranties and Guaranties, expressed or implied, with respect to any part of the Work and any material used therein shall be deemed obtained and shall be enforced by the Contractor for the benefit of the Owner provided that, if directed by the Owner, the Contractor requires such subcontractors, manufacturers and suppliers to execute such Warranties and Guaranties, in writing, directly to the Owner.
- 11.9.9** The rights and remedies of the Owner provided in this Article are in addition to and do not limit any rights and remedies afforded by the Contract or by law.
- 11.9.10** Nothing in the above intends or implies that this Warranty shall apply to work that has been abused or neglected by the Owner, its agents or other public body, utility or railroad to which ownership has been transferred.
- 11.10 REQUIRED GUARANTEES**
- 11.10.1 Subcontractor's Guarantees:** The Contractor shall furnish a written Guaranty from each Subcontractor in the form found in the Contract Documents.
- 11.10.2 Manufacturer's Guarantees:** The Contractor shall furnish an original Guaranty or Warranty from each of the manufacturers of equipment or materials supplied and installed **under** this Contract. Each Guaranty or Warranty shall be in accordance with the respective manufacturer's association Standard Guaranty and shall be in favor of the Contractor and the Owner.
- 11.10.3 Special Guaranty and Warranty Requirements:** The Contractor shall also furnish any special Guaranty or Warranty called for in the Contract Documents.
- 11.10.4** All Guarantees and Warranties shall be delivered to the Field Representative prior to Substantial Completion, whichever is applicable.
- 11.11 FINAL ACCEPTANCE**
- 11.11.1** Upon due notice from the Contractor of presumptive completion of the Work, the Architect/Engineer, the Consultants, the Field Representative, and the Owner will make an inspection. If all construction provided for and contemplated by the Contract is found to be completed in accordance with the Contract Documents, such inspection shall constitute the final inspection. The Field Representative will notify the Contractor in writing of Final Acceptance as of the date of final inspection and provide a certificate of substantial completion.

- 11.11.2** If, however, the inspection discloses any Work, in whole or in part, as being unsatisfactory, the Field Representative will give the Contractor the instructions for correction of same (punch list) and the Contractor shall immediately comply with and execute the Work listed in the punch list. Upon correction of the Work, another inspection will be made which shall constitute the final inspection, provided that work has been satisfactorily completed. In such event, the Field Representative will notify the Contractor in writing of Final Acceptance as of the date of this final inspection.
- 11.11.3** When the Owner or Architect/Engineer considers all Work indicated on the Punch List to be complete, the Contractor shall submit written certification that:
- A) Work has been inspected for the compliance with the Contract Documents.
 - B) Work has been completed in accordance with the Contract Documents, and that deficiencies listed within the Certificate of Substantial Completion and its attachments have been corrected.
 - C) Work is completed and ready for Final Inspection.
- 11.11.4** Upon notification of Final Acceptance, the Contractor shall furnish to the Field Representative the final Contractor's Affidavit and Release of All Claims.
- 11.11.5** Final Acceptance of the Work does not preclude or stop the Field Representative from correcting any measurement, estimate, or certificate made before or after completion of the Work, nor shall the Owner be precluded or stopped from recovering from the Contractor or its Surety, or both, such overpayment as may be sustained, or by failure on the part of the Contractor to fulfill its obligations under the Contract. A waiver on the part of the Owner of any breach of any part of the Contract shall not be held to be a waiver of any other or subsequent breach.
- 11.11.6** Substantial Completion shall occur when the Architect/Engineer issues a certificate of Substantial Completion. The Contractor is entitled to Substantial Completion when only minor Punch List items are pending, and when the Work can fully be used for the use for which it was intended.
- 11.11.7** The following items must be satisfied before Substantial Completion, as defined in the Contract Documents, will be approved:
- A) All Work must be completed to the satisfaction of the appropriate permitting agencies having jurisdiction over the Work. The Contractor must furnish the Owner with a "Certificate of Occupancy" or a "Certificate of Completion," as applicable, from the permitting agency.
 - B) All building systems must be fully operational this may include but not be limited to: mechanical systems, electrical systems, security systems, irrigation systems building automation systems and fire systems, must be completed in accordance with the Contract Documents, tested and approved. Further, the Owner must have received training on all systems.

- C) All plumbing, heating, ventilation, and air conditioning systems must be completed, tested and approved. Further, the Owner must have received training on all systems. Whenever the scope of work includes a facility or building, an HVAC test and balance report must be submitted and approved as a condition precedent to Substantial Completion.
 - D) The punch list may not be so extensive or of a nature that the Contractor's completion will significantly interfere with the Owner's beneficial use of the facility.
 - E) The Contractor shall deliver to the Field Representative complete As-Built drawings, all approved Shop Drawings, maintenance manuals, pamphlets, videos, charts, parts lists and specified spare parts, operating instructions and other necessary documents required for all installed materials, equipment, or machinery, all applicable warranties and guarantees, and the appropriate Certificate of Occupancy.
- 11.11.8** The Certificate of Substantial Completion shall establish the date of Substantial Completion and shall have attached the Punch List reflecting any items to be completed or corrected, but which do not prevent beneficial use and occupancy, and shall state the date by which the Punch List is to be completed. The completion time for the Punch List shall not be greater than sixty (60) days from the date of issuance of the Certificate of Substantial Completion.
- 11.11.9** If any of the conditions listed in this Article are not met and the Work has not been completed, or the Contractor determines that the final Punch List cannot be completed within sixty (60) days, a Certificate of Substantial Completion shall not be issued. The Contractor shall continue work, reducing the number of items on the Punch List that were not met. Additional inspections shall be scheduled as necessary until Substantial Completion is declared. However, costs incurred by the Owner for any inspections beyond a second inspection will be charged back to the Contractor.
- 11.11.10** In the event the Contractor fails to achieve Substantial Completion within the period specified in the Contract for completion, the Contractor shall be liable for Liquidated Damages and the Owner has, as its option, the right to, after ten (10) calendar day-notice to the Contractor, have the work performed by others and back charge the Contractor for all Direct and Indirect Costs related to performing this work.
- 11.11.11** In the event that the Owner chooses to have the work completed by others, there shall not be any further non-excusable delays charged to the Contractor beyond the ten (10) days following notice to the Contractor. However, the Contractor shall not be relieved of any non-excusable delays incurred through the date of termination.
- 11.11.12** The Punch List and the Contract shall remain open until all the Work is complete and accepted. The current retainage will be used to offset any Liquidated Damages and any back charges, after which, any surplus retainage will be released to the Contractor.
- 11.11.13** If the retainage on the Project is insufficient to cover the Liquidated Damages and any back charge, the Owner may deduct from any payment

due to the Contractor or may bill the Contractor for the balance and the Contractor shall promptly remit to the Owner an amount equal to the billing.

- 11.11.14** Should the Owner and/or Architect/Engineer inspection find that Work is incomplete, he will promptly notify the Contractor in writing listing all observed deficiencies. The Contractor shall be responsible for all Direct and Indirect Costs to the County resulting from the Contractor's failure to complete the Punch List items within the time allowed for completion.
- 11.11.15** The Contractor shall remedy deficiencies and send a second certification. Another inspection will be made that shall constitute the final inspection. Provided that work has been satisfactorily completed, the Architect/Engineer will notify the Contractor in writing of Final Acceptance as of the date of this final inspection.
- 11.11.16** Upon notification of Final Acceptance to the Contractor, the Architect/Engineer will request and consider closeout submittals from the Contractor including but not limited to the final Contractor's Affidavit and Release of All Claims.
- 11.11.17** The Contractor, without prejudice to the terms of the Contract, shall be liable to the Owner for latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the Owner's rights under any warranty or guaranty.

11.12 RE-INSPECTIONS FEES

- 11.12.1** Should the status of completion of the Work require re-inspection of the Work by the Owner and the Architect/Engineer due to failure of the Work to comply with the Contractor's representations regarding the completion of the Work, the Owner will deduct from the progress and/or final payment to the Contractor, fees and costs associated with re-inspection services in addition to scheduled Liquidated Damages.

11.13 CONTRACTOR'S AFFIDAVIT AND RELEASE OF ALL CLAIMS

- 11.13.1** Upon the completion of the Work and before the final payment is made, the Contractor shall execute a Contractor's Affidavit and Release of All Claims. This is to be accompanied by a consent of the Surety, in favor of the Owner, on the Form included in the Contract Documents. An original Contractor's Affidavit and Release of All Claims shall be submitted to the Field Representative with the Contractor's Request for Final Payment.
- 11.13.2** The rights of all persons supplying labor, materials and supplies, used directly or indirectly in the prosecution of the Work covered by this Contract are governed by the provisions of Section 255.05, Florida Statutes. Nothing in the Contract Documents shall be construed to confer any benefits or rights upon or to create any relationships whatsoever with any subcontractor, supplier, laborer or any other party except as same may be granted, conferred or created by Section 255.05 of the Florida Statutes.

END OF ARTICLE

ARTICLE 12 - INDEMNIFICATION, PAYMENT AND PERFORMANCE BOND, INSURANCE

12.1 INDEMNIFICATION AND HOLD HARMLESS

- 12.1.1** In consideration of the entry of this Agreement, and to the extent permitted by Chapter 725, Florida Statutes, as may be amended, the Contractor agrees to indemnify, protect, defend, and hold harmless the County, their elected officials, officers, employees, consultants, and agents from liabilities, damages, losses, and costs including, but not limited to reasonable attorney's fees at both the trial and appellate levels to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Contractor and other persons employed or utilized by the Contractor in the performance of the Work.
- 12.1.2** The indemnification obligation under this clause shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor and/or any Subcontractor under worker's compensation acts, disability benefit acts, or other employee benefit acts.
- 12.1.3** In the event that any claims are brought or actions are filed against the County with respect to the indemnity contained herein, the Contractor agrees to defend against any such claims or actions regardless of whether such claims or actions are rightfully or wrongfully brought or filed. The Contractor agrees that the County may select the attorneys to appear and defend such claims or actions on behalf of the County. The Contractor further agrees to pay at the Contractor 's expense the attorneys' fees and costs incurred by those attorneys selected by the County to appear and defend such claims or actions on behalf of the County. The County, at its sole option, shall have the sole authority for the direction of the defense, and shall be the sole judge of the acceptability of any compromise or settlement of any claims or actions against the County.
- 12.1.4** To the extent this indemnification clause or any other indemnification clause in this Agreement does not comply with Chapter 725, Florida Statutes, as may be amended, this provision and all aspects of the Contract Documents shall hereby be interpreted as the parties' intention for the indemnification clauses and Contract Documents to comply with Chapter 725, Florida Statutes, as may be amended.
- 12.1.5** This Section shall survive expiration or termination of this Agreement.

12.2 PAYMENT AND PERFORMANCE BOND

12.2.1 The Performance and Payment Bond shall be furnished in the 3-page form included in the Contract Documents (Section 00 61 13) if the Total Maximum Contract Amount equals \$200,000.00 or greater, or as required by the User Department for lesser amounts. The amount of the bond shall be for the Total Maximum Contract Amount which includes any Alternates chosen by the County, Owner-Controlled Contingency Amounts and/or Owner-Controlled Allowance Amounts.

12.2.2 12.2.2 Attorneys-in-fact, who sign the Performance and Payment Bond, must file with such Bonds, **certified copies of their current power of attorney to sign such Bonds**. All Bonds must be countersigned by a **Florida Resident agent of the Surety, with a copy of the agent's current identification card**, as issued by the State of Florida Insurance Commissioner.

12.2.3 Failure by the Bidder to deliver the applicable forms, to furnish the Performance and Payment Bond, and to furnish satisfactory evidence of all insurance coverage within fifteen (15) calendar days from the date of Notice of Award Recommendation presented to the successful Bidder, may result in the annulment of the award and the forfeiture of the bid guaranty to the County, which forfeiture shall be considered not as a penalty but in liquidation of damages sustained by the County. Award may then be made to the next lower responsive and responsible Bidder, or all remaining Bids may be rejected, and the Contract may be re-advertised.

12.2.4 A single instrument Payment and Performance Bond, satisfactory to the Owner, for twice the penal sum (no less than 100% of the total maximum contract amount for payment-related issues and 100% of the total maximum contract amount for performance-related issues), shall be required of the Contractor.

12.2.5 The bond shall be written through surety insurers authorized to do business in the State of Florida as Surety, with the following qualifications as to management and financial strength according to the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey:

<u>Bond (Total Contract) Amount</u>	<u>Best's Rating</u>
\$500,001 to \$1,500,000	B V
\$1,500,001 to \$2,500,000	A VI
\$2,500,001 to \$5,000,000	A VII
\$5,000,000 to \$10,000,000	A VIII
Over \$10,000,000	A IX

- 12.2.6** On Contract amounts of \$500,000 or less, the Bond provisions of Section 287.0935, Florida Statutes shall be in effect and surety companies not otherwise qualifying with this paragraph may optionally qualify by:
- A) Providing evidence that the surety has twice the minimum surplus and capital required by the Florida Insurance Code at the time the Invitation to Bid is issued.
 - B) Certifying that the surety is otherwise in compliance with the Florida Insurance Code, and
 - C) Providing a copy of the currently valid Certificate of Authority issued by the United States Department of Treasury under 31 U.S.C. 9304-9308.
- 12.2.7** Surety insurers shall be listed in the latest Circular 570 of the U.S. Department of the Treasury entitled "Surety Companies Acceptable on Federal Bonds", published annually. The Bond amount shall not exceed the underwriting limitations as shown in this circular.
- 12.2.8** For Contracts in excess of \$500,000 the provisions of the Contract Documents will be adhered to, plus the surety insurer must have been listed on the U.S. Treasury list for at least three consecutive years, or currently hold a valid Certificate of Authority of at least 1.5 million dollars and listed on the Treasury list.
- 12.2.9** Payment and Performance Bonds guaranteed through U.S. Government Small Business Administration or Contractors Training and Development Inc. will also be acceptable.
- 12.2.10** The attorney-in-fact or other officer who signs a Payment and Performance Bond for a surety company must file with such Bond a certified copy of his/her power of attorney authorizing him/her to do so.
- 12.2.11** The cost of the Bonds shall be included in the Bid.
- 12.2.12** The required Bond shall be written by or through and shall be countersigned by, a licensed Florida agent of the surety insurer, pursuant to Section 624.425 of the Florida Statutes.
- 12.2.13** The Bond shall be delivered to the Contracting Officer in accordance with the instructions within the Notice of Award.
- 12.2.14** In the event the Surety on the Payment and Performance Bond given by the Contractor becomes insolvent, or is placed in the hands of a receiver, or has its right to do business in its State of domicile or the State of Florida suspended or revoked as provided by law, the Owner shall withhold all payments under the provisions of these Contract Documents until the Contractor has given a good and sufficient Bond in lieu of Bond executed by such Surety.
- 12.2.15** Cancellation of any bond, or non-payment by the Contractor of any premium for any Bond required by this Contract, shall constitute a breach of this Contract. In addition to any other legal remedies, the Owner at its sole option may terminate this Contract or pay such premiums, and deduct the costs thereof from any amounts that are or may be due to the Contractor.

12.2 INSURANCE TO BE CARRIED BY THE CONTRACTOR

12.3.1 The Contractor shall maintain the insurance specified in this Article throughout the performance of this Contract until the work has been completed by the Contractor and accepted by the Owner.

12.3.2 Prior to execution of the Contract by the County and commencement of work, the Contractor shall obtain all insurance required under this Article. All insurance required by the Contract must stay in force until the notification of Final Acceptance has been issued to the Contractor. The Contractor shall also keep all insurance required by the Contract in force when performing any work during the warranty period(s). The Contractor shall furnish to the County's Risk Management Division:

A) Certificate(s) of Insurance which clearly indicate the insurance coverage(s) required below.

B) Original Builder's Risk Policy which indicates the coverage required below.

12.2.3 The Contractor shall furnish to Miami-Dade County ("County"), Internal Services Department (ISD), Risk Management Division, 111 NW 1st Street, Suite 2340, Miami, FL 33128 the following:

A) Worker's Compensation Insurance: for all employees of the Contractor as required by Chapter 440, Florida Statutes.

B) Commercial General Liability Insurance: on a Comprehensive basis, including Explosion, Collapse and Underground Liability coverage, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage. Miami-Dade County must be shown as an additional insured with respect to this coverage.

C) Automobile Liability Insurance: covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

D) Completed Value Builder's Risk Insurance: on an "All Risk" basis in an amount not less than 100 percent of the insurable value of the building(s) or structure(s). The policy shall be in the name of Miami-Dade County and the Contractor.

12.2.4 If Section P-160 "Excavation/Disposal of Contaminated Soils" applies, the following is required in addition to the above requirements:

A) Contractor's Pollution Liability Insurance: in an amount not less than \$5,000,000. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**

B) Automobile Liability Insurance: the coverage required above must be increased to an amount not less than \$5,000,000 combined single limit per occurrence for bodily injury and property damage. Policy shall be endorsed to provide Broadened Coverage for Covered Autos – Endorsement CA 9948 (or the equivalent) for the Business Auto, Motor Carrier and Truckers Coverage Forms.

- 12.2.5** All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:
- A) The company must be rated no less than “A” as to management, and no less than “Class VII” as to financial strength, by the latest edition of Best’s Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division, or;
 - B) The company must hold a valid Florida Certificate of Authority as shown in the latest “List of All Insurance Companies Authorized or Approved to Do Business in Florida” issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.
 - C) MIAMI-DADE COUNTY CONTRACT NUMBER AND TITLE OF CONTRACT MUST APPEAR ON EACH CERTIFICATE. CERTIFICATE HOLDER MUST READ:

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

- 12.2.6** Certificates will indicate no modification or change in insurance shall be made without thirty (30) days in advance notice to the certificate holder.
- 12.2.7** The Contractor shall not receive an authorization to begin until it has obtained all insurances required hereunder. The Contractor shall maintain all required insurances for the full term of this Agreement.
- 12.2.8** The cost of insurance will be paid to the Contractor as part of Division I, General Requirements in accordance with Article 10 Payments of the General Contract Conditions.
- 12.2.9** Failure to comply with the insurance requirements listed in this Article may result in the Owner's withholding or delaying payment to the Contractor.
- 12.2.10** Compliance with the foregoing requirements as to the carrying of insurance shall not relieve the Contractor from liability under any other portion of this Contract.
- 12.2.11** Cancellation of any insurance or bonds, or non-payment by the Contractor of any premium for any insurance policies or bonds required by this Contract shall constitute a breach of this Contract. In addition to any other legal remedies, the Owner at its sole option may terminate this Contract or pay such premiums, and deduct the costs thereof from any amounts that are or may be due to the Contractor.
- 12.2.12** Immediate notification must be given the Owner and its agent in case of accident or occurrence which might give rise to a claim under any policy provided by the Owner, or any policy on which the Owner is a joint insured.
- 12.2.13** The Contractor and its Subcontractors shall cooperate to the fullest extent with the Owner in all matters relating to the insurance provided and shall comply with all requirements of any insurance policy procured by the Owner. They shall also at their own expense furnish the County or its duly

authorized representative with copies of all correspondence, papers, records and other items necessary or convenient for dealing with or defending against any claims and for administering the aforementioned insurance including furnishing the time of any of their employees, officers, or agents whose presence or testimony is necessary or convenient in any negotiations or proceedings involving such insurance.

- 12.2.14** The provisions of these General Conditions are not intended to create any rights for the Contractor and/or Subcontractors other than rights which may be available to them under the policies themselves, whatever such rights might be. Moreover, the Owner makes no representation or guaranty either by the provisions of this General Condition or otherwise as to the effect of or the coverage under said policies, and no employee or agent of the Owner is authorized to make any such representation or guaranty, or to offer any interpretation of or information on said policies. Upon request of the Contractor and/or Subcontractors, coverage forms will be made available for examination.

END OF ARTICLE

ARTICLE 13 - CANCELLATION OR TERMINATION OF CONTRACT**13.1 CANCELLATION BY THE OWNER – TERMINATION FOR CONVENIENCE**

13.1.1 The Owner may at its option and discretion cancel the Contract at any time without any default on the part of the Contractor by giving a written Notice of Cancellation to the Contractor and its Surety at least ten (10) days prior to the effective date of such cancellation.

13.1.2 In the event of cancellation by the Owner, the Owner shall pay the Contractor for all labor performed, all materials and equipment furnished by the Contractor and its Subcontractors, materialmen and suppliers and manufacturers of equipment less all partial payments made on account prior to the date of cancellation as determined by the Field Representative and approved by the Architect/Engineer. The Contractor will be paid for:

- A) The final value of all work completed under the Contract, based upon the approved Schedule of Values and/or Unit Prices,
- B) The final value of all materials and equipment delivered to but not incorporated into the work and properly stored on the site,
- C) The final value of all bonafide irrevocable orders for materials and equipment not delivered to the construction site as of the date of cancellation. Such materials and equipment must be delivered to the Owner to a site or location designated by the Department prior to release of payment for such materials and equipment.
- D) The values calculated under A, B, and C above shall be as determined by the Field Representative and approved by the Architect/Engineer.

13.1.3 In the event of cancellation under this Article, the Contractor shall not be entitled to any anticipated profits for any work not performed due to such cancellation.

13.1.4 No claims for loss of anticipated profits or for any other reason in connection with the cancellation of the Contract shall be considered.

13.1.5 In the event of cancellation under this Article, the Owner does not waive or void any credits otherwise due Owner at the time of cancellation, including Liquidated Damages, and back charges for defective or deficient work.

13.2 TERMINATION BY DEFAULT OF CONTRACTOR

13.2.1 The Contract may be terminated by the Owner for failure of the Contractor to comply with any requirements of the Contract Documents including but not limited to:

- A) Failure to begin the work under the Contract within the time specified in the "Notice to Proceed," or
- B) Failure to provide the Schedule for the Project by the date due, or
- C) Failure to provide adequate shop drawings by the dates indicated in the approved Schedule for the Project, or

- D) Failure to perform the work or failure to provide sufficient workers, equipment or materials to assure completion of work in accordance with the terms of the Contract, and the approved Progress Schedule, or
 - E) Performing the work unsuitably or neglecting or refusing to remove materials or to perform anew such work as may be rejected as unacceptable and unsuitable, after written directions from the Field Representative, or
 - F) Failure to replace the superintendent in the time allotted, if required, or
 - G) Violating the terms of the Contract or performing work in bad faith, or
 - H) Discontinuing the prosecution of the work, or
 - I) Failure to resume work which has been discontinued within a reasonable time after notice to do so, or
 - J) Becoming insolvent or being declared bankrupt, or committing any act of bankruptcy or insolvency, or failure to maintain a qualifier, or
 - K) Allowing any final judgment to stand against him unsatisfied for a period of ten (10) days, or
 - L) Making an assignment for the benefit of creditors, or
 - M) Abandonment of the Contract, or
 - N) For any other cause whatsoever, failing to carry on the work in an acceptable manner or to comply with any other Contract requirement.
- 13.2.2** Before the Contract is terminated, the Contractor and its Surety will be notified in writing by the Architect/Engineer or Field Representative of the conditions which make termination of the Contract imminent. The Contract will be terminated by the Owner ten (10) days after said notice has been given to the Contractor and his Surety. Unless a satisfactory effort acceptable to the Owner has been made by the Contractor or his Surety to correct the conditions, the Owner may declare the Contract breached and send a written Notice of Termination to the Contractor and his Surety.
- 13.2.3** The Owner reserves the right, in lieu of termination as set forth in this Article, to withhold any payments of money which may be due or become due to the Contractor until the said default(s) have been remedied. In the event of Termination for Default, the Owner also reserves the right, in cases where the damages calculated by the Owner are expected to exceed the amount the Owner anticipated recovering from the Surety, to withhold amounts for work already performed.
- 13.2.4** In the event the Owner exercises its right to terminate the Contract for default of the Contractor as set forth herein, the Owner shall have the option of finishing the work, through any means available to the Owner, or having the Surety complete the Contract in accordance with its terms and conditions. If the Surety takes over, the time or delay between Notice of Default and start of work by the Surety is a Non-Excusable Delay. If the Surety fails to act promptly, no longer than within thirty (30) calendar days, the Owner may exercise any other reason for termination of the Contract.

- 13.2.5** Payments for the various Bid Items listed in the Bid Form will constitute full compensation for all expenses incurred in consequence of discontinuance of all or any portion of the Work except as provided in this section of the Contract Documents. In no event will compensation be made for anticipatory profits or consequential damages as a result of a discontinuance of all or any portion of the Work.
- 13.2.6** The Contractor shall immediately upon receipt communicate any Notice of Termination for Default issued by the Owner to the affected Subcontractors and suppliers at any tier.
- 13.2.7** If, after Notice of Termination of the Contractor's right to proceed under the provisions of this Article, it is determined for any reason that the Contractor was not in default under the provisions of this Article, or that the Contractor was entitled to an extension of time under the Contract Documents, the rights and obligations of the parties shall be the same as if the Notice of Termination had been issued pursuant to the section of this article dealing with Termination for Convenience.

13.3 TERMINATION FOR NATIONAL EMERGENCIES

- 13.3.1** The Owner shall terminate the Contract or portion thereof by written notice when the Contractor is prevented from proceeding with the construction contract as a direct result of an Executive Order of the President of the United States with respect to the prosecution of war or in the interest of national defense.
- 13.3.2** When the Contract, or any portion thereof, is terminated before completion of all items of work in the Contract, payment will be made for the actual number of units or items of work completed at the Contract price or as mutually agreed for items of work partially completed or not started. No claims or loss of anticipated profits or for any other reason in connection with the termination of the Contract shall be considered.

13.4 IMPLEMENTATION OF CANCELLATION OR TERMINATION

- 13.4.1** If the Owner cancels or terminates the Contract, the Contractor shall stop all work on the date specified in the Notice of Cancellation or Termination and shall:
- A) Cancel all orders and subcontracts which may be terminated without costs;
 - B) Cancel and settle other orders and subcontracts where the cost of settlement will be less than costs which would be incurred were such orders and subcontracts to be completed, subject to prior approval of the Field Representative;
 - C) Settle outstanding liabilities and claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Owner, to the extent it may require, which approval or ratification shall be final for the purposes of this Article;
 - D) Transfer title and deliver to the Owner, in the manner, at the time, and to the extent, if any, directed by it, in accordance with directions of the Field Representative, all fabricated or un-fabricated parts, all materials,

supplies, work in progress, completed work, facilities, equipment, machinery or tools acquired by the Contractor in connection with the performance of the work and for which the Contractor has been or is to be paid;

- E) Assign to the Owner in the manner, at the times and to the extent directed by it, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Owner will have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- F) Deliver to the Field Representative As-Built Documents, complete as of the date of cancellation or termination, Plans, Shop Drawings, Sketches, Permits, Certificates, Warranties, Guarantees, Specifications, two complete sets of maintenance manuals, pamphlets, charts, parts lists, spare parts (if any), operating instructions required for all installed or finished equipment or machinery, and all other data accumulated by the Contractor for use in the performance of the work;
- G) Perform all work as may be necessary to preserve the work then in progress and to protect materials, plant and equipment on the site or in transit thereto. Complete performance of each part of the work not terminated by the Notice of Termination;
- H) The Contractor shall also take such action as may be necessary, or as the Architect/Engineer may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which the Owner has or may acquire an interest;
- I) Use his best efforts to sell, in the manner, at the time, to the extent, and at the price or prices directed or authorized by the Owner, property of the types referred to above; provided, however, that the Contractor a) shall not be required to extend credit to any purchaser, and b) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Owner; provided, further, that the proceeds of any such transfer or disposition will be applied in reduction of any payments to be made by the Owner to the Contractor under this Contract or will otherwise be credited to the price or cost of the work covered by this Contract or paid in such other manner as the Owner may direct;
- J) Termination of the Contract or a portion thereof shall neither relieve the Contractor of its responsibilities for the completed work nor shall it relieve its Surety of its obligation for and concerning any just claim arising out of the work performed;
- K) In arriving at the amount due the Contractor under this article, there will be deducted, (1) any claim which the Owner may have against the Contractor in connection with this Contract and (2) the agreed price for, or the proceeds of sale of materials, supplies or other items acquired by the Contractor or sold, pursuant to the provisions of this Article, and not otherwise recovered by or credited to the Owner.

13.5 TEMPORARY SUSPENSION OF WORK

- 13.5.1** The Owner reserves the right to temporarily suspend execution of the whole or any part of the Work without compensation to the Contractor.
- 13.5.2** The Architect/Engineer shall have the authority to suspend the work wholly, or in part, for such period or periods as may be deemed necessary, because of unsuitable weather, for failure of surety, or other conditions unfavorable for the prosecution of the work, or for failure on the part of the Contractor to carry out the instructions of the Architect/Engineer as provided for in the Contract Documents.
- 13.5.3** If it should become necessary to suspend the work for an indefinite period, the Contractor shall store all materials in such a manner that they will not become an obstruction, nor become damaged in any way, and it shall take every precaution to prevent damage or deterioration of the Work performed. The Contractor shall be responsible to construct temporary structures where necessary to protect the Work and shall provide access to and from the Jobsite.
- 13.5.4** The Contractor shall not suspend the Work without written order from the Owner and/or the Architect/Engineer.
- 13.5.5** In the event that the Contractor is ordered by the Architect/Engineer, in writing, to suspend work for some unforeseen cause not otherwise provided for in the Contract Documents and over which the Contractor, his Subcontractors, Suppliers or Materialmen have no control, the period of such shutdown, if it causes delay in the completion time, may be considered Compensable Excusable delay as provided elsewhere in the Contract Documents. The period of shutdown shall be computed from the effective date of the Architect/Engineer's order to suspend work to the effective date of the Architect/Engineer's order to resume the work. No provision of this article shall be construed as entitling the Contractor to compensation for delays due to inclement weather, for suspensions made at the request of the Contractor, or for any other delay provided for in the Contract Documents.
- 13.5.6** Nothing in this Contract shall be construed as entitling the Contractor to compensation for delays due to failure of Surety, suspensions ordered as a result of the Contractor's nonconformance with the Contract Documents, as a result of the Contractor's failure to carry out the instructions of the Architect/Engineer or for any other delays not specifically deemed to be Compensable Excusable Delay, as provided for elsewhere in the Contract Documents.
- 13.5.7** In case the Contractor is actually and necessarily delayed by any act or omission on the part of the Owner, as determined by the Owner in writing, the time for completion of the Work shall be extended by the amount of the time of such delay as determined by the Owner, and an allowance may be made for actual direct costs, if any, which may have been borne by the Contractor. Such requests for additional time and/or compensation must be made in accordance with the applicable sections of the Contract Documents.

- 13.5.8** Only the actual delay necessarily resulting from the causes specified in this Article, shall be grounds for extension of time. In case the Contractor is delayed at any time or for any period by two or more of the causes specified in this Article, the Contractor shall not be entitled to a separate extension for each one of the causes but only one period of extension will be granted for the delay.
- 13.5.9** In case the Contractor is actually and necessarily delayed in the performance of the Work from one or more of the causes specified in this Article, the extension of time to be granted to the Contractor shall be only for such portion of the Work so delayed. The Contractor shall not be entitled by reason of such delay to an extension of Time for the completion of the remainder of the Work. If the Contractor shall be so delayed as to a portion of the Work he shall nevertheless proceed continuously and diligently with the prosecution of the remainder of the Work. Owner's determination as to any matter of extension of time for completion of the Work or any part thereof shall be binding and conclusive upon the Contractor.
- 13.5.10** Permitting the Contractor to finish the Work or any part thereof after the time fixed for completion or after the date to which the time for completion may have been extended or the making of payments to the Contractor after any such periods shall not operate as a waiver on the part of the Owner of any rights under this contract.
- 13.5.11** The Contractor shall insert in each subcontract a provision that the Subcontractor shall comply immediately with a written order of the Owner to the Contractor to suspend the Work, and that they shall further insert the same provision in each subcontract of any tier.

END OF ARTICLE

ARTICLE 14 - COUNTY PURCHASES**14.1 REQUIREMENTS**

- 14.1.1** The County reserves the right to directly purchase materials, equipment, supplies and other items for this project, which are included in the Contractor's Base Bid and/or the Contract, (substantially in accordance with the Contract Documents).
- 14.1.2** The Contractor has included in its Base Bid, and in the final Contract price, Florida State Sales Tax and other applicable taxes for materials, supplies and equipment to be used in the construction of the Project. The County, being exempt from sales tax, reserves its right to directly purchase materials, equipment, supplies and other items for the Project that were included in the Contractor's Base Bid and/or the Contract, substantially in accordance with this Article. Such sales tax exemption applies when the County (or "Owner") is deemed to be the ultimate consumer of such materials, equipment, supplies or other items ("Owner Directly Purchased Materials"). Any purchase made under this process must be valued at least **\$10,000**. The responsibilities of the County and the Contractor, as the case may be, relating to such Owner Directly Purchased Materials shall be governed by the terms and conditions of this Article and all provisions contained herein shall referred to as the "Direct Purchases by Owner (DPO) Program."
- 14.1.3** The Contractor shall employ a person or persons necessary to coordinate this process with the County ("Contractor's Coordinator").
- 14.1.4** Material and equipment suppliers shall be selected by the Contractor. Contractor shall provide the County a list of all intended suppliers, vendors, and materialmen for consideration as Owner Directly Purchased Materials. Contractor shall ensure that each vendor, supplier, and materialmen for the Project is currently, or becomes prior to the time a Purchase Order is issued, a vendor registered with the County in accordance with Section 2-8.1 of the County Code. Moreover, the Contractor shall strongly encourage vendors, suppliers and materialmen to provide information to the County so that Automated Clearing House ("ACH") payments can be made to the vendors, suppliers and materialmen.
- 14.1.5** The County is considering Owner Directly Purchased Materials listed on Attachment/Exhibit No. 1 to the Contract for tax-exempt direct purchases pursuant to the Florida Department of Revenue (FDOR) Technical Assistance Advisement (TAA) Letter. The list set forth in Attachment/Exhibit No. 1 will be reviewed by the Contractor and represents the items that may be purchased in relationship to the Project. The Contractor represents, acknowledges and affirms to the County that it will in good faith, work with the Owner towards the goal of tax savings on the Project and will assist to verify, to the best of its knowledge, the accuracy of items and amounts that the Contractor believes are eligible for purchase directly by the Owner on a tax-exempt basis as of the date of execution of the construction contract or other date to be determined by the County, as applicable. Items not included in the list can only be added or modified with prior authorization of the Board of County Commissioners ("Board").

The County shall have the sole right to determine which items shall be purchased directly as Owner Directly Purchased Materials pursuant to the process set forth in this Article.

14.2 EXECUTION, PROCEDURES

- 14.2.1** Upon request from the County, and in an expeditious and timely manner, Contractor shall submit the attached Purchase Order Requisition Form Attachment/Exhibit No. 2 to the Owner's Representative, to specifically identify the materials, supplies and equipment which Owner has elected to purchase directly. On the Purchase Order Requisition Form, the Contractor will provide the Owner the required quantities of material at the price established in the vendor's quote to the Contractor, less any sales tax associated with such price. All material terms negotiated by the Contractor with the vendor (i.e. pricing, delivery date, payment terms, warranties, retainage) shall be noted on the Purchase Order Requisition Form.
- 14.2.2** Such Purchase Order Requisition Forms are to be submitted to Owner's Representative no less than fourteen (14) days prior to the need for ordering such Owner Directly Purchased Materials, in order to provide sufficient time for the County to review, approve and process the Purchase Order Requisition Form, or, if necessary, to seek more information from the Contractor, so as to assure that such Owner Directly Purchased Materials are timely delivered to the Project site so as to avoid any delay to the Project.
- 14.2.3** The County shall not be held liable for any loss or damage for delays caused by others, such as non-compliance with the provisions of this Article, including acts of nature, strikes, or other causes beyond the control or fault of the County. The Contractor agrees to make no claim for damages for delay of any kind in the performance of the DPO Program whether occasioned by any act or omission of the County or any of its representatives (whether it is an Excusable Delay or otherwise) and the Contractor agrees that any such claim shall be compensated solely by an extension of time to complete performance of the Work. In this regard, the Contractor alone hereby specifically assumes the risk of such delays, including without limitation: delays in processing or approving Purchase Orders, Sub-Contractor proposals or other related submittals to the DPO Program, or the failure to render determinations, approvals, replies, corrections of said Purchase Orders, in a timely manner. Contractor shall not receive monetary compensation for County delay arising from the DPO Program. Time extensions shall be authorized by the County at its sole discretion in certain situations.
- 14.2.4** No later than fourteen (14 days) after receipt of the Purchase Order Requisition Form, the County shall prepare its Purchase Order for equipment, materials or supplies which the County chooses to purchase directly. Promptly upon receipt of each Purchase Order, Contractor shall verify the terms and conditions of the Purchase Order prior to its issuance to the supplier, materialman or vendor and in a manner to assure proper and timely delivery of items. After such verification by the Contractor, the County shall issue the Purchase Order to the supplier, materialman or vendor, as applicable. The Purchase Order shall require that the vendor,

- supplier or materialman provide the required shipping and handling insurance. The Purchase Order shall also require the delivery of the Owner Directly Purchased Materials on the delivery date provided by the Contractor in the Purchase Order Requisition Form and shall indicate F.O.B. jobsite. The County's Purchase Orders shall contain or be accompanied by the County's exemption certificate and must include the County's name, address, and exemption number with issue and expiration date shown. The County shall issue to each supplier or vendor a Certificate of Entitlement on the Certificate of Entitlement Form attached hereto as Attachment/Exhibit No. 3 with each Purchase Order.
- 14.2.5** Contractor shall be fully responsible for all matters relating to the receipt of materials in accordance with these Procedures, including, but not limited to, verifying correct quantities, verifying documentation of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees in favor of and for the benefit of the County required by the Contract Documents, inspection and acceptance of the goods at the time of delivery, and ensuring that the Owner Directly Purchased Materials conform to the Purchase Order and the Drawings and Specifications. At the time of, and subsequent to, the delivery of such materials, the County shall be liable for all loss or damage to equipment and materials purchased pursuant to the Purchase Order. Notwithstanding the transfer of Owner Directly Purchased Materials by the County to Contractor's possession, the County shall retain title to any and all Owner Directly Purchased Materials. Retaining such title by the County does not relieve the Contractor of the responsibility for oversight of the Owner Directly Purchased Materials.
- 14.2.6** The Contractor shall coordinate delivery schedules, sequence of delivery, loading orientation, storage of Owner Directly Purchased Materials and other arrangements normally required by the Contractor for the particular materials furnished. The County shall assume all risk associated with any act or omission of the County, the County's Representative, or any employee of the County that, under the direction of the County, impairs or otherwise adversely affects any warranty or other contract right of the County pursuant to the Purchase Order provided that such adverse matters related to Owner Directly Purchased Materials are not due to acts of nature, strikes or other causes beyond the control of the County or are the results, in whole or in part, of the actions of others. The Contractor shall provide all services required for the unloading, handling and storage of materials through installation. The Contractor shall provide adequate and secure storage to protect the Owner Directly Purchased Materials from loss or damage from the time of delivery and throughout installation into the Project up to the time when the County accepts the Work. It shall be the Contractor's responsibility to provide all paperwork and evidence necessary and to file any claims promptly to recover loss or damage to Owner Directly Purchased Materials. The Contractor shall compile all paperwork and file all claims resulting from Owner Directly Purchased Materials lost, broken, vandalized, or stolen while under the control of the Contractor.
- 14.2.7** The Contractor agrees to indemnify and hold harmless the County from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions or directions of Contractor.

Notwithstanding the foregoing, the County shall be responsible for payment of the invoice issued by the outlined in this Article.

- 14.2.8** As Owner Directly Purchased Materials are delivered to the jobsite, the Contractor and the County's Representative, shall visually inspect all shipments from the suppliers, and approve the vendor's, supplier's or materialman's invoice, as applicable, for materials, supplies and/or equipment delivered. The Contractor shall assure that each delivery of Owner Directly Purchased Materials is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order, together with such additional information as the County or Contractor may require. The Contractor shall verify in writing to the County's Representative that the materials, supplies, and/or equipment were received and agree to approve the invoice for payment. The invoice shall be thereupon furnished to the County's Representative for processing and payment in the manner as all other County invoices are processed. The County shall have the right to assign County personnel to verify and audit the accuracy of all Owner Directly Purchased Materials' documents.
- 14.2.9** The Contractor shall determine, prior to incorporation of the Owner Directly Purchased Materials into the Work, if such materials are defective, and whether such materials are identical to the materials ordered and match the description on the bill of lading. If the Contractor discovers defective or nonconforming Owner Directly Purchased Materials either at initial inspection or at any time thereafter, the Contractor shall not utilize such non-conforming or defective Owner Directly Purchased Materials in the Project and shall instead promptly notify the vendor, materialman or supplier, as applicable, of the defective or non-conforming condition in order to pursue repair or replacement of those materials without any undue delay or interruption to the Project. Additionally, the Contractor shall notify the County of such occurrence. If the Contractor fails to perform such inspection and otherwise incorporates defective or non-conforming Owner Directly Purchased Materials into the Project, the conditions of which it either knew or should have known by performance of an inspection, Contractor shall be responsible for all damages to the County, as set forth in the Contract resulting from Contractor's incorporation of such materials into the Project, including liquidated damages. In the event that materials furnished are found to be defective or nonconforming, the Contractor shall promptly take action to remedy the defect or nonconformance so as not to delay the work.
- 14.2.10** All repairs, maintenance or damage repair claims shall be forwarded to and managed by the Contractor for resolution with the appropriate vendor, supplier, or materialman, as applicable. Notification to the vendor, supplier or materialman shall include rescinding of any invoices by the vendor, supplier or materialman for the defective or non-conforming Owner Directly Purchased Materials. Contractor shall immediately notify the County in the event invoices have already been approved for payment.

- 14.2.11** The Contractor shall maintain records of all Owner Directly Purchased Materials it receives at the job site as well as records of Owner Directly Purchased Materials it incorporates into the Project from the stock of the Owner Directly Purchased Materials. These records shall be current and readily available upon request by the County and shall be reported and reconciled monthly comparing:
- A) Owner Directly Purchased Materials to be ordered pursuant to the Construction Schedule;
 - B) Owner Directly Purchased Materials Ordered, Received, and Paid;
 - C) Owner Directly Purchased Materials On Hand; and
 - D) Owner Directly Purchased Materials Incorporated into the Project.
- 14.2.12** In connection with each Purchase Order relating to Owner Directly Purchased Materials used in connection with work performed under the Contract, a Direct Purchases Reconciliation Report will be issued by the Contractor within fourteen (14) days after the Purchase Order is issued and submitted to the County monthly. Each Direct Purchases Reconciliation Report shall reconcile all Purchase Orders issued in the previous month, for the full amount of purchases, plus the amount of sales tax that would have been applicable to the purchase against the Contract Price. Such amounts shall be deducted from the Contractor's monthly payment requisitions, with a corresponding credit to the County's payment obligations. Moreover, the cost for any Owner Directly Purchased Materials ordered and not utilized in the Project shall be reconciled on a monthly basis, reported to the County, and credited against the Contract Price with a deduct Change Order. Upon completion of all purchases, a deduct Change Order against the Contract Price to account for all supplies, materials, and equipment directly purchased by the County, and the value of the taxes thereon, will be issued and executed by the Contractor and the County to close out the Program. The Contractor shall be required to reimburse the County within thirty (30) days of notification of same for any overpayments the County may have made to the Contractor as a result of the direct purchases.
- 14.2.13** The Contractor shall be responsible for obtaining and managing all warranties and guarantees in favor of and for the benefit of the County for all materials and products as required by the Contract Documents. All repairs, maintenance or damage repair calls shall be forwarded to the Contractor for resolution with the appropriate supplier or vendor.
- 14.2.14** The County shall not be liable for any costs associated with interruption or delay in the Project or for any extra costs relating to the Project resulting from incorrect, incomplete or damaged material, delay in the delivery of Owner Directly Purchased Materials to the extent such interruptions, delays or costs are due, in whole or in part, to acts of nature, strikes or other causes beyond the control of the County or the actions of others. The Contractor has the responsibility and accountability to resolve any and all performance issues with the vendors it selects to provide Owner Directly Purchased Materials.

- 14.2.15** Accurate and current invoices shall be submitted by the vendors, suppliers and materialmen when the correct material is received. Original invoices are to be sent to the County and to the Contractor with the County shown as the entity being invoiced. It is the policy of Miami-Dade County that payment for all purchases by the County shall be made in a timely manner and that interest payments be made on late payments. The County shall not be held liable for costs associated with any interest payments or any delay charges for late payments made as a result of instructions, directions or late approvals by the Contractor. On a weekly basis, the Contractor shall submit all vendor invoices on hand for Owner Directly Purchased Materials delivered to the work site that are approved for payment. The approval by the Contractor to issue payment is demonstrated by a signature from the Contractor on the original vendor invoice signed adjacent to the words 'Approved for Payment' and shall be sent to the County no later than seven (7) days after receipt from vendor(s) of a properly completed and executed invoice. The Contractor is responsible for notifying and resolving non-performance and defects on non-conforming items with each vendor, supplier and materialman.
- 14.2.16** In order to arrange for prompt payment to the vendor, supplier or materialman, the Contractor shall provide to the County a list of Owner Directly Purchased Materials that have been accepted and approved for payment in the monthly payment requests accompanying the invoice(s) submitted for payment. The invoice package shall include the summary as well as:
- A) Documentation, such as a delivery ticket, bill of lading, packing slip, listing the Purchase Order number under which such item(s) were purchased;
 - B) The actual approved/signed invoice;
 - C) A copy of the applicable Purchase Order;
 - D) Signed authorization of acceptance of delivered items;
 - E) Partial or final releases of claim, as appropriate, which can only be conditioned on payment of the invoice submitted; and
 - F) Such other documentation as required by the Contract in order to effect payment.
 - G) The County shall provide the Contractor a monthly report as to the amount, date, payee and check number/ACH confirmation number, as applicable, of all such direct payments to vendors, suppliers and materialmen. In addition, the County will promptly notify the Contractor of any instances when non-payment or less than full payment is made on an invoice, specifying all reasons for withholding payment (or partial payment) unless such request to withhold payment was initiated by Contractor. All requests to withhold payment by Contractor must be submitted in writing to the County.
- 14.2.17** The County is responsible to make payments to vendors for the Owner Directly Purchased Materials. If the County fails to make payments in accordance with this Article for any reason other than the fault or neglect

of the vendor, supplier, materialman and/or Contractor, then the County will be liable for any increased costs or expenses caused by such failure. Claims, delays charges and interest for non-payment to vendors that arise from the actions or directions of Contractor including any actions that are not caused or under the control of the County shall be the responsibility of the Contractor.

- 14.2.18** The Contractor shall be responsible for obtaining partial or final release of claim waivers to be submitted, as applicable, when payment of invoices is requested. All waivers shall be conditioned on payment of the invoice submitted. The Contractor must ensure that all terms agreed upon with selected vendors are consistent with this Article. Vendor, supplier and materialman agreements with the Contractor shall be clear in stating that partial or final releases of claim not being provided along with invoices for payment shall render the invoices not payable and shall be considered the fault of others and not the fault of the County.
- 14.2.19** Salvage materials shall be the property of the County and stored or removed from the site by the Contractor at the County's discretion at no additional cost to the Owner.
- 14.2.20** At the end of the Project, any refund for surplus materials returned to suppliers plus applicable sales tax savings amount shall be credited to the cost of the Work with an additive Change Order to the Owner's contingency.

ARTICLE 15 – SPECIAL PROVISIONS**15.1 ONGOING AND EXISTING OPERATIONS**

- 15.1.1** The activities of the Contractor on the Work site will not interfere with the ongoing activities and operations of the existing facility or of activities outside the limit of the Work.
- 15.1.2** The Contractor must take into consideration that the Work site is within the County's busiest and most widely used Park and as such the Contractor agrees to work with the Owner to coordinate all work in such a manner as to not interrupt ongoing Park activities throughout the construction period.

15.2 MIAMI-DADE COUNTY VENDOR REGISTRATION

- 15.2.1** Miami-Dade County Vendor Registration (Miami-Dade County Code Section 2.8-1(d)). A Bidder shall become a Miami-Dade County Vendor prior to contract award. For Information on how to become a Vendor the bidder must go the following link <https://www.miamidade.gov/procurement/vendor-registration.asp> and/or call Vendor Outreach & Support Section at phone number (305) 375-5773 or e-mail isd-vss@miamidade.gov.
- 15.2.2** Prior to entering into a contract with the County, the Contractor shall, as a condition of award become a Miami-Dade County Vendor and the compliance of the legislation within the Affidavits shall be a contractual obligation. Failure to comply with these requirements may result in the contract being declared void, the contract being terminated and/or the firm being debarred.
- 15.2.3** Listed below are the additional Affidavits required when becoming a County Vendor:- Check
- 15.2.3.1 Miami-Dade County Employment Disclosure (County Ordinance No. 90-133, amending Section 2.8-1(d)(2) of the Miami-Dade County Code)**
- Companies are required to disclose entity information such as collective bargain agreements, health care benefits provided, and breakdown of workforce by race, national origin and gender.
- 15.2.3.2 Miami-Dade County Employment Drug-free Workplace Certification (Section 2-8.1.2 (b) of the Miami-Dade County Code).**
- All persons and entities that contract with Miami-Dade County are required to certify that they will maintain a drug-free workplace and such persons and entities are required to provide notice to employees and to impose sanctions for drug violations occurring in the workplace.

15.2.3.3 Miami-Dade County Disability Non-Discrimination (Article 1, Section 2-8.1.5 Resolution R182-00 amending R-385-95 of the Miami-Dade County Code)

- **American with Disabilities Act (ADA):** Firms transacting business with Miami-Dade County shall provide an affidavit indicating compliance with all requirements of the ADA.
- **Affirmative Action Plan :**
 - Section 2-10.4(4)(a) of the Code of Miami-Dade County (Ordinance No. 82-37), which requires that all properly licensed architectural, engineering, landscape architectural, and land surveyors have an affirmative action plan on file with Miami-Dade County.
 - Section 2-8.1.5 of the Code of Miami-Dade County, which requires that firms that have annual gross revenues in excess of five (5) million dollars have an affirmative action plan and procurement policy on file with Miami-Dade County. Firms that have a Board of Directors that are representative of the population make-up of the nation may be exempt.

15.2.3.4 Miami-Dade County Vendor Obligation to County Affidavit (Section 2-8.1 of the Miami-Dade County Code.

Firms wishing to transact business with Miami-Dade County must certify that all delinquent and currently due fees, taxes and parking tickets have been paid and no individual or entity in arrears in any payment under a contract, promissory note or other document with the County shall be allowed to receive any new business.

15.2.3.5 Miami-Dade County Code of Business Ethics (Article 1, Section 2-8.1 (i) and 2-11 (b)(1) of the Miami – Dade County Code through (6) and (9) of the County Code and County Ordinance No. 00-1 amending Section 2-11.1(c) of the County Code)

Firms transacting business with Miami-Dade County must certify adoption of a Code of Business Ethics that complies with the requirements of Section 2-8.1 of the County Code. The Code of Business Ethics shall apply to all business that the contractor does with the County and shall, at a minimum, require the Contractor to comply with all applicable governmental rules and regulations.

15.2.3.6 Miami -Dade County Family Leave (Article V of Chapter 11 of the Miami-Dade County Code)

Firms contracting business with Miami-Dade County, which have more than fifty (50) employees for each working day during each of twenty (20) or more work weeks in the current or preceding calendar year, are required to certify that they provide family leave to their employees.

Firms with less than the number of employees indicated above are exempt from this requirement, but must indicate by letter (signed by an authorized agent) that it does not have the minimum number of employees required by the County Code.

15.2.3.7 Miami-Dade County Living Wage (Section 2-8.9 of the Miami -Dade County Code)

All applicable contractors entering into a contract with the County shall agree to pay the prevailing living wage required by this section of the County Code.

15.2.3.8 Miami-Dade County Domestic Leave and Reporting (Article 8, Section 11A-60, 11A-67 of the Miami-Dade County Code)

Firms wishing to transact business with Miami-Dade County must certify that the entity is in compliance with the Domestic Leave Ordinance.

Additional documentation and/or affidavits may be required for Vendor Registration with the County. The Contractor must comply with all applicable County Procurement Requirements at the time of vendor registration.

15.3 REQUIRED LISTING OF SUBCONTRACTORS AND SUPPLIERS ON COUNTY CONTRACTS CERTIFICATION

(Section 10-34 of the Miami-Dade County Code)

15.3.1.1 All successful bidders and proposers on County construction Contracts which involve the expenditure of \$100,000 or more and all bidders or proposers on County or Public Health Trust construction Contracts which involve the expenditure of \$100,000 or more shall provide, as a condition of award, a listing which identifies all first tier Sub-contractors who will perform any part of the contract work and describes the portion of the work such Subcontractor will perform, and all suppliers who will supply materials for the Contract work direct to the bidder or proposer and describes the materials to be so supplied.

15.3.1.2 A bidder or proposer who is awarded the Contract shall not change or substitute first tier Sub-contractors or direct suppliers or the portions of the work to be performed or materials to be supplied from those identified in the listing provided except upon written approval by the County.

15.4 FAIR SUBCONTRACTING POLICIES CERTIFICATION

(Section 2-8.8 of the Miami-Dade County Code)

As a condition of award, the successful bidders/respondent shall provide a detailed statement of the entity's policies and procedures for awarding sub-contracts which:

- A) notifies the broadest number of local subcontractors of the opportunity to be awarded a sub-contract;
- B) invites local sub-contractors to submit bids in a practical, expedient way;
- C) provides local sub-contractors access to information necessary to prepare and formulate a sub-contracting bid;
- D) allows local sub-contractors to meet with appropriate personnel of the bidder to discuss the bidder's requirements; and
- E) awards sub-contracts based on full and complete consideration of all submitted proposals and in accordance with the bidder's stated objectives.

END OF ARTICLE