Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 10(B)(1)(B)

05-08-07

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

RESOLUTION NO. R-580-07

RESOLUTION AUTHORIZING CHANGE ORDER NO. 01 TO CONTRACT NO. CUA 9722 SMDCC WITH THE TOWER GROUP, INC., TO REPLENISH THE OWNER-CONTROLLED CONTINGENCY ACCOUNT, INCREASE FUNDS IN THE INSPECTOR GENERAL ACCOUNT, AND FUND A DEDICATED ALLOWANCE ACCOUNT IN THE SOUTH MIAMI-DADE CULTURAL ARTS CENTER'S CONSTRUCTION CONTRACT

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board authorizes the County Mayor or his designee to execute Change Order No.01 to contract CUA 9722 SMDCC, with The Tower Group, Inc., in a maximum amount of $2,322,210, to include $1,811,900 in available project funds for the replenishment of the owner-controlled Contingency Account, $10,310 for the Inspector General Account, and $500,000 to establish a Dedicated Allowance Account for the receipt and expenditure of a State of Florida Cultural Facilities Grant.

The foregoing resolution was offered by Commissioner Joe A. Martinez, who moved its adoption. The motion was seconded by Commissioner Dennis C. Moss and upon being put to a vote, the vote was as follows:

| | | | |
|---|---|---|---|
| Bruno A. Barreiro, Chairman | aye | | |
| Barbara J. Jordan, Vice-Chairwoman | aye | | |
| Jose "Pepe" Diaz | Absent | Audrey M. Edmonson | aye |
| Carlos A. Gimenez | aye | Sally A. Heyman | aye |
| Joe A. Martinez | aye | Dennis C. Moss | aye |
| Dorrin D. Rolle | aye | Natacha Seijas | aye |
| Katy Sorenson | aye | Rebeca Sosa | aye |
| Sen. Javier D. Souto | absent | | |

The Chairperson thereupon declared the resolution duly passed and adopted this 8th day of May, 2007. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Stephen Stieglitz

# MEMORANDUM

MIAMI-DADE COUNTY

**Date:** May 8, 2007

**To:** Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

Agenda Item No. 10(B)(1)(B)

**From:** George M. Burgess
County Manager

**Subject:** Resolution Authorizing Change Order No. 01 to Contract No. CUA 9722 SMDCC with The Tower Group, Inc., to Replenish the Owner-Controlled Contingency Account, increase funds in the Inspector General Account, and fund a Dedicated Allowance Account in the South Miami-Dade Cultural Arts Center's Construction Contract.

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## Recommendation

The attached Change Order No: 1 on a contract between THE TOWER GROUP, INC. and Miami-Dade County has been prepared by the Department of Cultural Affairs and is recommended for approval.

**CHANGE ORDER NUMBER:** 1

## Scope

**PROJECT NAME:** South Miami-Dade Cultural Center

**PROJECT NO:** Cultural Center

**CONTRACT NO:** CUA 9722 SMDCC

**PROJECT DESCRIPTION:** Construction of a new 71,000 sq. ft. Cultural center featuring a state of the art 966 seat theater and construction of the adjacent activities building, a 7,500 sq. ft. building housing rehearsal, classroom and small-scale performance spaces.

**PROJECT LOCATION:** 10900 SW 211 Street, Miami, FL

**PRIMARY COMMISSION DISTRICT:** District 8 Katy Sorenson

**APPROVAL PATH:** Board of County Commissioners

**USING DEPARTMENT:** Department of Cultural Affairs

**MANAGING DEPARTMENT:** Department of Cultural Affairs

## Fiscal Impact / Funding Source

**CHANGE ORDER FUNDING SOURCE:** Existing Increased Interest earnings on Capital founds budgeted for the South Miami-Dade Cultural Center, Convention Development Tax (CDT) revenues, and the State of Florida Cultural Facilities Grant Program.

**PTP FUNDING:** No

**GOB FUNDING:** Yes

**GOB PROJECT:**

| GOB PROJECT / DESCRIPTION | GOB ALLOCATION |
|---|---|
| 331-GOB - South Miami-Dade Cultural Center | $10,000,000.00 |

**CHANGE ORDER DESCRIPTION:**

It is recommended that the Board authorize Change Order No. 01 to Contract No. CUA 9722 SMDCC, with The Tower Group, Inc., in a maximum amount of $2,322,210, to include $1,811,900 in available project funds for the replenishment of the owner-controlled Contingency Account, $10,310 for the Inspector General Account, and $500,000 to establish a Dedicated Allowance Account for the receipt and expenditure of a State of Florida Cultural Facilities Grant.

The South Miami-Dade Cultural Arts Center is located in District 8 and in adjacent proximity to District 9. It is the first major new cultural arts facility in the South Miami-Dade area and like theaters in other Miami-Dade County locations, the Center will serve audiences, cultural organizations and artists from throughout the County.

The $1,822,210 in funds recommended to replenish the owner-controlled contingency account and to increase the Inspector General Account is available from existing, increased interest earnings on capital funds budgeted for the South Miami-Dade Cultural Arts Center and from Convention Development Tax (CDT) revenues dedicated to the project. It represents an increase of 5% in the project's construction budget. A $500,000 dedicated allowance account is also being established through this Change Order as a result of being awarded a grant from the State of Florida Cultural Facilities Grant Program. An accompanying item is being forwarded to the Board for the acceptance and use of this State grant. A complete capital project expenditure and revenue budget is attached to this memorandum.

The Miami-Dade County Department of Cultural Affairs (Department) has managed the design of the Center and is responsible for managing all contracts related to the project's construction. The Department has a reputation for rigorous and conscientious management of services, programs and capital projects.

The Department issued a notice to proceed to TTG on December 29, 2005. As part of the initial work on the site, TTG encountered an unanticipated and significantly higher amount and flow of underground water in the process of excavating the area for the Main Theater Building's basement level. This subsurface level of the building will house an orchestra pit, trap room, storage area, elevator, and stairs with the lowest finished elevation at approximately 10'-6" below grade. It is important to note that the contract documents for this project included results from geotechnical soil tests that indicated a subsurface flow of water at approximately 100 gallons per minute (gpm). TTG prepared for dewatering the excavated site with pumps capable of removing water flowing between 3000-5000 gpm. The actual flow of water encountered once the site was excavated was over 20,000 gpm. Recommendations from the soil boring test report performed by Allstate Engineering as required for the design of the Center included planning for the potential of greater flow rates, which The Tower Group's sub-contractor adhered to by using equipment capable of pumping water levels comparable with flow rates typically encountered in the area. The variation between the water flow expected and what was encountered can be explained by the likelihood that undetected fissures and cavities that sometimes occur in subsurface limestone were "opened" by the excavation, triggering a greater flow of water.

In response to these unforeseen site conditions, TTG attempted to dewater the basement excavation by supplementing the two pumps planned to be sufficient for

this work with additional pumps and also, back-filled part of the excavation area to reduce the size of the area where water needed to be controlled. These additional efforts were ineffective in lowering the water level to an elevation of approximately 12 feet below grade, the level necessary for the preparation of the lowest mat footing (i.e., foundation slab). On February 15, 2006, TTG informed the Department that they were unable to control the flow of water at the excavation area with the use of conventional dewatering methods, and that they would seek the services of Langan Engineering, an independent engineering firm, for a recommendation regarding the specific site conditions.

Based on Langan Engineering's recommendations, TTG contracted HJ Foundation to install sheet piling around the basement area and forty (40) auger piles inside the sheet piled area, and later poured a 4'-0" deep tremie seal, a concrete foundation slab that derives its name from the device which is used to place concrete or grout under water. The auger piles anchor the tremie slab and prevent it from floating. While the sheet piling creates a cofferdam, it does not completely prevent water intrusion. The amount of water coming into the sheet piled area, however, is then manageable. By continuously running pumps to maintain the water at a low level, TTG was able to pour the lowest mat foundation, a two-foot thick slab with a finished elevation of 10'-6" below grade, the lowest floor level of the theater's basement area and orchestra pit. Typically, the sheet piling is removed once the desired construction has been accomplished. At the recommendation of the Department's architectural and engineering consultants, however, the Department requested that the Contractor leave the sheet piling in place to help ease the water pressure in the basement area and to provide a method to facilitate any future water intrusion repairs necessary.

TTG submitted a proposed work order for the additional dewatering activities in the amount of $1,263,939.58 and a time extension request of 136 compensable days. The Department carefully reviewed the proposed work order and the submitted back-up documentation and after a series of negotiations agreed to a total cost of $1,053,382 and 134 days (57 compensable and 77 non-compensable) based on substantiated costs and verifiable work progress. The total time extension of 134 days represents the complete and final time extension for dewatering site activities and all concurrent delays attributed to all activities affecting the critical path of the construction schedule through June 30, 2006. Work Order Number 1 extended the contract duration from 608 days to 742 days, and revised the original substantial completion date of August 27, 2007 to January 8, 2008. Work Order Number 2 covers the additional cost of leaving the steel sheet piling in place and cutting it down to appropriate levels below the building's structure for a total of $154,000 and no additional time extension. The major cost of Work Order Number 2 is the material cost, (i.e. the expense of leaving the steel sheet piles in place) and it includes a credit for not having to remove the sheet piles.

Due to the significant amount and flow rate of water encountered below grade, the Department issued a work order to the project architect, Arquitectonica International Corp. (ARQ), to procure the services of a waterproofing specialty firm, IBA Consultants, to review the project's waterproofing details, provide recommendations for additional waterproofing materials/methods required and perform inspections of the installation of the these systems. After IBA's recommendations were reviewed by Arquitectonica and the Department, a directive was issued to TTG for a revised waterproofing system, and these additional measures are being implemented in the field by TTG. TTG and the Department currently are assessing the cost and time impact of the additional waterproofing measures.

Work Orders issued to date have depleted approximately two-thirds of the construction contract's 5% owner-controlled contingency account, and it is anticipated that pending, proposed work orders will account for the majority of the contingency account balance. Of the construction contract's 5% contingency

totaling $1,811,900, $1,207,382 has been allocated to costs related to dewatering activities. Additional proposed change orders that are sufficiently complete to be reviewed total approximately $350,000. They include costs for changes to the contract documents, including revisions to the building's Florida Power and Light (FPL) vault as required by FPL for the placement of transformers and related equipment for power distribution to the project, and additional structural steel tonnage required due to modifications made through the shop drawing review process. These proposed work orders are in various stages of review by Arquitectonica and the Department and/or have been returned to TTG for revisions and the necessary back-up documentation. As noted above, the Department and TTG also are assessing additional costs for the materials and labor necessary to comply with the additional waterproofing measures required for the job.

**MONETARY JUSTIFICATION:** The following table establishes the comparison between the contract with TTG awarded through resolution R-880-05, and the recommended, revised construction contract amount. The amount for the Inspector General Account has been augmented to reflect the revised contract amount. Amended A.O. No. 3-20 removed the requirement for a dedicated allowance account for the Independent Private Sector Inspector General (IPSIG) services, but maintains the Department's responsibility to fund the audit if necessary. The amount for the IPSIG is being maintained at the original contract amount level in case an IPSIG audit is necessary.

Original Contract Amount:
The Tower Group, Inc. Construction Cost: $36,238,000.
Owner-Controlled Contingency (original: 5%, revised: 10%): $1,811,900.
Dedicated Allowance Account for Orchestra Shell *** (see accompanying memo regarding acceptance of a State Cultural Facilities grant secured for this item): $0.

Sub-total Original Amount: $38,049,900.

Office of the Inspector General (.25% of construction cost): $90,595
Independent Private Sector Inspector General (.75% of construction): $271,785

TOTAL MAXIMUM CONTRACT AMOUNT: $38,412,280

Revised Contract Amount:
The Tower Group, Inc. Construction Cost: $36,238,000.
Owner-Controlled Contingency (original: 5%, revised: 10%): $3,623,800.
Dedicated Allowance Account for Orchestra Shell *** (see accompanying memo regarding acceptance of a State Cultural Facilities grant secured for this item): $500,000.

Sub-total Original Amount: $ 40,361,800.

Office of the Inspector General (.25% of construction cost): $100,905
Independent Private Sector Inspector General (.75% of construction): $271,785

TOTAL MAXIMUM CONTRACT AMOUNT: $40,734,490.

Work Order Breakdown:

Work Order #1: Additional Dewatering Measures (Sheet Piling, Auger Piles, and Tremie Slab): ($1,053,382)
Work Order #2: Cost of retaining and cutting Sheet Piling: ($154,000)
Proposed Work Orders to be finalized (estimated): ($350,000)
Work Order for Waterproofing System (estimated): ($200,000)
Sub-total of Work Orders to date (including estimates): ($1,757,382)

***A dedicated allowance account for the purchase and installation of the

Theater's orchestra shell is being established as a result of being awarded a $500,000 grant from the State of Florida Cultural Facilities Grant Program. An accompanying item is being forwarded to the Board for the acceptance and use of this State grant.

With approximately 50% of the project's construction time remaining, it is essential to ensure that the owner-controlled contingency account is capitalized sufficiently to ensure that there are resources available to address any unanticipated costs and/or additions to the work determined to be necessary and substantiated by the Department.

The Cultural Affairs Council approved these recommendations on January 24, 2007.

**TIME JUSTIFICATION:** N/A

| | Original Contract Values | Previous Adjustments To Values | This Change Order Values | Current Totals | Total Paid | Balance After Change Order |
|---|---|---|---|---|---|---|
| **BASE:** | $36,238,000.00 | $0.00 | $0.00 | $36,238,000.00 | $12,379,400.36 | $23,858,599.64 |
| **CONTINGENCY:** | $1,811,900.00 | $0.00 | $1,811,900.00 | $3,623,800.00 | $1,053,382.00 | $2,570,418.00 |
| **DEDICATED:** | $362,380.00 | $0.00 | $510,310.00 | $872,690.00 | $134,327.83 | $738,362.17 |
| **TOTALS:** | $38,412,280.00 | $0.00 | $2,322,210.00 | $40,734,490.00 | $13,567,110.19 | $27,167,379.81 |

| | Original Contract Duration | Previous Adjustments To Duration | This Change Order Duration | Current Totals |
|---|---|---|---|---|
| **BASE DURATION:** | 608 | 0 | 134 | 742 |
| **CONTINGENCY:** | 0 | 0 | 0 | 0 |
| **TOTAL DURATION:** | 608 | 0 | 134 | 742 |

**INITIATING FACTOR(S) FOR CHANGE ORDER**

| Reason | Cost | Duration |
|---|---|---|
| Regulatory Change | $10,310.00 | 0 |
| Unforeseen / Unforeseeable Change | $1,811,900.00 | 134 |
| Other | $500,000.00 | 0 |
| Total: | $2,322,210.00 | |

## Track Record / Monitor

**PRIME CONTRACTOR:** THE TOWER GROUP, INC.

**COMPANY PRINCIPAL:** Anthony Burke

**COMPANY QUALIFIERS:** Anthony Burke

**COMPANY EMAIL ADDRESS:** N/A

| | | | |
|---|---|---|---|
| **COMPANY STREET ADDRESS:** | 405 SW 148th Avenue | | |
| **COMPANY CITY-STATE-ZIP:** | Davie, Florida 33325 | | |
| **YEARS IN BUSINESS:** | 9 | | |
| **PREVIOUS EXPERIENCE WITH COUNTY IN THE LAST FIVE YEARS:** | None | | |
| **SUBCONTRACTORS AND SUPPLIERS (SECTION 10-34 MIAMI DADE COUNTY CODE):** | Downrite Engineering; E&H Steel; Gancedo Technologies; Otis Elevator; Suntech Plumbing; Target Masonry | | |
| **CONTRACT MANAGER NAME/PHONE/EMAIL:** | Lydia Carolina Arana | 305-375-3671 | carana@miamidade.gov |
| **PROJECT MANAGER NAME/PHONE/EMAIL:** | Lisa D Andrea | (305) 375-5736 | DANDREA@miamidade.gov |

## Background

**BACKGROUND:**

The Board of County Commissioners authorized the award of the construction contract for the South Miami-Dade Cultural Arts Center to The Tower Group, Inc. (TTG) through resolution R-880-05. As a part of the contract award, a 5% owner-controlled contingency in the amount of $1,811,900 was included. Under the terms of the contract, these funds are available to be used solely for changes in the work that are authorized by the Department. The proposed increase of $1,811,900 in the contingency account also requires adjustments in the capital budget line item for the Office of the Inspector General, which is computed as 0.25% of the construction contract amount, and equals an increase of $10,310. Consequently, a total of $1,822,210 is required to replenish the project's construction contingency and to address this related item.

Currently, the construction of the South Miami-Dade Cultural Arts Center is entering the 15th month of its 26-month construction period. Largely as a result of unforeseen sub-surface conditions encountered early in the construction during the excavation and dewatering activities, approximately two-thirds of the funds in the project contingency have been authorized by the Department for work necessary to address these unanticipated site conditions. A more detailed account of these actions is included below.

It also is important to note that given the complexities of the structure and systems necessary in theater buildings, a percentage of changes in the work are a standard part of the process of transforming these facilities from drawings into built structures. These changes can occur for a variety of reasons but typically arise when the hundreds of pages of architectural and engineering drawings that describe these buildings are converted into shop drawings by the contractor and its subcontractors. Changes also can occur as a result of opportunities to improve the building and its systems during construction. In each case, the Department has the opportunity to review proposed changes to determine whether they are necessary and beneficial for the project. Although a 5% contingency is a very modest amount of funding to include for owner-authorized changes in a project this complex, it is important to point out that without the substantial and unforeseen impact of the dewatering activities, the project would be well within the originally budgeted amount of contingency funding for the project.

| | | |
|---|---|---|
| **BUDGET APPROVAL FUNDS AVAILABLE:** | **OSBM DIRECTOR** | 4/9/07 **DATE** |
| **APPROVED AS TO LEGAL SUFFICIENCY:** | **COUNTY ATTORNEY** | 4/9/07 **DATE** |
| | **ASSISTANT COUNTY MANAGER** | 4-9-07 **DATE** |
| **CLERK DATE** | | |
| | **DATE** | |

# MEMORANDUM
(Revised)

**TO:** Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

**DATE:** May 8, 2007

**FROM:** Murray A. Greenberg
County Attorney

**SUBJECT:** Agenda Item No. 10(B)(1)(B)

**Please note any items checked.**

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

# South Miami-Dade Cultural Arts Center

Attachment A

## *Project Budget*

| EXPENSES | | Project Budget |
|---|---|---|
| **Capital Costs** | | |
| The Tower Group, Inc. bid - Phase I Theater Building | 34,569,000 | |
| The Tower Group Inc. bid - Add Alternate Phase II Activity Building | 3,669,000 | |
| Sub-Total: | | 38,238,000 |
| Bid negotiation/Cost savings measures | | (2,000,000) |
| **Revised bid amount/ Construction Cost:** | | **36,238,000** |
| Contingency (10%) | 3,623,800 | |
| Allowance account for orchestra shell | 500,000 | |
| **Sub-Total:** | | **40,361,800** |
| Independent Private Sector Inspector General (.75% of construction) | 271,785 | |
| Office of the Inspector General (.25% of construction) | 100,905 | |
| **Total Construction Contract:** | | **40,734,490** |
| **A/E Consultants Fees** | | **2,307,136** |
| **Public Art Allowance** (1 1/2% of construction cost, contingency, and A/E fees) | | **640,034** |
| **Owner Development Costs & FF&E** | | **3,689,566** |
| ***TOTAL PROJECT COSTS*** | | **47,371,226** |
| **REVENUES** | | |
| CDT - PAC Bond Revenues Series 1997 | 15,850,869 | |
| Budgeted Interest Earnings | 1,949,131 | |
| Additional Interest Earnings | 7,768,710 | |
| CDT Bond Revenues (R-1408-00) (May 17, 2005 BCC item #7D) | 10,055,016 | |
| Safe Neighborhood Parks Bond Issue | | |
| (Amount of grant reduced $2500 for Parks Administrative fees.) | 247,500 | |
| State of Florida Cultural Facilities Grant 2002-2003 | 500,000 | |
| State of Florida Cultural Facilities Grant 2005-2006 | 500,000 | |
| State of Florida Cultural Facilities Grant 2006-2007 | 500,000 | |
| Building Better Communities General Obligation Bond Program (2007 Allocation) | 10,000,000 | |
| ***TOTAL PROJECT REVENUES*** | | **$47,371,226** |

# MIAMI - DADE COUNTY
# CHANGE ORDER TO ORIGINAL CONTRACT

CHANGE ORDER NO. 1 PROJECT NO. CUA 9722 SMDCC DATE: 3/1/07

PROJECT NAME: South Miami-Dade Cultural Arts Center

TO CONTRACTOR: The Tower Group, Inc.

YOU ARE HEREBY REQUESTED TO MAKE THE FOLLOWING CHANGES TO THE CURRENT CONTRACT, AND TO PERFORM THE WORK SUBJECT TO ALL CONTRACT STIPULATIONS AND COVENANTS.

| ITEM NO. | DESCRIPTION | AMOUNT |
|---|---|---|

**ITEMIZATION AND DESCRIPTIONS BEGIN ON PAGE 2 OF THIS CHANGE ORDER**

## SUMMARY OF CONTRACT AMOUNT

| | |
|---|---|
| | **ORIGINAL CONTRACT AMOUNT** ..... **$38,412,280** |
| **REASON FOR CHANGE:** | COST OF CONSTRUCTION CHANGES PREVIOUSLY ORDERED..... $0 |
| ☐ Regulatory Change | ADJUSTED CONTRACT AMOUNT PRIOR TO THIS CHANGE ORDER..... $38,412,280 |
| ☐ Other Agency Requested Change | **COST OF CONSTRUCTION CHANGES THIS ORDER**..... **Up To:** $2,322,210 |
| ☐ Design Errors Change | ADJUSTED CONTRACT AMOUNT INCLUDING THIS CHANGE ORDER .. $40,734,490 |
| ☐ Design Omission Change | PERCENT INCREASE, THIS CHANGE ORDER.....6% |
| ☐ County Requested Change | TOTAL PERCENT INCREASE TO DATE .....6% |
| ☐ Unforeseen or Unforeseeable Change | **EXTENSION OF TIME ALLOWED BY THIS CHANGE** 0 CALENDAR DAYS |

TO BE FILLED OUT BY DEPARTMENT INITIATING CHANGE ORDER

Department of Cultural Affairs — DEPARTMENT

CPE315 E46T03
CPE609 E42303
CPE613 E42301 — FUNDS BUDGETED CODE

CERTIFIED BY: Deborah Margol, Deputy Director

ACCEPTED BY: CONTRACTOR: The Tower Group, Inc.

Travelers Casualty and Surety Company of America
SURETY

RECOMMENDED: CONSTRUCTION PROJECTS MANAGER: Marie Denis

APPROVED: DEPARTMENT OF CULTURAL AFFAIRS DIRECTOR: Michael Spring

APPROVED: DEPARTMENT OF BUSINESS DEVELOPMENT

APPROVED: BUDGET DIRECTOR 3-14-07

DADE COUNTY, Florida
By its BOARD OF COUNTY COMMISSIONERS

By: County Manager DATE

ATTEST:

By: Deputy Clerk

cc: A/E Consultant, General Contractor, Surety, Cultural Affairs Projects Managers

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# MIAMI - DADE COUNTY
# CHANGE ORDER TO ORIGINAL CONTRACT

CHANGE ORDER NO. 1 PROJECT NO. CUA 9722 SMDCC DATE: 3/1/07

PROJECT NAME: South Miami-Dade Cultural Arts Center

TO CONTRACTOR: The Tower Group, Inc.

| ITEM NO. | DESCRIPTION | AMOUNT |
|---|---|---|
| 1 | Replenish the Owner-controlled Contingency Account to provide adequate contingency funding through the end of the project.<br><br>JUSTIFICATION: COUNTY REQUESTED CHANGE / UNFORSEEN SITE CONDITIONS<br>This is a MAXIMUM amount and the entire amount may not be expended. | $1,811,900 |
| 2 | Fund a Dedicated Allowance Account from state grant funds for the purchase of the Theater's Orchestra Shell.<br><br>JUSTIFICATION: COUNTY REQUESTED CHANGE<br>This is a MAXIMUM amount and the entire amount may not be expended. | $500,000 |
| 3 | Provide an increase to the Inspector General Account based on the increased construction contract amount.<br><br>JUSTIFICATION: COUNTY REQUESTED CHANGE<br>This is a MAXIMUM amount and the entire amount may not be expended. | $10,310 |
| | TOTAL (UP TO): | $2,322,210 |

## SUPPLEMENTAL INFORMATION

**ITEM 1:** Increase the Owner-controlled Contingency Account to provide adequate contingency funding through the end of the project.

Justification: County Requested Change / Unforeseen Site Conditions

The Contingency Account was originally established at $1,811,900, which is 5% of the direct construction cost of the project. The project is approximately 35% complete; however, over 66% of the Contingency Account has been spent to date on additional site dewatering measures necessary due to unforeseen site conditions. Proposed Change Orders currently being reviewed will commit approximately another 20% of the Contingency Account. Because of the complexity of the project, the Contingency Account needs to be replenished to assure adequate contingency funds through the completion of the project.

**ITEM 2:** Fund a Dedicated Allowance Account for the purchase of the Theater's orchestra shell. The Dedicated Allowance Account will be funded by a $500,000 FY06-07 State of Florida Cultural Facilities Grant.

Justification: County Requested Change

The orchestra (or acoustic) shell will serve to enhance the acoustics of performance ensembles by directing the sound from the stage to the audience. The orchestra shell prevents sound from escaping into the fly loft space and stage wings, projects sound into the audience, and improves the acoustical environment on stage, reflecting sound back to the musicians so that they may hear themselves more accurately.

The orchestra shell has been included in the project's contract drawings and specifications and was included as an add-alternate for construction bids for the project. Bidders were required to maintain pricing on add-alternates for a period of 180 days. Since these State grant funds were secured after the 180-day period from bidders' responses, current pricing is being established. It is anticipated that the $500,000 of State grant funds will be sufficient for the purchase of the orchestra shell.

**ITEM 3:** Provide an increase to the Inspector General Account based on the increased construction contract amount.

Justification: County Requested Change

The Inspector General Account is calculated as 0.25% of the contract value (base bid plus contingency amount), and is included as a line item within the overall contract amount. The increase to the Owner-controlled Contingency account (Item 1) and the funding of an Allowance Account (Item 2), generate an increase to the Inspector General Account of $10,310.

## RELEASE OF CLAIM

Contractor waives all claims for compensation or contract time arising out of the execution of this Change Order. This Change Order increases the funding for the Owner-controlled Contingency Account and the Inspector General Account, and creates a Dedicated Allowance Account within this Contract, and does not authorize or entitle the Contractor to claim or receive payment of any of the funds referenced herein unless and until a Work Order is duly executed pursuant to Contract provisions.

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

TRAVELERS

# POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
Seaboard Surety Company
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company
St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 218020

Certificate No. 001303342

**KNOW ALL MEN BY THESE PRESENTS:** That Seaboard Surety Company is a corporation duly organized under the laws of the State of New York, that St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company and St. Paul Mercury Insurance Company are corporations duly organized under the laws of the State of Minnesota, that Farmington Casualty Company, Travelers Casualty and Surety Company, and Travelers Casualty and Surety Company of America are corporations duly organized under the laws of the State of Connecticut, that United States Fidelity and Guaranty Company is a corporation duly organized under the laws of the State of Maryland, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc. is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Charles D. Nielson, Charles J. Nielson, Mary C. Aceves, Warren M. Alter, and David R. Hoover

of the City of Miami Lakes, State of Florida, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

**IN WITNESS WHEREOF**, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 17th day of November, 2006.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
Seaboard Surety Company
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company
St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

State of Connecticut
City of Hartford ss.

By: George W. Thompson, Senior Vice President

On this the 17th day of November, 2006, before me personally appeared George W. Thompson, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

**In Witness Whereof,** I hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2011.

Marie C. Tetreault, Notary Public

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58440-8-06 Printed in U.S.A.

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kori M. Johanson, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed the seals of said Companies this 5th day of March, 20 07.

Kori M. Johanson, Assistant Secretary

To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at www.stpaultravelersbond.com. Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.