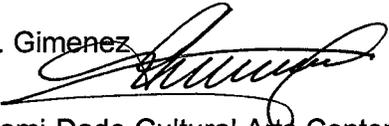


Memorandum



Date: November 1, 2011

To: Honorable Joe A. Martinez, Chairman
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: South Miami-Dade Cultural Arts Center – Construction Completion and Facility Grand Opening

This informational report regarding the South Miami-Dade Cultural Arts Center (SMDCAC) provides an update on the completion of construction, finishing under the approved amount in the project's budget, and on the successful grand opening of the Center to much acclaim from both the community and the media. The Department of Cultural Affairs has effectively managed the design and construction of this extraordinary new cultural center and has been operating and programming the facility since its substantial completion in mid-April this year.

Highlights of this report include:

- The construction project was completed under the amount approved in the project's budget;
- The Department retained an overall remaining balance of more than \$600,000 in the approved construction budget;
- With the full cooperation of the contractor and strong management by the Department, the high standards of quality established for the buildings were achieved;
- Almost \$200,000 was saved and reinvested to enhance the capital project through a sales tax savings program;
- A comprehensive agreement with the contractor was finalized, amicably resolving all issues and claims within the terms of the construction contract;
- A landmark building was achieved as designed by world-renowned, Miami firm Arquitectonica in collaboration with Fisher Dachs Associates and Artec, acclaimed theater and acoustical consultants, respectively;
- The SMDCAC officially opened on October 1, 2011 with two days of sold-out community-centered activities;
- The Department of Cultural Affairs is managing the SMDCAC with the goals of presenting artistically-excellent work and developing strong community outreach components in everything that it does; and
- The SMDCAC is continuing to receive enthusiastic response from the community and the media, with an exciting first season now underway. Please go to www.smdcac.org for the season's schedule of shows and for samples of media coverage.

Background

Located on S.W. 211 Street in Cutler Bay the SMDCAC is a multidisciplinary arts center designed to showcase the performing arts. The design team was led by world-renowned architectural firm Arquitectonica International, Inc., and also included: theater consultant Fisher Dachs Associates, Inc.; acoustical and sound and communications consultant Artec Consultants, Inc.; and arts management consultant AMS Planning & Research Corp. A contract with The Tower Group, Inc. (TTG) for the construction of the SMDCAC was approved in July 2005 and the Department of Cultural Affairs issued the Notice to Proceed to the Contractor on December 29, 2005.

The Center's 966 seat state-of-the-art Theater Building includes a fly tower, orchestra pit, front of house spaces (box office, lobby, restrooms, concessions, etc.), back of house support spaces (dressing rooms, storage and work areas, administrative offices, etc.) and a multi-purpose rehearsal space. The separate Activities Building of the Center houses an informal performance space, and smaller multi-purpose spaces for lectures, classes, or community gatherings. The Center's two buildings are joined by an outdoor promenade leading to a gently-sloping lawn for outdoor concerts and festivals along the Black Creek Canal.

Through Miami-Dade County's Art in Public Places program, the Center has major public art works created by Miami artist Robert Chambers. An innovative light piece illuminates the translucent inner lobby wall with changing light designs created by computer-programmed LED fixtures. In addition, the lobby features two marble sculptures also created by Robert Chambers.

Construction Contract

The Department has aggressively and successfully managed the construction contract. The construction of the Center was completed under the approved amount in the project's budget with an overall remaining balance of more than \$600,000 retained by the Department (\$117,139 from the Owner-controlled Construction Contingency Account; \$260,370 from liquidated damages assessed to the Contractor; and \$271,785 from budgeted but unused Independent Private Sector Inspector General (IPSIG) fees). These funds will be used to help address the Center's current unmet needs, such as supplemental audio equipment to enhance the in-house technical capacity of the theaters and/or a marquee sign to help promote the Center's events.

Additionally, the Department successfully implemented a Direct Purchase Program resulting in a sales tax savings to the project of almost \$200,000. Those savings were able to be reinvested in the project and used to enhance public features of the building with several upgrades, such as substituting the planned stained concrete main lobby floor for a more highly durable and very beautiful terrazzo floor.

The Tower Group and the Department reached an agreement to close out the construction project within the terms of the contract and within the approved budget. The Department has issued, and the Contractor has accepted, a final Work Order that provides an equitable and comprehensive resolution of all project-related issues including, but not limited to: Proposed Change Orders (PCOs), disputed costs, delay damages, requests for contract time extensions, and any and all project-related claims between Miami-Dade County and the Contractor, inclusive of any potential future claim litigation.

Just as importantly, the SMDCAC was completed to the high standards of quality in architecture, aesthetics, theatrical functionality and acoustics that were established for the project. The Department and the architectural and engineering team closely monitored the construction of the Center, leading to the rejection of the main building envelope systems that were not installed in accordance with the Contract Documents. After The Tower Group was purchased by Obrascon Huarte Lain, S.A. (OHL) in 2007, a Spain-based international construction firm, the Contractor's team worked cooperatively with the Department to ensure that all deficiencies were remedied and in some instances, instead of repairs, the Contractor chose to replace entire building systems at their cost. The Contractor estimated out of pocket expenses for this work to be between \$15 and \$20 million. Working together, the Contractor and the Department's construction project management team produced an outstanding cultural center that fulfilled and exceeded cultural and community expectations.

Key features of the project's final Work Order #100 include:

- Construction was completed under the approved budget:
 - The construction contract for the South Miami-Dade Cultural Arts Center was issued to the Tower Group for a total amount of \$38,412,280;
 - The project had a 10% Owner-controlled Construction Contingency account:
 - ✓ Change Order #1 was issued at the outset of construction to replenish the original 5% Owner-controlled Construction Contingency account after about two-thirds of it was depleted for charges related to unforeseen dewatering issues on the site at the onset of construction;
 - ✓ Deduct Change Orders #2-5 all pertained to the Direct Purchase (sales tax savings) Program and they totaled a realized tax savings to the project of \$195,337; and
 - ✓ Of the \$3,819,137 General Allowance Account (Owner-controlled Construction Contingency), Work Orders were issued for a total of \$3,701,998 with a remaining balance of \$117,139 retained by the County.
- The Department retained more than \$600,000 in funds from the contract:
 - In response to approximately \$5.9 million in open and disputed PCOs submitted by the Contractor, Work Order #100 included \$742,406 in compensation to the Contractor, leaving a balance of \$117,139 in the General Allowance Account (Owner-controlled Construction Contingency) which remains with Miami-Dade County;
 - Pursuant to the Contract, the amount of \$260,370 was deducted from the Contractor's final contract amount for 90 days of liquidated damages in the sum stipulated in the bid documents. Miami-Dade County relinquished all other time-related claims against the Contractor, and the Contractor relinquished all time-related claims against Miami-Dade County; and
 - The sum total of \$271,785 included in the Contract for the Independent Private Sector Inspector General (IPSIG) fee was deducted from the Contractor's final contract amount. At the time of Contract award, this amount was required to be set aside for the purpose of funding an audit of the project by a private sector consultant, if requested by the Office of the Inspector General.
- The \$500,000 Dedicated Allowance Account was established and spent for the purchase of the orchestra shell and related work after obtaining a \$500,000 grant from the State of Florida Cultural Facilities Program. The Department secured an additional \$1 million from State Cultural Facilities grants to complete the project's budget.
- Approximately \$100,000 will be retained from the Contractor's final payment in accordance with Notices to Cure issued by the Sustainability, Planning, and Economic Enhancement Department (formerly Small Business Development) for the underpayment of wages by Sun-Tech Plumbing Contractors.
- The sum total of \$72,231 is being retained until the Contractor's completion of the remaining punchlist items. Most of the punchlist items have been completed since the issuance of Work Order #100.
- The final Contract amount is \$36,965,127 of which \$32,274,269.66 has been paid to TTG to date. The balance, which mainly includes the 10% retainage being held, will be paid upon TTG's submittal of a complete and final payment application, minus the amounts being withheld for the wage compliance issues (referenced above) and the completion of the punchlist items.

The final Work Order establishes the completion of the construction contract within the approved budget and sets forth an amicable conclusion to the project with an agreement that no further causes of action are necessary or allowable against Miami-Dade County and/or the project consultants.

Grand Opening

On October 1, 2011, the SMDCAC officially opened with two days of sold-out community-centered activities. Events included free outdoor performances by talented community groups, an innovative ribbon "unveiling" ceremony orchestrated by artist Robert Chambers and involving local children, and a main-stage original show featuring top-level performing and visual artists from the Miami-Dade area. The show, which centered on themes of overcoming adversity, collaboration and community, clearly resonated with the residents of South Miami-Dade who gave the production standing ovations. I was joined for the opening ceremonies on October 1st by Miami-Dade County Commissioners Lynda Bell, Dennis C. Moss, and Sally Heyman, as well as by State Senator Larcenia Bullard, Miami-Dade County School Board member Lawrence Feldman, Town of Cutler Bay Mayor Ed MacDougall, a number of other municipal elected officials and Chairman of the Miami-Dade County Cultural Affairs Council Adolfo Henriques.

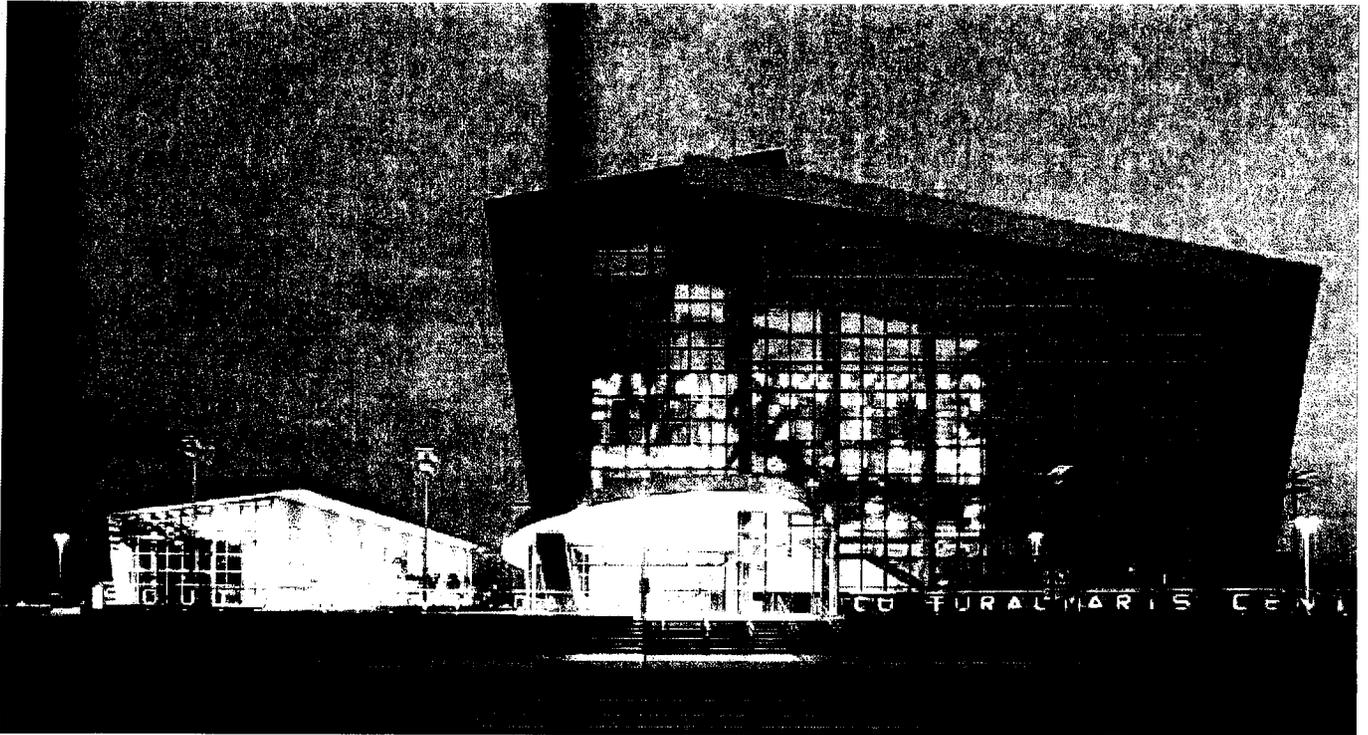
The Center received extremely positive coverage in the press surrounding the opening of the building including major features in *The Miami Herald*, a front page story by Jordan Levin ("New South Miami-Dade cultural center opens to rave reviews" - www.miamiherald.com/2011/10/02/2435557/new-south-miami-dade-cultural.html), top picks of shows to see in 2011-2012 in Season of the Arts, and a favorable architectural review of the building by Beth Dunlop ("South Miami-Dade performing arts center a work of art" - www.miamiherald.com/2011/09/25/2421590/south-miami-dade-performing-arts.html).

As it embarks on its inaugural season, the Center is committed to its goals of presenting artistically-excellent work and developing strong community outreach components in everything that it does. For a complete list of upcoming events, please visit the SMDCAC website, www.smdcac.org.

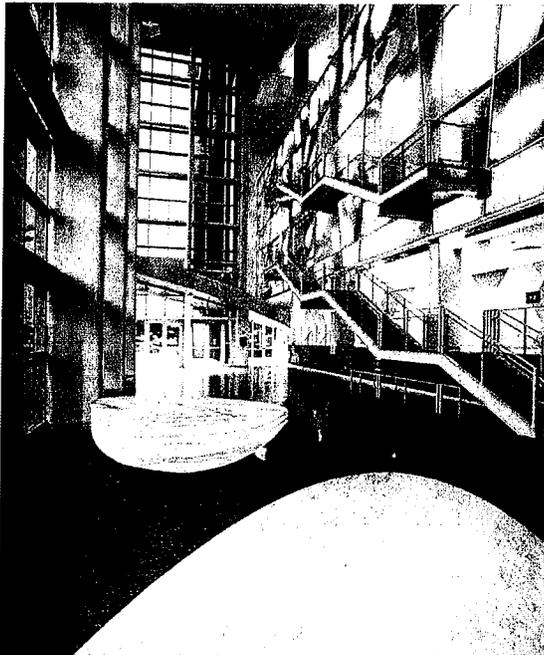
If you have additional questions, please contact Michael Spring, Director, Cultural Affairs Department, at 305-375-5022.

Attachments

c: Robert A. Cuevas, Jr., County Attorney
Christopher Mazzella, Inspector General
Lisa M. Martinez, Senior Advisor to the Mayor
Office of the Mayor Senior Staff
Michael Spring, Director, Department of Cultural Affairs
Charles Anderson, Commissioner Auditor
Members, Miami-Dade County Cultural Affairs Council



Exterior view from 211th Street



Interior view of theater lobby showing
Art in Public Places projects by
Robert Chambers
Light Field and Orbital I and Orbital II

Interior view of auditorium showing house curtain
designed by Arquitectonica International Inc.



Grand Opening events October 1, 2011
and October 2, 2011

Photos by Joshua Prezant

