

Memorandum



Date: August 31, 2020

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in blue ink, appearing to read "Carlos A. Gimenez", written over the printed name of the Mayor.

Agenda Item No. 8(N)(3)

Subject: Resolution Approving Award of a Design-Build Services Agreement for Contract No. CIP155-DTPW19-DB, Project No. DB19-DTPW-01 Entitled "Design-Build Services for the South Corridor (South Dade Transitway) Rapid Transit Project" Which is a Strategic Miami Area Rapid Transit Plan Corridor, to OHL USA, Inc. in the Total Contract Amount of \$368,233,493.42; Waiving Section 2-10.7 of the Code of Miami-Dade County and Authorizing the Use of People's Transportation Plan Bond Program Funds for Such Purposes

Recommendation

This Recommendation for Award of a Design-Build Services Agreement for Contract Number CIP55-DTPW19-DB, Project No. DB19-DTPW-01 entitled "Design-Build Services for the South Corridor (South Dade Transitway) Rapid Transit Project" (the "Project"), to OHL USA, Inc. has been prepared by the Department of Transportation and Public Works (DTPW) and is recommended for approval by the Board of County Commissioners (Board) pursuant to Section 2-8.1 of the Code of the County (Code), for a total Lump Sum contract amount of \$368,233,493.42, inclusive of a contingency allowance amount of \$32,670,017.29 and a contract term of 800 calendar days. This Lump Sum award groups five different projects that have inter-related scopes including the South Corridor Bus Rapid Transit (BRT) project, the 168th Street Park and Ride, two Florida Department of Transportation (FDOT) intersection safety improvement projects and traffic safety and signalization improvements along the Corridor. The South Corridor is the first of the six Strategic Miami Area Rapid Transit (SMART) Plan corridors to move forward towards the implementation phase. The project entered the Small Starts Process in the Fall of 2018, received a "High" rating from the Federal Transit Administration (FTA) on February 10, 2020 and received a federal funding allocation of \$99,999,999 through this program on May 29, 2020.

Combining the construction of these five projects into one Contract, creates cost efficiencies by eliminating claims from interference between multiple contractors working within the same site, reducing maintenance of traffic efforts, mobilization, coordination and communication efforts by DTPW and minimizing the overall construction impacts to the public. Due to the constrained timeline of the Project and the limited resources to manage the procurement of items for the Project, DTPW is requesting that Section 2-10.7 of the Code, Sales Tax Exemption Program, be waived for the Project as has typically been done for complex construction projects. This will minimize the potential assertion of claims and damages by the Design-Build Firm for delays due to the procurement of materials or equipment by DTPW. Waiving this requirement would expedite the purchase of said materials and would place the responsibility for the procurement, acquisition and liability of any materials on the Design-Build firm and not the County.

This contract award recommendation is placed for Board review pursuant to the Code Section 29- 124(f). This contract award recommendation may only be considered by the Board if the Citizens' Independent Transportation Trust (CITT) has forwarded a recommendation to the Board prior to the date scheduled for Board consideration or 45 days have elapsed since the filing with the Clerk of the Board of this contract award recommendation. If the CITT has not forwarded a recommendation and 45 days have not elapsed since the filing of this award recommendation, a request for withdrawal of this item will be submitted.

Delegation of Authority

The authority of the Miami-Dade County (County) Mayor or County Mayor's designee to execute and implement this contract is consistent with those authorities granted under the Code. No further delegation is necessary or being requested for this contract.

Scope

The scope of this item is countywide in nature. The Project extends along the existing South Dade Transitway from the Dadeland South Metrorail Station to SW 344th Street in Florida City. The Project is located within Districts 7, 8 and 9, represented by Commissioners Xavier L. Suarez, Daniella Levine Cava and Dennis C. Moss, respectively.

Fiscal Impact/Funding Source

The fiscal impact for the lump sum contract includes five projects (including the South Corridor BRT project, the 168th Street Park and Ride, two Florida Department of Transportation (FDOT) intersection safety improvement projects and traffic safety and signalization improvements along the Corridor) is \$368,233,493.42. This amount includes a contingency allowance amount of \$32,670,017.29 for unforeseen work and dedicated allowances totaling \$8,863,303.22. As this Project was procured as Lump Sum Contract, any amounts assigned to individual projects are not defined as contractual values and are, therefore, not indicative of the cost of each of the project components. DTPW has identified the BRT Project's net annual operating cost as \$12,187,000, which will be funded through a combination of DTPW operating funds as identified in the Combined People's Transportation Plan (PTP) and Transit Pro-Forma. This Project is funded from various capital projects included the FY 2019-20 Adopted Budget Multi-Year Capital Plan. Any changes, as outlined below, will be incorporated into the FY 2020-21 Proposed Multi-Year Capital Plan:

Contract Award Funding Sources:

	<u>Amount</u>
Charter County Transit System Surtax (PTP)	\$ 129,632,859.45
FTA Section 5309 Discretionary Grant	\$ 82,704,480.50
FDOT New Starts	\$ 82,704,480.50
Road Impact Fees	\$ 62,778,476.81
United States DOT Build Program	\$ 9,500,000.00
FDOT Department Funded Agreements	\$ 913,195.26

Total Funding: \$ 368,233,493.42

Background

The South Dade Transitway is an existing 20-mile long corridor connecting South Dade to the existing elevated Heavy Rail Transit system known as the Metrorail. The South Corridor project was in the original Exhibit 1 to the PTP. The SMART Plan has provided the County an opportunity to significantly improve access to and modernize the South Dade Transitway.

The South Dade Transitway serves as the economic spine of several communities in South Miami-Dade. Communities along the corridor have experienced the fastest growth rate in the County, and as a result, are experiencing an increasing demand for transportation infrastructure. The South Corridor serves as a critical

transportation link, offering one of the few connections between South-Dade communities and the rest of the County. The residents of these communities have expressed a strong desire for transit improvements on this corridor. Currently, about 20 percent of the total county population lives in South Miami-Dade County, according to the 2010 US Census. Growth projections from 2010 to 2040 indicate that the County's southern portion will experience an approximate 50 percent increase in population and an approximate 65 percent increase in employment, representing the highest growth rate in the County. The communities along the corridor depend on the South Dade Transitway for reliable access to jobs north of the corridor, in Downtown Miami, the Health District, in and around Miami International Airport and in the northern part of the County. The corridor currently serves more than 13,000 transit boarding each day. Ridership projections for the proposed BRT system forecast more than 20,000 daily trips.

On April 21, 2016, the Miami-Dade Transportation Planning Organization (TPO) Governing Board officially adopted and endorsed the SMART Plan. The SMART Plan intends to advance six of the PTP's rapid transit corridors, along with a network system of Bus Express Rapid Transit service throughout the County. The South Corridor is one of the six corridors included in the SMART Plan and runs along the South Dade Transitway between the Dadeland South Metrorail Station and SW 344th Street in Florida City.

Since the initiation of the Project in 2017, the County has been in close coordination with Federal, State and local partners. The FDOT has committed \$100,000,000 towards the Project, approved by the Board as Resolution No. R-323-20. As the first SMART Plan Corridor scheduled to be implemented, the South Corridor BRT Project will become a critical element of an enhanced multimodal transportation system that will anchor transformative, positive and long-lasting quality of life benefits at the local and regional levels.

Advancing the South Corridor Project was identified as Priority I by the Miami-Dade TPO and on August 30, 2018, the Board of the Miami-Dade TPO selected BRT as the Locally Preferred Alternative (LPA) for the South Corridor. BRT was selected as the LPA because it could meet the travel demand needs of the corridor cost effectively by reducing travel times between South Miami-Dade and the Dadeland South Metrorail Station. The Project will provide riders with time savings and rail-like features and amenities such as 14 iconic stations with climate control elements, level boarding, improved travel time through transit signal preemption and crossing gates at 45 intersections, dedicated right-of-way, pre-paid fare for speedy boarding, branded vehicles and stations, enhanced safety features, passing lanes at stations and real-time arrival information. Stations will be designed to facilitate the future conversion of the stations from BRT to at-grade Heavy Rail if the possibility arises.

On June 7, 2019, a Request for Design-Build Services (RDBS) was advertised under full and open competition for the Project. Exhibit 1 to this memorandum contains the detailed scope of services, technical certification requirements and other information regarding this Project. In order to reduce the impact of the construction of multiple projects along the corridor and potentially save money for these projects by reducing mobilization and demobilization cost, the scope for this RDBS included five separate approved capital projects.

Prior to the submission deadline, the RBDS solicitation was downloaded 262 times. On August 8, 2019, four proposals were received for Step 1: "Evaluation of Qualifications" submittal through BidSync. All four respondents were found in compliance with the technical certification and the applicable FTA and FDOT requirements established for this solicitation. On August 27, 2019, The Lane Construction Corporation, submitted written notification of withdrawal of their proposal from consideration on the Project. As such, at the Step 1 meeting held on August 29, 2019, the Competitive Selection Committee (CSC) appointed by the County Mayor reviewed and ranked the remaining three proposals received. All three firms were evaluated

in accordance with Section 2-10.4 of the Code, Implementing Order 3-34 and Administrative Order 3-39. The total scores for the firms were as follows: Firm No. 1, Rapid Transit Partners JV received 423 Qualitative Points; Firm No. 2, OHL USA, Inc. received 421 Qualitative Points and Firm No. 3, South Corridor Partners, JV received 405 Qualitative Points. Based on the CSC's professional judgement, the information provided in the proposals was deemed sufficient to determine the experience and qualifications of the firms. As a result, the CSC voted to advance all three proposers to the Step 2 evaluation process to submit technical, aesthetic, contract time and price proposals. Subsequently, on November 1, 2019, the Design Criteria Package was made available to the three advancing firms.

On April 22, 2020, one technical, aesthetics, contract time and price proposal was received from OHL USA, Inc. Rapid Transit Partners JV and South Corridor Partners JV chose not to submit proposals for the Step 2 process. A Page-Turn meeting was held on May 6, 2020, where OHL USA, Inc. provided a presentation of their proposal submittal before the CSC. The Step 2 meeting was held on May 11, 2020. The CSC and the Aesthetics Review Committee (ARC) appointed by the County Mayor evaluated the remaining proposer, OHL USA, Inc, based upon the established Step 2 evaluation criteria. After the CSC scored the technical proposal and the ARC scored the aesthetics proposal, the scores were read into the record. The Internal Services Department (ISD) staff allocated points for Criterion 5B - Contract Time Proposal and Criterion 6B - Price Proposal, pursuant to the RDBS document and the final scores were read into the record. The final ranking was determined by the summation of the total qualitative scores for all criteria. The total qualitative score for OHL USA, Inc. was 4,502.

The first negotiation meeting was held on May 18, 2020, in accordance with Section 2-10.4(6) of the Code. After two negotiations, the Negotiation Committee arrived at a lump sum base price of \$219,971,254.99 for the South Corridor BRT portion of the scope of services, which was approximately equal to the County's established maximum budget of \$220,000,000 for the sum of the Engineering and Design fee and the Construction fee. On June 4, 2020, OHL USA, Inc. was found in compliance with the Disadvantaged Business Enterprise (DBE) requirements established for this solicitation. The base contract amount for the five combined projects submitted by OHL USA, Inc. is within 9.93 percent of the Engineer's Probable Cost Estimate prepared by AECOM. It should be noted that the Project was bid as a Lump Sum contract and that the Design Builder carries inherent performance risks throughout the prosecution of the work. The amounts assigned to the individual projects are not defined as contractual values and are therefore not truly indicative of the cost of each of the project components.

The following factors have been identified as contributing factors to the receipt of a higher price: 1) highly aggressive schedule to allow for expedited delivery of these much needed improvements to the residents of Miami-Dade County; 2) higher price market conditions and project complexities of technology required for the project; 3) interoperability with other systems and connectivity, requiring coordination and communication; 4) maintaining uninterrupted service on an active transit corridor, requiring an extensive maintenance of traffic and coordination with FDOT and other municipalities; and 5) evaluation and upgrades (and potential replacements) of all signal mast arms at the intersections of the Transitway cross-streets to comply with new Wind Load requirements.

A final contributing factor to the higher price is the 168th street parking garage. Initially two parking garage facilities were planned along the South Dade Transitway, at US-1 and SW 152 street and the other at the intersection of US-1 and SW 168 street. Each facility had an estimated construction cost of approximately \$10 million. The project was subsequently modified to provide a single, larger garage at SW 168 Street due to park-related restrictions at SW 152 Street. This larger garage will have an integrated transfer area for local circulator service. In order to comply with setback and height restrictions at SW 168 Street, the garage design

was modified to be integrated over the Transitway so that a greater number of parking spaces for the combined garages could be accommodated. Spanning the garage over the Transitway allows for improved access for transit riders since they can access the central BRT platform directly from the garage rather than having to cross the Transitway at-grade. The ability to access the busway central platform directly from the garage through escalators and elevators also serves to protect transit patrons from the elements and will serve as a Signature BRT station.

Based on the above, it is recommended that the Design-Build Services Agreement for the five projects be awarded to OHL USA, Inc. in the lump sum total contract amount not to exceed \$368,233,493.42, inclusive of the contingency and dedicated allowance accounts.

According to the Division of Small Business Development's (SBD) database, there are no violations on record within the last three years for OHL USA, Inc. The Project has been assigned a 24 percent DBE goal for construction and a 5 percent DBE goal for architectural and engineering. According to the Firm History Report, as provided by SBD, within the last three years, OHL USA, Inc. has not held any contracts with Miami-Dade County. The Project complies with all applicable federal, state and local regulations including the Applicable Wages pursuant to Resolution No. R-51-10, Art in Public Places, the Sustainable Buildings Ordinance and the Sea Level Rise Ordinance. The Project will conform with and be both Envision and ParkSmart "Silver" certified. With Board approval, it is anticipated that the Notice to Proceed to OHL USA, Inc. will be issued within 60 days of board approval. Included below are the subconsultants and subcontractors that OHL USA, Inc. has identified for the Project.

Subconsultants:

300 Engineering Group, P.A.
B & C Transit, Inc.
Bliss & Nyitray Inc
Chrome Engineering, Inc.
Curtis & Rogers Design Studio, Inc.
Florida Transportation Engineering, Inc.
E Sciences, Incorporated
GEOSOL, Inc.

Holt Communications, Inc.
I.F. Rooks & Associates, LLC
Manuel G. Vera & Associates, Inc.
NV5, Inc.
Parsons Transportation Group Inc.
Perez & Perez Architects Planners, Inc.
SDM Consulting Engineers, Inc.

Subcontractors:

A&A Fonte, Inc.
Agricultural Land Services, Inc.
Alpizar Construction and Associates Corp.
American Pipeline Construction, LLC
Blue Native of The Florida Keys, Inc.
Bob's Barricades, Inc.
Cherokee Enterprises, Inc.
CGC Construct Group, LLC
ESP Enterprises, Inc.
Florida Structural Steel and Construction,
Inc.
Guaranteed Fence, Corp.

Highway Striping, Inc.
I & C Earthmovers, Corp.
Image Resource Group, Inc.
Interstate Construction, LLC
Lead Engineering Contractors, LLC
Maytin Engineering Corp.
Precision Contracting Services, Inc.
Pylon Cg Inc.
RTech Engineering, LLC
SICE, Inc.
Torres Electrical Supply Company, Inc.

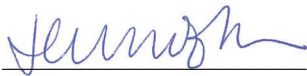
Track Record/Monitor

Cristina Amores of the Internal Services Department is the A/E Consultant Selection Coordinator and Leticia Smith of DTPW is the Chief of Contract Services. The County is supervising, monitoring and inspecting all aspects of the Project's implementation, deployment and administration. Manuel Garcia, Assistant Director, Construction & Maintenance, DTPW, is responsible for this Project.

Due Diligence

Pursuant to Resolution R-187-12, and in accordance with ISD's Procurement Guidelines, DTPW staff exercised due diligence to determine Design-Builder's responsibility for OHL USA, Inc. The lists that were referenced included, but were not limited to: convicted vendors, debarred vendors, delinquent contractors, suspended vendors and federal excluded parties. There were no adverse findings relating to the Design-Builder's responsibility. There are no evaluations on record for OHL USA, Inc. in the Capital Improvements Information System.

In addition, due diligence was conducted by DTPW's Office of Safety and Security to determine contractor responsibility, including verifying corporate safety records. The safety records for OHL USA, Inc. for the last three years were considered. Copies of their Occupational Safety & Health Form 300 – Log of Work-Related Injuries and Illnesses are on file with DTPW's Office of Safety and Security and are available upon request. This information is being provided pursuant to Resolution No. R-1181-18.



Jennifer Moon
Deputy Mayor

EXHIBIT 1

ADDITIONAL PROJECT REQUIREMENTS

PROJECT NAME: Design-Build Services for the South Corridor (South Dade Transitway)
Rapid Transit Project

PROJECT NO: CIP155

CONTRACT NO: CIP155-DTPW19-DB

PROJECT DESCRIPTION

DTPW has a need to establish a contract for Design-Build Services for the South Corridor (South-Dade Transitway) Rapid Transit Project (the Project).

The Project is to be developed entirely within the existing public right-of-way generally defined by the existing South Dade Transitway corridor between the Dadeland South Metrorail Station and SW 344th Street in Florida City (approximately 20 miles), including adjoining stations. The Project will include 14 new Bus Rapid Transit (BRT) stations at existing station locations, demolition of existing stations and ancillary structures, rehabilitation of approximately 16 existing Transitway stations that will remain in place, and accommodation of at-grade BRT vehicles. The Project is targeting Envision Silver Certification by incorporating sustainability into the design and construction of the Transitway infrastructure. In addition, the Project shall also consider the impact of sea level rise during design and construction in accordance with County requirements. The Project scope is a full “Design-Build” delivery approach that consists of and includes the design, permitting, construction and commissioning of the Project.

Stations:

The BRT stations in the Project will provide iconic, safe, comfortable, rain and sun-protected environments for the users of the transit system. The BRT stations are intended to play a critical role in increasing the efficiency and overall comfort of the commuting experience, and their design goal is to create an instantly recognizable architectural icon – identifying each station not only for passengers, but also for passersby of the presence and role of the overall Miami-Dade public transportation system in the life of the communities that it serves. The stations are envisioned as important civic spaces that add positively to the urban landscape and aim to increase ridership. The stations should meet the following criteria:

- maximize user comfort and safety;
- be architecturally iconic and memorable;
- be instantly recognizable as a component of the County-wide transit system;
- be expandable and flexible to meet the needs of potential future transportation systems, designed to facilitate the future conversion of the stations from BRT to at-grade heavy rail transit (HRT);and
- relate to the neighborhoods and communities through color, graphics and signage.

Design plans for the vault will be required to have a peer review analysis performed by an independent engineering firm not involved with the production of the design or plans.

Each BRT station features a vault-like structure that is approximately 82 feet wide and extends

longitudinally over a center platform approximately 127 feet in length, accommodating bus boarding on the driver's side, an enclosed air-conditioned passenger waiting area vestibule, iconic monument sign, and at-grade pedestrian crossings. Stations will be designed to allow cross-ventilation and use of fans. Each station shall be provided with seating, fare vending machines, video screens offering real-time transit arrival information, provisions for future interactive signs (kiosks), maps conveying the layout of the overall system, Wi-Fi connectivity, bicycle racks with a compact repair bicycle station, station identification signage, possible kiss-and-ride locations and potential advertising opportunities.

Stations shall be designed for safety and ease of circulation of pedestrians and bicycles entering the station. Safety is a key element of the design of the BRT stations. The station structure is envisioned around the ideal of transparency, so that passengers are visible from all parts of the station – whether inside or outside. All spaces will be well-lit inside and around the station. Emergency call boxes shall be located throughout the stations, at the center platforms and on the side platforms. Pedestrian and bicycle circulation will be carefully planned throughout each station in order to maintain passenger safety. Security cameras will be placed throughout each BRT Station site and along all transitway crossings, monitoring all station areas and crossings, as well as the pedestrian areas between stations and crossings. All stations will be ADA (Americans with Disabilities Act) compliant and accessible.

The scope encompasses, but is not limited to, all related site/civil infrastructure; architecture; landscape architecture; structural engineering; mechanical and ventilation, electrical and plumbing engineering; and transit control, communications and information systems design. Dynamic Messaging Systems, SCADA (Supervisory Control and Data Acquisition) including integration with existing DTPW control center, closed circuit television, Automatic Fare Collection System, Next Bus Arrival signs, safety and security systems, emergency call boxes, furniture, fixtures and equipment, signage including gateway monuments and wayfinding signage to station park-and-rides, kiss-and-ride areas and safe crossing locations for pedestrians, bicyclists and drivers, specialty lighting, landscaping and hardscaping, pedestrian/bicycle accommodations, and other systems required for the functionality of the Project are included. Existing transit service must be maintained at all times during the construction of the stations.

Existing stations along the Transitway that are not to be replaced by BRT stations shall be rehabilitated. The extent of rehabilitation and the specific bus shelter components needing repair will vary with each station, and may include structural repairs, painting, and electrical repairs among others.

In addition, the Project includes minor modifications to the two terminal stations at SW 344th Street in Florida City and at the Dadeland South Metrorail Station. Both terminal stations have unique characteristics and improvements that will include, at a minimum, BRT features that are consistent with the other BRT stations included in the Project.

Southwest 168th Street Park-n-Ride Station:

The Southwest 168th Street Station is one of 14 BRT stations within the South Dade Transitway. The Southwest 168th Street Park-n-Ride Station will provide multi-level parking facilities for BRT users and provide a minimum of 636 parking spaces (670 preferred). The SW 168th Street Station will consist of a multi-story parking garage, local bus stop platform, a Kiss & Ride drop-off/pick-up area, and the BRT station.

The facility will include public restroom facilities, bicycle storage facilities, and a Driver Relief Station for bus operators. The multi-level story parking garage will overhang the BRT corridor and provide direct connectivity to the BRT platform at the ground level through an elevator. The Southwest 168th Street Park-n-Ride Station will pursue ParkSmart Certification (target level Silver) with the ParkSmart implementation framework to be provided.

Corridor Improvements:

The Project includes milling and resurfacing along sections of the 20-mile South Dade Transitway corridor and possible reconstruction of the intersections (approximately 45 intersections). The Project will include the implementation of new signalization with preemption at the intersections, intersection traffic control devices including rail-like devices and infrastructure, visual warning devices, and Intelligent Transportation Systems. Existing transit service must be maintained at all times during the construction of the Project. A traffic control (Maintenance of Traffic) plan must be developed by the Design-Build Team and approved by the agencies having jurisdiction prior to any construction commencing on the Project including lane closures. Roadway improvements will include drainage, new utility service and existing utility adjustments and/or relocations, lighting, signing and pavement markings, fencing, pedestrian/bicycle facilities and related services pertaining to the Project. All new services including, but not limited to, drainage and lighting shall be separated for each agency. Any work impacting the Florida Department of Transportation (FDOT) right-of-way shall meet FDOT design criteria and will require review and approval from FDOT prior to commencement of the work. The Design-Build Team will be responsible for coordinating with utility companies for the required utility adjustments and/or relocations.

The selected Design-Build Team shall provide all the necessary investigations including site investigations, surveys, geotechnical investigations, and utility locates. The scope of work will include all utility adjustments, new utility services, required studies and modeling, architectural and engineering (A/E) designs, analysis of 'sustainable systems' and Envision certification, and fire/life safety systems. The Design-Build Team shall prepare all surveys, geotechnical engineering reports, designs, construction documents including drawings, specifications, as-built documentation, and shop drawings, as well as obtain all permits including, but not limited to environmental and building permitting. In addition, the Design-Build Team shall perform all necessary inspections, testing, remediation, and perform all construction administration including preparation of schedules, project commissioning, preparation of as-built drawings and any supportive ancillary tasks to the primary scope of services to successfully complete all phases of the Project.

The selected Design-Build Team shall be responsible to coordinate work with stakeholder agencies, including, but not limited to: Federal Transit Administration (FTA), FDOT, DTPW, utility agency owners, Village of Pinecrest, Village of Palmetto Bay, Town of Cutler Bay, City of Homestead and City of Florida City. The Design-Build Team shall also be responsible to interface and coordinate with the County's Department of Cultural Affairs for Art in Public Places during the design phase of the Project and perform any required presentations to the Transportation Architectural Review Committee and the Bicycle Pedestrian Advisory Committee of the Transportation Planning Organization. Throughout the duration of design and construction, the Design-Build Team shall lead the Public Involvement Program and provide support to DTPW and the Construction Engineering and Inspection team as needed.

The Design Criteria Professional for this Project is AECOM Technical Services, Inc. (AECOM). The sub-consultants to AECOM were Creativision Media, Inc., PMA Consultants, Inc. and T.Y. Lin International. Pursuant to Florida Statutes 287.055, “A design criteria professional who has been selected to prepare the design criteria package is not eligible to render services under a design-build contract executed pursuant to the design criteria package.”

Therefore, in addition to AECOM, any of the sub-consultants who assisted in the preparation of the Design-Criteria package are not eligible to render services on this project. The County reserves the right to disqualify any proposal from a team, which includes any sub-consultant and/or individual who has played a substantial role in the development of the design criteria package or whose involvement with the design-build team would confer upon that team an unfair competitive advantage because of such sub-consultant’s or member’s prior involvement in the Project. Therefore, the Florida Department of Transportation’s Owner’s Representative, Gannett Fleming, Inc. is not eligible to render services for ISD Project No. DB19-DTPW-01. Finally, the Design- Builder, Lead A/E Consultant, and its sub-consultants selected for award of the Design-Build Contract for ISD Project No. DB19-DTPW-01 will be precluded from providing value engineering services for this Project.

Adjacent Project Coordination with FDOT Projects:

As part of the Project, the FDOT will require schedule, design and construction coordination for the projects listed below. These will be priority projects and Design-Builder shall work around the FDOT’s construction schedule.

- FM 439913-1-52-01 Safety Improvement Project along SR 5/US 1 from 1000-ft south of the SW 112th Ave. Intersection to 1370-ft north of the SW 112th Ave. Intersection. This project has an anticipated Letting Date of January 2021.
- FM 439986-1-52-01 Safety Improvement Project along SR 5/US 1 from Bailes Road to SW 214th Street. This project has an anticipated Letting Date of July 2020.
- FM 405575-6-52-01 Safety Improvement Project along SR 998/SW 312th Street/Campbell Drive from Sr 997/Krome Avenue to SR 5/US 1 (Truck By Pass).

Design and Construction of FDOT Projects:

The Project scope will also include completion of the design, where the design is incomplete, construction administration, and construction of the following FDOT projects. The County anticipates that the Design-Builder will utilize its own designers to complete the design.

- FM 439984-1-52-01 Safety Improvement Project at the intersection of SR 5/US 1 and SW 136th Street. This project scope includes the installation of two new mast arms at the southwest and northeast corners of the intersection including new signal foundation, new signal heads, and new pedestrian push-buttons. The installation of a signal head on mast arm upright at the southeast corner of the intersection, the installation of back-plates and an additional signal head on northbound and southbound approaches, and the installation of a new pedestrian push-button pedestal at the northeast corner. This project will require Right of Way Certification.

At the Southwest quadrant, an Access Permit Agreement will be required with the DTPW. At the Northeast quadrant Private Owner Acquisition required. The FDOT is in the process of acquiring Right-of-Way for the Project. The following parcel will be made available as stated:

o Parcel 800 (from FDOT Project FM No. 439984-1-52-01): To be made available to the Design-Builder on or prior to 02/10/2020.

The Design-Builder shall not use the above noted parcel areas for any construction or staging activities, or for any other purpose, until FDOT has issued an applicable parcel clear letter.

- FM 429341-2-52-01 Safety Improvement Project along SR 995 / Quail Roost Drive from the South Miami-Dade Busway to SR 5/US 1 from approximately Station 519+00.00 to Station 523+49.00. This FDOT project scope includes the installation of pedestrian signals and detectors on new pedestal in all four quadrants of the SR 994 (Quail Roost Dr.) and the South Miami-Dade Busway intersection, as well as the removal of all existing pedestrian signals and detectors located on existing mast-arms. The project will include the installation of a new video detection system and connection of video cables to the cabinet through the interconnect pull box, the installation of a new pull box and the adjustment of the County's Information Technology Department's pull box. Additionally, it will include milling and resurfacing of the existing roadway pavement, the reconstruction of the 6" concrete sidewalk in the northwest and southwest quadrants, the installation of curb and gutter in the northwest quadrant, the update of intersection pavement markings (i.e. crosswalks, stop bars, island chevrons) and the update of intersections signs. This project will require a Right of Way Access Permit Agreement with the DTPW.

Roadway Improvements of SW 264th Street:

The limits of the scope are from SW 264th Street from US-1 to SW 147th Avenue. The scope includes re-construction/widening the existing roadway to a two-lane divided roadway with a center turn lane, bike lanes, on street parking, sidewalks, curb and gutter, a continuous storm drainage system, signalization, pavement markings and signage, and lighting.

PROJECT TECHNICAL CERTIFICATION REQUIREMENTS

<u>TYPE</u>	<u>CODE</u>	<u>DESCRIPTION</u>
Lead A/E	2.01	Mass Transit Systems – Mass Transit Program (Systems) Management
Lead A/E	14.00	Architecture
Lead A/E	16.00	General Civil Engineering
Other	2.04	Mass Transit Systems – Mass Transit Controls, Communications and Information Systems
Other	2.05	Mass Transit Systems – General Quality Engineering
Other	2.06	Mass Transit Systems – Mass Transit Safety Certification for System Elements
Other	3.01	Highway Systems – Site Development and Parking Lot Design
Other	3.02B	Highway Systems – Minor Highway Design
Other	3.03	Highway Systems – Bridge Design

<u>TYPE</u>	<u>CODE</u>	<u>DESCRIPTION</u>
Other	3.04	Highway Systems – Traffic Engineering Studies
Other	3.07	Highway Systems – Traffic Signal Timing
Other	3.08	Highway Systems – Intelligent Transportation System Analysis, Design, and Implementation
Other	3.09	Highway Systems – Signing, Pavement Marking, and Channelization
Other	3.10	Highway Systems – Lighting
Other	3.11	Highway Systems – Signalization
Other	8.00	Telecommunications
Other	9.01	Soils, Foundations and Materials Testing – Drilling, Subsurface Investigations and Seismographic Services
Other	9.02	Soils, Foundations and Materials Testing – Geotechnical and Materials Engineering Services
Other	9.03	Soils, Foundations and Materials Testing – Concrete and Asphalt Testing Services
Other	9.04	Soils, Foundations and Materials Testing – Non-Destructive Testing and Inspections
Other	10.01	Environmental Engineering – Stormwater Drainage Design Engineering Services
Other	10.05	Environmental Engineering – Contamination Assessment and Monitoring
Other	11.00	General Structural Engineering
Other	12.00	General Mechanical Engineering
Other	13.00	General Electrical Engineering
Other	15.01	Surveying and Mapping – Land Surveying
Other	15.03	Surveying and Mapping – Underground Utility Location
Other	20.00	Landscape Architecture
Other	22.00	ADA Title II Consultant

FDOT Pre-qualifications

<u>TYPE</u>	<u>CODE</u>	<u>DESCRIPTION</u>
Other	3.1	Minor Highway Design
Other	3.2	Major Highway Design
Other	4.1.1	Miscellaneous Structures
Other	4.1.2	Minor Bridge Design
Other	6.1	Traffic Engineering Studies
Other	6.2	Traffic Signal Timing
Other	6.3.1	Intelligent Transportation Systems Analysis and Design
Other	6.3.2	Intelligent Transportation Systems Analysis Implementation (ITS CEI)
Other	6.3.3	Intelligent Transportation Traffic Engineering Systems Software Development
Other	6.3.4	Intelligent Transportation Systems Analysis
Other	7.1	Signing, Pavement Marking, and Channelization
Other	7.2	Lighting
Other	7.3	Signalization

FDOT PRE-QUALIFICATIONS

<u>TYPE</u>	<u>CODE</u>	<u>DESCRIPTION</u>
Other	8.1	Control Surveying
Other	8.2	Design, Right of Way, and Construction Surveying
Other	8.3	Photogrammetric Mapping
Other	8.4	Right of Way Mapping
Other	9.1	Soil Exploration
Other	9.2	Geotechnical Classification Lab Testing
Other	9.3	Highway Materials Testing
Other	9.4.1	Standard Foundation Studies
Other	9.5	Geotechnical Specialty Lab Testing
Other	14.0	Architect
Other	15.0	Landscape Architect

MINIMUM QUALIFICATIONS EXCEED LEGAL REQUIREMENTS:

No; The Lead Team Participants must include the following firms:

(i) Lead Contractor: The firm that will be responsible for the construction of the Project must be licensed as a General Contractor in Florida (“Lead Contractor”) as per Section 489.119, Florida Statutes. Additionally, the Lead Contractor must be approved as a prequalified contractor for the Florida Department of Transportation. The current list of prequalified contractors are located herein: <https://www.fdot.gov/contracts/PreQual-Info/prequalified.shtm>.

(ii) Lead A/E Firm: The firm primarily responsible for coordinating the development and completion of all Project-related engineering and architecture (“Lead A/E Firm”) must be certified under Section 471.023, Florida Statutes to practice engineering, and certified under Section 481.219 to practice architecture.

PREFERRED EXPERIENCE AND QUALIFICATIONS

In addition to the required licenses, it is highly preferred that the Design-Build Team be able to demonstrate, through prior experience, by presenting the qualifications and capabilities of each Design-Build Team member firm, the ability to manage the design and construction of complex mass transit projects of similar size and scope, as described in the project’s summary of work in the last 15 years; including projects that may be at least 50 percent complete prior to the required submittal date, that demonstrate related minimum project experience as indicated below:

- (1) Lead Contractor: Lead Contractor is preferred to have completed three construction projects in the last 15 years of similar or greater scope and construction value.
- (2) Lead A/E Firm: Lead A/E Firm is preferred to have completed design of three projects in the last 15 years of similar or greater scope.
- (3) Design-Build Team Key Personnel Experience and Qualifications: Minimum position experience of Design-Build Team Key Personnel is preferred as follows:

Key Construction Personnel: Key Construction personnel should possess a minimum of 10 years of experience and demonstrate experience in three construction projects with similar or greater scope, in a similarly responsible position.

Key A/E Personnel: Key A/E Personnel should possess a minimum of 10 years of experience and demonstrate experience in three design projects with similar or greater scope, in a similarly responsible position.

The expertise must be met by a qualified individual(s) of the Prime firm and its subconsultants. The experience must be demonstrated by direct or substantial involvement of the individual(s) in a supervisory capacity at the Project Manager level or above.

The determination of the individual's qualifications and compliance with the experience and qualifications shall be at the sole discretion of the County. The Design-Build Team should demonstrate being experienced in the application of the American Public Transportation Association for BRT Systems standards and guidelines and must demonstrate experience in all disciplines and areas as described in the Project Description above.



MEMORANDUM (Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: August 31, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(N)(3)

Please note any items checked.

- ☐ "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
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☒ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(N)(3)
8-31-20

RESOLUTION NO. _____

RESOLUTION APPROVING AWARD OF A DESIGN-BUILD SERVICES AGREEMENT FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$368,233,493.42, INCLUSIVE OF A CONTINGENCY ALLOWANCE OF \$32,670,017.29 AND A TOTAL CONTRACT TERM OF 800 CALENDAR DAYS, TO OHL USA, INC. FOR A PROJECT ENTITLED “DESIGN-BUILD SERVICES FOR THE SOUTH CORRIDOR (SOUTH DADE TRANSITWAY) RAPID TRANSIT PROJECT, CONTRACT NO. CIP155-DTPW19-DB; WAIVING SECTION 2-10.7 OF THE CODE OF MIAMI-DADE COUNTY; AUTHORIZING THE USE OF PEOPLE’S TRANSPORTATION PLAN BOND PROGRAM FUNDS FOR THE SOUTH CORRIDOR PROJECT WHICH WAS IN THE ORIGINAL EXHIBIT 1 TO THE PEOPLE’S TRANSPORTATION PLAN AND THE PARK-AND-RIDE FACILITY ON THE TRANSITWAY AT SW 168TH STREET (PHASE 2) WHICH WAS ADDED TO THE FIVE-YEAR IMPLEMENTATION PLAN IN FEBRUARY 2020 AND AUTHORIZING THE COUNTY MAYOR OR MAYOR’S DESIGNEE TO EXECUTE SAME AND TO EXERCISE THE RIGHTS CONTAINED THEREIN

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:

Section 1. Approves Award of a Design-Build Services Agreement with a total contract amount not to exceed \$368,233,493.42, inclusive of a contingency allowance of \$32,670,017.29 and a total contract term of 800 calendar days, to OHL USA, Inc. for a project entitled “Design-Build Services for the South Corridor (South Dade Transitway) Rapid Transit Project, Contract Number CIP155-DTPW19-DB; waives Section 2-10.7 of the Code of Miami-Dade County; and authorizes the use of People’s Transportation Plan Bond Program funds for the

South Corridor project, which was in the original Exhibit 1 to the People's Transportation Plan and the Park-and-Ride Facility on the Transitway at SW 168th Street (Phase 2), which was added to the Five-Year Implementation Plan in February 2020.

Section 2. Authorizes the County Mayor or Mayor's designee to execute the Design-Build Services Agreement for and on behalf of Miami-Dade County and to exercise all rights contained therein, including any termination and renewal provisions.

The foregoing resolution was offered by Commissioner _____ ,
who moved its adoption. The motion was seconded by Commissioner _____
and upon being put to a vote, the vote was as follows:

Audrey M. Edmonson, Chairwoman

Rebeca Sosa, Vice Chairwoman

Esteban L. Bovo, Jr.

Jose "Pepe" Diaz

Eileen Higgins

Joe A. Martinez

Dennis C. Moss

Xavier L. Suarez

Daniella Levine Cava

Sally A. Heyman

Barbara J. Jordan

Jean Monestime

Sen. Javier D. Souto

The Chairperson thereupon declared the resolution duly passed and adopted this 31st day of August, 2020. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

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

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Bruce Libhaber

**DESIGN-BUILD SERVICES AGREEMENT
FOR**

PROJECT NO.: CIP155
CONTRACT NO. CIP155-DTPW19-DB

DESIGN-BUILD SERVICES AGREEMENT

Made as of the ____ day of _____ in the year 20 ____.

Between the COUNTY: Miami-Dade County Florida, a political subdivision of the State of Florida, acting by and through its **Board of County Commissioners**, hereinafter called the "County", which shall include its officials, successors, legal representatives, and assigns.

And the DESIGN-BUILDER:

Name: OHL USA, Inc.
FEIN: 98-0461222
Address: 9675 N.W. 117th Avenue, Suite 108
Miami, FL 33178
Phone Number: (646) 772-7505
Fax Number:
E-mail Address: Don.Hickey@ohlma.com

The term "Design-Builder" shall include its officials, successors, legal representatives, and assigns.

SOUTH CORRIDOR (SOUTH-DADE TRANSITWAY) RAPID-TRANSIT PROJECT

The COUNTY and the DESIGN-BUILDER agree as set forth herein:

DESIGN-BUILD SERVICES AGREEMENT

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EXHIBITS

- EXHIBIT “A”** Performance and Payment Bonds with Certificates of Insurance
- EXHIBIT “B”** Internal Services Department (ISD) Forms
- ISD Form 6 – Price Proposal (inclusive of Attachment C)
 - ISD Form 8DB – Evaluation of Qualifications Form
 - ISD Form 9 - Fair Subcontracting Practices
 - ISD Form 13 – Contract Time Proposal
 - ISD Exhibit “F” – Acknowledgement of Addenda
- EXHIBIT “C”** Affidavits Required at Time of Proposal/ Condition of Award
- Affidavit 1 - Design-Builder’s Affidavit
 - Affidavit 2 - Debarment Disclosure Affidavit
 - Affidavit 3 - Criminal Record Affidavit
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 - Affidavit 8 - E-Verify Affidavit
- EXHIBIT “D”** Value Added Features (from Design-Builder’s Technical Proposal)
- EXHIBIT “E”** Supplemental Requirements
- Miami-Dade County Wages:
 - Building
 - Highway
 - Heavy
- EXHIBIT “F”** Federal Requirements and Provisions
- Buy America Certificate
 - Certification Regarding Debarment, Suspension and Other Responsibility Matters
 - Lobbying Certification
 - Statement for Loan Guarantees and Loan Insurance
 - Disclosure of Lobbying Activities
- EXHIBIT “G”** Disadvantaged Business Enterprise and Affirmative Action Requirements
- Davis Bacon Minimum Wage Rates:
 - Building
 - Highway
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- Forms:
 - Prime and Subcontractors Information Form
 - Certificate of Assurance Form
 - Schedule for Participation
 - Letter of Certification/DBE Contractor Identification Statement
 - DBE Affidavit of No Change
 - Letter of Intent from DBE Subcontractors, Supplier and/or Consultant
 - Monthly Utilization Report

- EXHIBIT “H” Safety Requirements
- Miami-Dade Transit Construction Safety Manual dated May 2012, Revision 6
 - Department of Transportation and Public Works Adjacent Construction Manual dated July 2017
 - Other related safety documents

- EXHIBIT “I” Standard Construction General Contract Conditions

- EXHIBIT “J” General Conditions Attachments (Payments Forms)
- Attachment “A”
 - Certificate of Acceptance for Substantial Completion
 - Certificate of Final Acceptance
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 - Contractor Release
 - Agreement on Final Quantities and Amounts
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 - Force Account Daily Report: Labor, Material & Equipment
 - Attachment “F”
 - Contingency/Dedicated Allowance Expenditure Authorization Forms

- EXHIBIT “K” Request for Design-Build Services and all Addenda
- EXHIBIT “L” Technical Proposal
- EXHIBIT “M” Aesthetics Proposal

ARTICLE 1 - ABBREVIATIONS AND DEFINITIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the ABBREVIATIONS and DEFINITIONS set forth below are assumed to be true and correct and are agreed upon by the parties.

Whenever the following terms or pronouns in place of them appear in this Agreement the intent and meaning shall be interpreted as follows:

1.1) ABBREVIATIONS:

AA	Aluminum AssISDation
AABC	AssISDated Air Balance Council
AAMA	Architectural Aluminum Manufacturers' Assoc.
AAN	American AssISDation of Nurserymen
AASHTO	American AssISDation of State Highway and Transportation Official (successor to AASHO)
ACI	American Concrete Institute
AFBMA	Anti-Friction Bearing Manufacturer's AssISDation
AIA	American Insurance Assoc. (successor to NBFU)
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
AMCA	Air Moving and Conditioned AssISDation
ANSI	American National Standards Institute (Successor to USASI and ASA)
ARI	Air - Conditioning and Refrigeration Institute
ARRA	American Recovery and Reinvestment Act
ASHRAE	American SISDety of Heating, Refrigeration and Air Conditioning Engineers
ASME	American SISDety of Mechanical Engineers
ASPE	American SISDety of Plumbing Engineering
ASTM	American SISDety for Testing and Materials
AWPA	American Wood Preservers' AssISDation
AWPB	American Wood Preservers' Bureau
AWS	American Welding SISDety
AWWA	American Water Works AssISDation
CFR	Code of Federal Regulations
CISPI	Cast Iron Soil Pipe Institute
CPSC	Consumer Products Safety Council
CRSI	Concrete Reinforcing Steel Institute
DTPW	Miami-Dade County Department of Transportation and Public Works
EEI	Edison Electric Institute
EPA	Unites States Environmental Protection Agency
FBC	Florida Building Code
FDOT	Florida Department of Transportation
FPR	Federal Procurement Regulations
IEEE	Institute of Electrical and Electronics Engineers (Successor to AIEE)

IES	Illuminating Engineering Society
IMSA	International Municipal Signal Association
IPCEA	Insulated Power Cable Engineers Association
ISA	Instrument Society of America
JIC	Joint Industrial Council
MDC	Miami-Dade County
MDT	Miami-Dade Transit
MIL	Military Standardization Documents
NAAMM	National Association of Architectural Metal Manufacturers
NBC	National Building Code
NBS	National Bureau of Standards
NEC	National Electrical Code
NEMA	National Electrical Manufacturer's Association
NFPA	National Fire Protection Association
OSHA	United States Dept. of Labor, Occupational Safety and Health administration; and Occupational Safety and Health Act
PROS	Park Recreation and Open Spaces
PCA	Portland Cement Association
PCI	Pre-stressed Concrete Institute
PSC	Public Service Commission
RDBS	Request for Design-Build Services
RER	Miami-Dade County Department of Regulatory and Economic Resources
SBD	Small Business Development
SMACNA	Sheet Metal and Air Conditioning Contractors National Association
SFWMD	South Florida Water Management District
SSPC	Steel Structures Painting Council
TIMA	Thermal Insulation Manufacturer's Association
UL	Underwriters' Laboratories, Inc.
USCE	United States Corps of Architect/Engineers
WASD	Water and Sewer Department

1.2) DEFINITIONS

ACCEPTED EQUAL: The proposed alternative shall be functionally compatible with and of equal or better quality than the item it is proposed to replace. MDC's decision as to whether any material or equipment proposed is equal to that specified shall be binding on both MDC and Contractor

ADDENDA: A modification or clarification of the Contract Documents distributed to prospective Proposers prior to the receipt of Bids.

ADDITIONAL SERVICES: Those services, in addition to the design-build services defined in Article 12 "SCOPE OF SERVICES", which the DESIGN-BUILDER shall perform at the COUNTY'S option and when authorized by task order authorization(s) in accordance with the terms of this Contract.

AGREEMENT: Means this document (pages 1 through 66) inclusive of the Contract Documents, the Contract Drawings, the Design Criteria Package, Miami-Dade Transit's Construction Safety Manual, May 2012, Revision No. 6, Department of Transportation and Public Works Adjacent Construction Manual, the Project Manual, addenda, and modifications. Other terms and conditions are included in the exhibits and documents that are expressly incorporated by reference. As used herein, the term Contract shall mean the same as Agreement.

ALIGNMENT: The horizontal and vertical location of a track, street, highway or some other Work or related component as described by curves, tangents and elevations.

ALTERATION: A change or substitution in the form, character, or detail of the work done or to be done within the original scope of the Contract.

APPLICABLE LAW: Any applicable law (including, without limitation, any Environmental Law), enactment, statute, code, ordinance, administrative order, charter, tariff, resolution, order, rule, regulation, guideline, judgment, decree, writ, injunction, franchise, permit, certificate, license, authorization, or other direction or requirement of any Governmental Authority, political subdivision, or any division or department thereof, now existing or hereinafter enacted, adopted, promulgated, entered, or issued. Notwithstanding the foregoing, "Applicable Laws" and "applicable laws" shall expressly include, without limitation, all applicable zoning, land use, DRI and Florida Building Code requirements and regulations, all applicable impact fee requirements, Chapters 119 and 286 of the Florida Statutes, Section 2-11.15 of the Code (Art in Public Places), Section 9-71 through 9-75 of the Code (Sustainable Buildings Program), and all other applicable requirements contained in this Agreement. All applicable County Rules, Regulations, Ordinances, Resolutions, Administrative Orders, and the County Charter referenced in this Agreement are posted on the County's website www.miamidade.gov.

APPLICATION FOR PAYMENT: The DESIGN-BUILDER invoice and associated documentation required for submittal to the DTPW to request payments due under the Contract in a format acceptable to the DTPW.

AS-BUILT DRAWINGS: 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 of Record for all elements of the work completed under the contract. (Also referred to as As-Built Drawings or As-Built). Final payment is conditioned upon the receipt of As-Built Documents.

AWARD: The issuance of a Contract by Miami-Dade County (MDC).

BASIC SERVICES: Those design-build services defined in Article 12 "SCOPE OF SERVICES".

BASE LINE DESIGN: The design of each component, apparatus, systems, subsystems, or materials which have received drawing acceptance and First Article acceptance by MDC.

BID SECURITY or BID GUARANTEE: The cashier's check, certified check or Bid Bond, accompanying the Bid submitted by the prospective Advancing Firm, as a guarantee that the prospective Advancing Firm will enter into a contract with MDC for the performance of the Work and furnish acceptable bonds and insurance if the Contract is awarded to the him/her.

BOARD OF COUNTY COMMISSIONERS: The duly elected officials authorized to act on behalf of MDC.

CERTIFICATE OF FINAL ACCEPTANCE: A written notice issued by MDC and concurred to by the DESIGN-BUILDER signifying that all conditions of the permits and regulatory agencies have been met, all design, construction, reconstruction or rehabilitation including corrective Work, has been performed, and all requirements of the Contract Documents have been completed, and the COUNTY has received from DESIGN-BUILDER a release of all liability and liens, release of surety, release of claims by DESIGN-BUILDER, corrected as-built drawings, record drawings, and all other documents required by this Contract.

CHANGE NOTICE: A document issued by MDC to the DESIGN-BUILDER specifying a proposed change to the Contract Documents and requesting a price proposal from the Design-Builder, if applicable, within a specified time period.

CHANGE ORDER: A written agreement executed by the Owner, the DESIGN-BUILDER and the DESIGN-BUILDER's Surety, covering modifications to the Contract Documents.

CONDITIONAL ACCEPTANCE: The acceptance of the Project prior to final acceptance. The Project remains conditionally accepted until it is totally responsive to the Specification requirements and corrective action(s) implemented to the Agency and/or MDC's satisfaction.

CONSTRUCTION STAGING AREA: Property which may be available for use by the DESIGN-BUILDER 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, are defined in the Contract Documents.

CONSTRUCTION MANAGEMENT CONSULTANT/INSPECTION TEAM/CONSTRUCTION, ENGINEERING AND INSPECTION (CEI) TEAM (“DIRECTOR’S DESIGNEE”): Is the team engaged by the COUNTY’S REPRESENTATIVE providing the construction management services, to administer the Design-Build Contract and manage and inspect the Work performed for execution of the Project with the authority granted to it by the COUNTY’S REPRESENTATIVE.

CONSTRUCTION MANAGEMENT SERVICES/CEI SERVICES: The Construction Management Consultant is responsible for: contract administration during the design and construction phases of the Design-Build Contract, performance of duties such as design-build program logistics; planning; schedule reviews and monitoring; monitoring of permits; design support; plans review and resident engineering; office engineering; on-site inspection services; quality control; testing analyses; contract administration; construction safety and security coordination and compliance; construction survey checks and analysis; manage budget for the project; assist with cash flow reports; monitor the Design-Builder’s progress; monitor and review construction cost estimates, invoices/requisitions analyses and recommendations; process shop drawings; review, prepare and respond, track and process requests for information and field change requests; analysis, negotiation with recommendations for approval/rejection of supplemental agreements and change orders; safety certification coordination; and perform contract closeout phases of the Project.

CONSTRUCTION WORK: All Work to build or construct, make, form, manufacture, furnish, install, supply, deliver or equip the Project, and/or the Utility Adjustments. CONSTRUCTION WORK includes any landscaping.

CONTINGENCY ALLOWANCE ACCOUNT(S): An account that establishes a specific amount of time and/or money to be used to perform unknown or unanticipated work, as directed by the Contracting Officer or Contracting Officer’s Representative. Any time or money within the Contingency Allowance Account not directly authorized for use by the Contracting Officer or Contracting Officer’s Representative remains with the COUNTY.

CONTRACT: See the definition of “Agreement”.

CONTRACT COMPLETION DATE: The effective date of Notice-To-Proceed (NTP) plus the Contract Time, as defined in Article 5 “THE PROJECT”, as may be amended by change order.

CONTRACT DOCUMENTS: See the definition of “Agreement”.

CONTRACT DRAWINGS: The plans, profiles, cross-sections, elevations, schedules, details which show locations, character, dimensions, and details of the Work. Contract Drawings are exempt under the Florida Public Records Act and the Contractor is responsible for maintaining confidentiality during and after the progress of the Work.

CONTRACT PRICE: The amount specified in Article 10 “BASIS OF COMPENSATION”, pursuant to the terms and conditions of this Agreement.

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.

CONTRACTING OFFICER: The Director of DTPW who administers the contract on behalf of Miami-Dade County.

CONTRACTING OFFICER’S REPRESENTATIVE(S): The person or persons designated by the Contracting Officer to act on his/her behalf in the administration of the contract within the limits of their respective authorization.

CONTRACTOR: Hereinafter may be referred to as the Design-Builder or 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.

COUNTY or MDC: Miami-Dade County, a political subdivision of the State of Florida. In the event the County exercises its regulatory authority as a governmental body, the exercise of such regulatory authority and enforcement of any rules, regulations, laws and ordinances shall be deemed to have occurred pursuant to County’s authority as a governmental body and shall not be attributable in any manner to County as a party to this Contract.

DAYS: Unless otherwise designated, days mean calendar days.

DEFECT: The inability of a system, subsystem, assembly, or component to perform its required function. This shall not cover expendable items that are subject to normal wear and aging unless they do not perform adequately within their expected life span or are a contributing cause to failures in other components.

DESIGN-BUILDER: The person, firm or corporation selected to perform the work pursuant to this Agreement and be primarily liable for the acceptable performance of, and payment of all legal debts pertaining to the Project. All references in the Contract Documents to third parties under contract or control of DESIGN-BUILDER shall be deemed to be a reference to DESIGN-BUILDER. The DESIGN-BUILDER will be responsible for the provision, installation, and performance of all equipment, materials, and the DESIGN-BUILDER is in no way relieved of the responsibility for the performance of all equipment furnished. The DESIGN-BUILDER shall include a design engineering architecture/staff professional (“Designer”) pursuant to Section 287.055, Florida Statutes (2007).

DESIGN BUILD CRITERIA PACKAGE or DESIGN CRITERIA PACKAGE: Means concise, performance-oriented drawings and or specifications of the public construction project. The

Design Build Criteria Package shall contain information regarding the County's expectations of a finished project. For a design-build project, the Design Build Criteria Package shall contain sufficient information to permit design-build firms to prepare a bid or a response to an agency's request for proposal, or to permit an agency to enter into an Agreement. The Design Build Criteria Package may be as brief as referencing the applicable standards for utility design to specifying performance-based criteria for a public construction project, including, but not limited to, the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, storm water retention and disposal, and parking requirements, as may be applicable to the project.

DESIGN CRITERIA PROFESSIONAL: Miami-Dade County or its authorized representatives, including but not limited to the resident Design Criteria Professional either employed or not employed by the County for the provision of professional architectural or engineering services in connection with the preparation of the Design-Build Criteria Package and other project related work. For the purposes of this paragraph, the Design Criteria Professional for this project is AECOM Technical Services, Inc. and its subconsultants, Creativision Media, Inc., PMA Consultants, Inc. and T.Y. Lin International. The Design-Criteria Professional(s) act as the COUNTY'S REPRESENTATIVE.

DESIGN WORK: All Work of design, engineering or architecture for the Project, including any Utility Adjustment Work.

DIRECT COST: 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. Materials are limited to permanent materials required by the Contract Documents and materials approved by the Architect/Engineer of Record as necessary to install the permanent materials in an efficient and workmanlike manner. 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 of Record and/or the Engineer as special equipment and machinery shall be considered Overhead.

EFFECTIVE DATE: The effective date of the Notice to Proceed shall be the date specified therein on which the DESIGN-BUILDER is to begin work on this Contract and on which the Contract time commences to run.

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.

FAILURE: The inability of a system, subsystem, assembly, or component to perform its required function. An improper condition requiring the equipment/ System to be withheld from or removed from service for corrective action. Refer to Specification for further details.

FIELD ORDER: A written order issued by MDC or designee which orders minor changes in the Project, but which does not involve a change in the total cost or time or performance.

FINAL ACCEPTANCE: The formal written acceptance by MDC of the completed work.

FIRST ARTICLE TEST (FAT): The examination of and approval by MDC of an initial production part, subassembly, major assembly, subsystem, or material, manufactured or assembled by either the Contractor or its subcontractors. Although the exercise of First Article Approval shall be at MDC's option, the Contractor shall assume that MDC will subject all of the above to First Article examination and approval.

FIRST ARTICLE INSPECTION/TEST/ACCEPTANCE: The physical examination and approval by MDC of an initial part, major assembly, subassembly, system, subsystem, apparatus, or material, manufactured or assembled by either the Contractor or Subcontractors. The first article approval establishes the baseline design and the minimum level of quality. Although the exercise of First Article Approval shall be at MDC's option, the Contractor shall assume that MDC will subject all equipment to first article examination and approval.

FORMS FOR THE SUBMITTAL OF PROPOSAL: A document, specific to the bidding of an individual Contract, containing copies of forms required to be completed and submitted by the Bidder.

FRAGNET: A fragment or selected portion of the schedule network and/or network of proposed changed work activities.

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.

INDIRECT COSTS: See definition of Overhead.

INSPECTOR: An authorized representative of MDC assigned to make necessary inspections of materials furnished by the DESIGN-BUILDER and of the work performed by the DESIGN-BUILDER.

INSTALLATION or INSTALLING: Completely assembling, erecting and connecting material, parts, components, 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.

INSURANCE SPECIFICATIONS: Insurance requirements of the Contract to be provided by the DESIGN-BUILDER and included in the Agreement.

LATENT DEFECT: is a fault during construction that could not have been discovered by a reasonably thorough inspection before final acceptance. It is understood that an inspection is not often sufficient to detect certain deficiencies in the product that can only be discovered through destructive testing or other means that an owner could not reasonably be expected to allow under normal conditions. For example, wood beams and interior brickwork often cannot be fully assessed without destructive testing. As such, the term "latent defect" is often used as part of the guarantee clauses in a construction contract so that the owner can recover damages from the contractor if defects turn up in the property after final acceptance. If a latent defect is discovered, the design builder may be required to pay for repairs of any such damage.

LIMIT OF WORK: Boundary within which the Work is to be performed.

MANUFACTURER: Shall mean the original manufacturer supplying materials, equipment/ System, or apparatus for installation or usage by MDC.

MATERIAL: Materials incorporated in this Project or used or consumed in the performance of the work.

MILESTONE: A contractually mandated completion date, including Contract completion dates, as defined in the Agreement and represented in the Project Schedule. Milestone Dates may include interim dates within the duration of the Project or completion dates when Work, or portions of the Work, are required to be finished.

NOTICE TO OCCUPY SITE: Written notice from MDC to the DESIGN-BUILDER that allows the DESIGN-BUILDER to occupy the project site.

NOTICE TO PROCEED: Written notice from MDC to the DESIGN-BUILDER specifying the date on which the DESIGN-BUILDER is to proceed with the work and on which the Contract Time commences to run.

NOTICE OF TERMINATION: Written notice from MDC to the DESIGN-BUILDER 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.

OVERHEAD (INDIRECT COSTS): Overhead, also defined as "Indirect Costs", includes any and all costs other than Direct Costs. The term "Overhead" as indicated in this definition shall apply to

both the DESIGN-BUILDER and Subcontractors of any tier. Overhead includes, but is not limited to, all profit and costs associated with: Project bond premiums, Project insurance premiums, costs of supervision, coordination, superintendents, general foremen, consultants, schedulers, cost controllers, accountants, office administrative personnel, time keepers, clerks, secretaries, watch persons, small tools, equipment or machinery, utilities, rent, telephones, facsimile machines, computers, word processors, printers, plotters, computer software, all expendable items, job site and general office expenses, extended jobsite general conditions, interest on monies retained by the Owner, escalated costs of materials and labor, impact cost on unchanged work, inefficiency, decreased productivity, home office expenses or any cost incurred that may be allocated from the headquarters of the DESIGN-BUILDER 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, 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.

PERMANENT SUBSURFACE EASEMENT: Underground space required to construct and maintain permanent subsurface facilities.

PERMANENT UTILITY EASEMENT: Area required to construct and maintain utility facilities.

PLANS AND/OR DRAWINGS AND SPECIFICATIONS: The preliminary and final plans and drawings and renderings of the Project and the preliminary outline and final specifications for the design/build services for the Project, which will be prepared by DESIGN-BUILDER, and will be made a part of the Contract Documents upon acceptance by MDC.

PRICE PROPOSAL: The form on which the DESIGN-BUILDER provides his/her prices for the Work in the proposal submitted in response to the RDBS.

PROJECT: See definition for Work.

PROJECT INITIATION DATE: The date upon which the Contract's time for performance commences.

PROJECT MANAGER (or PROJECT DIRECTOR): An individual designated by the Contracting Officer to represent MDC, User Agency, or during the design and construction of the Project.

PROJECT MANUAL: See the definition for "Agreement".

PROPOSAL DOCUMENTS: Documents applicable to and specific to the Design-Builder's Proposal of this Contract, consisting of Project Manual, Contract Drawings, Forms for the Submittal of Proposal, other related documents specified in the Contract, and errata and addenda thereto.

PROVIDE: As used in the Technical Specifications, Division I – General Requirements”, the word “provide” means design, furnish, test to a fully operational condition, and document, in the manner specified, and to the greatest extent compatible with the intent.

QUALIFY: As used in Technical Specifications, Division I – General Requirements shall be the determination that an assembly, sub-assembly, or any part thereof is satisfactory for continued service under the Contractor's warranty, or that the time is suitable for repair or overhaul to restore it to warrantable service, or that the item must be replaced with a new (or warrantable rebuilt) part.

REQUEST FOR DESIGN-BUILD SERVICES (“RDBS”): The document issued by the COUNTY to solicit proposals from firms to perform the Design-Build project.

REQUEST FOR CHANGE: A written request by the DESIGN-BUILDER to the Contracting Officer or Contracting Officer’s Representative requesting issuance of a Change Order for adjustment in period of performance and/or Contract Price.

RESIDENT ARCHITECT/ENGINEER: A Contracting Officer’s Representative authorized by the Contracting Officer to administer the Contract on a day-to-day basis.

RETROFIT: A System-wide modification.

RIGHT OF WAY: A term denoting land and property, and interests therein, owned or acquired by MDC.

SAMPLES: Physical examples provided by the DESIGN-BUILDER for review of compliance with the Contract Documents by the COUNTY, which illustrate materials, equipment, fixtures and workmanship which establish standards by which the Work will be judged.

SCHEDULE OF VALUES: A detailed cost breakdown of each lump sum bid item in the bid form, submitted by the DESIGN-BUILDER 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.

SCOPE OF SERVICES: The services to be provided by the DESIGN-BUILDER that includes, but is not limited to, full Design-Build Services necessary to prepare the Architectural Program, Construction Plans and Specifications, as well as providing Construction Services for the Project, as described in Article 12 “SCOPE OF SERVICES” of this Agreement.

SERVICE: as in-SERVICE USE. The operation of the System under normal conditions with respect to all functions of DTPW operations.

SERVICE PROVEN: (Also “proven”). The historical success of equipment operating for a stated minimum successful performance of scheduled service under similar conditions at other properties and in accordance with the reliability requirements.

SHOP DRAWINGS: Documents furnished by the DESIGN-BUILDER for approval by the Architect/Engineer of Record 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.

STATE: The State of Florida.

SUB-CONSULTANT: A subconsultant is a person or organization which is properly registered as a professional Architect, Interior Designer, Engineer, Landscape Architect, or other qualified professional in other fields not requiring professional registration, other than the employees of the DESIGN-BUILDER, who has signed a Contract with the DESIGN-BUILDER to furnish professional services for the Project Scope of Work. A subconsultant does not furnish trade labor for construction.

SUB-CONTRACTOR: A subcontractor is a person or organization, other than the employees of the DESIGN-BUILDER, which is properly registered as a General or Trade contractor within the State for the particular trade or craft for which he/she will be performing work, who has signed a Contract with the DESIGN-BUILDER, supplying the DESIGN-BUILDER with labor, materials, supplies and/or equipment used directly or indirectly by the DESIGN-BUILDER in the prosecution of the Work.

SUBSTANTIAL COMPLETION: Substantial Completion of a Project is the date on which the Owner certifies that the construction is sufficiently completed, in accordance with the Contract Documents as modified by any Change Orders, so that the Owner can occupy the Project for the use for which it was intended. A certificate shall be issued to the Contractor by the Owner upon achievement of Substantial Completion.

SURETY: The surety company or individual which is bound by Contract Bond with and for the DESIGN-BUILDER who is primarily liable and which surety company or individual is responsible for DESIGN-BUILDER's acceptable performance of the work under the Contract and for the payment of all debts pertaining thereto with Section 255.05, Florida Statutes, as may be amended from time to time.

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.

TEMPORARY CONSTRUCTION EASEMENT LINE: A boundary which describes additional areas which may be made available for construction operations.

TERM OF THE CONTRACT: Means the calendar days specified from NTP to the Final Completion Date, as well as the periods specified for any warranties and/or guarantees.

TOTAL CONTRACT AMOUNT: The sum of the DESIGN-BUILD CONTRACT PRICE together with the COUNTY'S Contingency Account(s) and Dedicated Allowance Account(s) which constitutes all sums under the CONTRACT.

USING AGENCY: Department of Transportation and Public Works (DTPW) hereinafter referred to as the "Department". The Department's Contracting Officer or Contracting Officer's Representative shall act as Project Director on behalf of MDC on all matters pertaining to this Agreement.

VALUE ANALYSIS/ENGINEERING (VA/E): The systematic application of recognized techniques for optimizing both cost and performance and/or providing innovative techniques in a new or existing facility or for eliminating or replacing items to reduce cost without significantly reducing the required functions and/or performance of the facility or system.

WORK: The design, 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.

WORK ORDER/TASK 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, including but not limited to, extending the Contract Time or subject to the to payment of Liquidated Indirect Costs if entitlement is established as required by these Contract Documents. No Work Order may increase the Contract Sum.

WORK SITE: The area enclosed by the Limit of Work indicated in the Contract Documents and boundaries of local streets and public easements in which the DESIGN-BUILDER is to perform work under the Contract. It shall also include areas obtained by the DESIGN-BUILDER for use in connection with the Contract, when contiguous to the Limit or Work.

WORKING DRAWINGS: The drawings, calculations and catalog data, other than Contract Drawings furnished by the COUNTY and Shop Drawings prepared by the DESIGN-BUILDER, necessary or required for the prosecution of the Work. Working Drawings shall be submitted to the COUNTY by the DESIGN-BUILDER, signed and sealed by the DESIGN-BUILDER's Designer, licensed and registered in the state of Florida, for information only. The COUNTY or its Design Criteria Professional will not review the Working Drawings and will not be responsible for their content or accuracy. They are the sole responsibility of the DESIGN-BUILDER.

ARTICLE 2 - INTERPRETATION

- 2.1 The documents comprising the Contract Documents are complementary and indicate the construction and completion of the Work. Anything mentioned in the Project Manual or Design Build Criteria Package and not shown on the Contract Drawings, or shown on the Contract Drawings and not mentioned in the Project Manual or Design Build Criteria Package, or shown on the Design Build Criteria Package and not mentioned in the Project Manual or Contract Drawings, shall be of like effect as if shown or mentioned in all three. The COUNTY shall promptly review and respond to Requests for Information (RFI) in accordance with Technical Specifications, Division I – General Requirements – Section 01 26 13, Request for Information (RFI), to issue a written response to the DESIGN-BUILDER.
- 2.2 References to Similar Words - 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.
- 2.3 References to Articles or Sections include sub-articles or subsections under the Article referenced.
- 2.4 Referenced Standards: Material and workmanship specified by the number, symbol, or title of a referenced standard shall comply with the latest edition or revision thereof and amendments and supplements thereto in effect on the date of the Request for Design-Build Services except where otherwise expressly indicated. In case of conflict between the Contract Documents and the referenced standard, the Contract Documents shall govern.
- 2.5 In order to ensure that the Agreement is administered in conformity to the laws and regulations governing the same, questions concerning or arising out of or in connection with the performance of the Agreement or the warranty of the Work, as they may involve the construction and interpretation of this Agreement and performance thereunder, will be governed by and decided according to the laws and regulations of Miami-Dade County, the State of Florida, and the United States of America. Any litigation which may arise out of this Agreement 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.
- 2.6 When words, which have a well-known technical or trade meaning are used to describe work, materials or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to laws or regulations of any governmental authority, whether such reference is specific or by implication, shall mean the standard specification, manual, code, laws or regulations in effect at the time of the date of the execution of this Agreement.
- 2.7 Severability: 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.

- 2.8 Effect of Headings: The headings and titles to provisions in the Contract Documents are descriptive only and shall be deemed not to modify or affect the rights and duties of parties to this Agreement.

ARTICLE 3 - INTENTION OF THE COUNTY

- 3.1 It is the intent of the Contract Documents to describe a functionally complete Project to be designed and constructed by DESIGN-BUILDER in accordance with COUNTY-reviewed and fully permitted Contract Documents prepared by DESIGN-BUILDER and accepted by MDC. Any work, materials or equipment that may reasonably be inferred from the Contract Documents, as being required to produce the intended result will be supplied whether or not specifically called for.

ARTICLE 4 - RESPONSIBILITIES OF THE DESIGN-BUILDER

- 4.1 This section is not all-inclusive of the responsibilities of the Design-Builder. The Design-Builder is responsible to comply with all sections contained throughout the Agreement that specify its responsibilities of the Design-Builder. The parties acknowledge and agree that the COUNTY is purchasing, and the DESIGN-BUILDER is bound to deliver, the final design and construction of the Design-Build Services for the South Corridor (South-Dade Transitway) Rapid Transit Project (the Project).
- 4.2 The DESIGN-BUILDER shall be responsible for obtaining all necessary licenses and permits and for complying with applicable Federal, State, County and Municipal laws and latest codes and regulations in connection with the prosecution of the Work.

The DESIGN-BUILDER shall be required to obtain all required permits. The cost of all permits, excluding the DESIGN-BUILDER's administrative and incidental cost (such cost to be included elsewhere in the DESIGN-BUILDER's Bid) will be reimbursed to the DESIGN-BUILDER. The DESIGN-BUILDER shall protect, indemnify and hold harmless MDC and its members, officers, agents and employees against claims and liabilities arising from or based on the violation of requirements of law or permits whether by the DESIGN-BUILDER, his/her employees, agents or sub-contractors. No time extensions will be allowed for delays in obtaining the permits.

- 4.3 It is the DESIGN-BUILDER's responsibility to have and maintain appropriate certificate(s) of competency, valid for the work to be performed and for all persons working on the Project for whom a certificate of competency is required. Occupational licenses from Miami-Dade County firms will be required to be submitted within fifteen (15) days of notification of intent to award. Occupational licenses will be required pursuant to Chapter 205, of the Florida Statutes.

- 4.4 The DESIGN-BUILDER shall be fully responsible for the actions of all personnel working under his/her control as described in the definition of Design Builder.
- 4.5 The DESIGN-BUILDER is responsible for the professional quality, technical accuracy, completeness, performance and coordination of all work required under the Agreement (including the work performed by DESIGN-BUILDER's Sub-Consultants), within the specified time period and specified cost. The DESIGN-BUILDERS shall perform the work utilizing the skill, knowledge and judgment ordinarily possessed and used by a proficient consulting Architect/Engineer with respect to the disciplines required for the performance of the work in the State of Florida. The DESIGN-BUILDER is responsible for and represents that the work conforms to MDC's requirements as set forth in the Agreement.

Subject to Section 13.12 of this Agreement, the DESIGN-BUILDER shall be liable to MDC for all damages to MDC caused by the DESIGN-BUILDER's negligent acts or errors or omissions in the performance of the Work as specified in Article 13.2 "ERRORS AND OMISSIONS" of this Agreement. In addition to all other rights and remedies, which MDC may have, the DESIGN-BUILDER shall, at its expense, re-perform the services to correct any deficiencies, which result from the DESIGN-BUILDER's failure to perform in accordance with the above standards. The DESIGN-BUILDER shall also be liable for the replacement or repair of any defective materials and equipment and re-performance of any non-conforming construction services resulting from the DESIGN-BUILDER's deficiencies for a period from the commencement of this Agreement until twelve (12) months following final acceptance of the Work and for the period of design liability required by applicable law. MDC shall notify the DESIGN-BUILDER in writing of any deficiencies and shall approve the method and timing of the corrections.

Neither MDC's inspection, review, approval or acceptance of, nor payment for, any of the work required under the Agreement shall be construed to relieve the DESIGN-BUILDER or any sub-consultant of its obligations and responsibilities under the Agreement, nor constitute a waiver of any of MDC's rights under the Agreement or of any cause of action arising out of the performance of the Agreement. The DESIGN-BUILDER and its sub-consultants shall be liable to MDC in accordance with applicable law for all damages caused by any failure of the DESIGN-BUILDER or its sub-consultants to comply with the terms and conditions of the Agreement or by the DESIGN-BUILDER or its sub-consultants' misconduct, unlawful acts, negligent acts, errors or omissions in the performance of the Agreement. With respect to the performance of work by sub-consultants, the DESIGN-BUILDER shall, in approving and accepting such work, ensure the professional quality, completeness, and coordination of sub-consultant's work. The DESIGN-BUILDER shall be responsible for deficient, defective services and any resulting deficient, defective construction services re-performed within twelve (12) months following final acceptance and shall be subject to further re-performance, repair and replacement for twelve (12) months from the date of initial re-performance, not to exceed twenty-four months (24) from final acceptance.

- 4.6 The DESIGN-BUILDER agrees to bind specifically every sub-contractor and sub-consultant to the applicable terms and conditions of this Agreement for the benefit of the COUNTY. The DESIGN-BUILDER agrees to incorporate all of the terms of this Agreement into any and all subcontracts.

- 4.7 The DESIGN-BUILDER shall provide and pay for all architecture, engineering, landscape architecture, utility relocation/enhancements, environmental remediation, geotechnical and foundation load testing as applicable, land surveying services, materials, labor, water, tools, equipment, light, power, transportation and other facilities and services necessary for the proper execution and completion of the Project, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Project.
- 4.8 The DESIGN-BUILDER shall at all times enforce strict discipline and good order among its employees, sub-consultants, and sub-contractors at the Project site and shall not employ on the Project any unfit person or anyone not skilled in the work assigned to him or her.
- 4.9 The DESIGN-BUILDER shall maintain, at its sole cost, suitable and sufficient guards and barriers, and at night; suitable and sufficient lighting for the prevention of accidents and thefts.
- 4.10 The DESIGN-BUILDER shall keep itself fully informed of, and shall take into account and comply with, all Applicable laws, all existing and future state and national laws and municipal ordinances and regulations in any manner affecting those engaged or employed in the Project, or the materials used or employed in the Project, or in any way affecting the conduct of the Project, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same and of all provisions required by law to be made a part of this Agreement, all of which provisions are hereby incorporated by reference and made a part hereof. If any specification or term of the Agreement for this Project is in violation of any such law, ordinance, regulation, order or decree, the DESIGN-BUILDER shall forthwith report the same to MDC in writing. The DESIGN-BUILDER shall cause all its agents, employees, sub-consultants and sub-contractors to observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees.
- 4.11 In the event of a change after the effective date of this Agreement in any Applicable Laws, national and state laws and municipal codes, ordinances and regulations which in any manner affects the Project, the DESIGN-BUILDER shall advise MDC in writing, and MDC, may initiate a change order, the purpose of which shall be to bring the Project into compliance with all laws, ordinances, codes and regulations as amended or enacted.
- 4.12 The DESIGN-BUILDER shall pay all applicable sales, consumer, use and other taxes required by law. The DESIGN-BUILDER is responsible for reviewing the pertinent federal, state and local statutes involving taxes and complying with all requirements.
- 4.13 The DESIGN-BUILDER, before commencing work, shall verify all governing dimensions at the site, and shall examine all adjoining work on which his/her work is in any way dependent for its perfect efficiency according to 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 DESIGN-BUILDER, and acceded to in writing by MDC through the Design Criteria Professional before the DESIGN-BUILDER begins any part of the Work.

- 4.14 The DESIGN-BUILDER shall satisfy himself/herself by personal investigation and by such other means as he/she may think necessary or desirable, as to the conditions affecting the proposed work and the cost thereof. Subject to Article 9 of this Agreement, no information derived from maps, drawings, specifications or soil condition test included in the Design Build Criteria Package shall relieve the DESIGN-BUILDER from any risk or from fulfilling all terms of the Agreement.

ARTICLE 5 – THE PROJECT

- 5.1 LOCATION: The Project is located within the existing South-Dade Transitway corridor from the Dadeland South Metrorail Station to SW 344th Street in Florida City.
- 5.2 TERM OF THE CONTRACT: The Contract Time for which this Agreement shall remain in full force and effect is **Eight Hundred (800)** calendar days, which excludes the warranty administration period.

5.2.1.1. Project Schedule Contract completion dates.

5.2.1.1.1) The DESIGN-BUILDER shall complete the activities identified in Exhibit I – Standard Construction General Contract Conditions, Article 8.D (1 through 4) by, the Substantial Completion Contract Date specified in the Notice to Proceed, for issuance of Substantial Completion.

5.2.1.1.2) The DESIGN-BUILDER shall complete the activities identified in Exhibit I – Standard Construction General Contract Conditions, Article 8D (5 through 11) by the Final Completion Contract Date, specified in the Notice to Proceed for Final Completion.

- 5.2.1) COUNTY Contingency Period: This Contract contains a Contingency Allowance for time extension not to exceed ten percent (10%) of the original Contract Time. Pursuant to a written request by the Design-Builder for a time extension that affects the critical path schedule of the Contract or any previously approved changes; written documentation that supports the justification of a time extension, review and concurrence by the MDC and its duly authorized representatives, a Work Order will be created for execution by all parties. Once executed the time extension will adjust the scheduled completion date. The cumulative total of all Contingency Allowance time extensions shall not exceed ten percent (10 %) of the original Contract Time rounded off to the next whole number.

The COUNTY'S REPRESENTATIVE may authorize a contingency period of not more than **Eighty (80)** Calendar Days from the NTP to increase in calendar days for the DESIGN-BUILDER to achieve the Project Schedule contract dates when the COUNTY'S REPRESENTATIVE determines that additional days are justified and approves such an increase in accordance with provisions of the Contract:

5.3 LIQUIDATED DAMAGES

If the Design-Builder does not achieve Substantial Completion by the official Substantial Completion Contract Date, liquidated damages (LDs) will be assessed and paid to the County by the Design-Builder in the amount of **\$29,471.65** per day until such date is achieved. If the Design-Builder does not achieve Final Completion by the official Final Completion Contract Date, liquidated damages (LDs) will be assessed and paid to the County by the Design-Builder in the amount of **\$11,551.00** per day until such date is achieved.

5.4 PROJECT SCHEDULE: Refer to Technical Specifications, Division I – General Requirements - Section 01 32 16, Construction Schedule.

5.5 ADEQUATE STAFFING: In connection with the Design-Build Services to be rendered pursuant to this Agreement, the DESIGN-BUILDER further agrees to maintain an adequate staff of qualified personnel available at all times to ensure its completion within the terms specified in the Agreement and in accordance with the approved project schedule. MDC has the right to approve the DESIGN-BUILDER's workforce and to approve specific DESIGN-BUILDER employees. MDC has the right to have any DESIGN-BUILDER's employee removed from the work, if, in MDC's reasonable judgment, such employee's conduct or performance is detrimental to the project. The DESIGN-BUILDER shall not replace any employee in the team initially proposed by it without prior MDC approval.

5.6 PUBLISHING OF INFORMATION: The DESIGN-BUILDER shall make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of this Agreement, without first notifying MDC and securing its consent in writing. The DESIGN-BUILDER also agrees that it shall not publish, copyright or patent any of the data furnished in compliance with this Agreement, that being understood that under Section 13.8 "OWNERSHIP AND REUSE OF DOCUMENTS", hereof such data or information is the property of the County.

5.7 WARRANTY: Refer to Exhibit I - Standard Construction General Contract Conditions, Article 7.M – Warranty of Work and Exhibit D of this Agreement – Value Added Features.

5.7.1 MATERIAL: Refer to Exhibit I - Standard Construction General Contract Conditions, Article 7.B – Material.

5.7.2 Disposal of Material Outside the Work Site: Refer to Exhibit I - Standard Construction General Contract Conditions, Article 7.B.10.

ARTICLE 6 SUB-CONSULTANTS

- 6.1 **GENERAL:** In the event that the DESIGN-BUILDER plans, or its subconsultants plan, to enter into subcontracts for any portion of the Project, the DESIGN-BUILDER and subconsultants shall incorporate in each subcontract all provisions, terms and conditions applicable to the Project which constitute obligations to be assumed and effected by the DESIGN-BUILDER under the Design-Build Contract and any other Design-Build documents and, at the request of the DTPW, shall submit a copy of each such subcontract at all tiers to the DTPW for examination. The COUNTY reserves the right to reject any subcontract at any tier contemplated by the DESIGN-BUILDER or its subconsultants at any tier for any portion of the Project, whichever is deemed to be in the COUNTY's best interest.
- 6.2 **SERVICES:** All services provided by the sub-consultants shall be pursuant to appropriate agreements between the DESIGN-BUILDER and the sub-consultants which shall contain provisions that preserve and protect the rights of MDC and the DESIGN-BUILDER under this Agreement, and which impose no responsibilities or liabilities on MDC.
- 6.3 **LIST OF FIRMS:** The DESIGN-BUILDER proposes to utilize the following sub-consultants for the Project:

Firm Name(s):

300 Engineering Group, P.A.	Holt Communications, Inc.
B & C Transit, Inc.	I.F. Rooks & Associates, LLC
Bliss & Nyitray Inc	Manuel G. Vera & Associates, Inc.
Chrome Engineering, Inc.	NV5, Inc.
Curtis & Rogers Design Studio, Inc.	Parsons Transportation Group Inc.
E Sciences, Incorporated	Perez & Perez Architects Planners, Inc.
Florida Transportation Engineering, Inc.	SDM Consulting Engineers, Inc.
GEOSOL, Inc.	

- 6.4 **REPLACEMENT OF FIRMS:** The DESIGN-BUILDER shall not change any sub-consultant without MDC's prior approval, which approval shall not be unreasonably withheld. A written request from the DESIGN-BUILDER must be submitted to MDC, stating the reasons for the proposed change.
- 6.5 **CONTRACT MEASURES:** The DESIGN-BUILDER is required under this Agreement to achieve the following Contract measures applied to this project as shown in the attached Schedule for Participation and Letter of Intent from DBE Subcontractor, Supplier and/or Consultant as presented in the DESIGN-BUILDER's proposal for the project:

5.00% Disadvantaged Business Enterprise Goal (Architectural and Engineering Services)

ARTICLE 7 SUB-CONTRACTORS

- 7.1 **GENERAL:** Refer to Exhibit I - Standard Construction General Contract Conditions, Article 6 – Subcontractors. In the event that the DESIGN-BUILDER plans, or its subcontractors plan, to enter into subcontracts for any portion of the Project, the DESIGN-BUILDER and subcontractors shall incorporate in each subcontract all provisions, terms and conditions applicable to the Project which constitute obligations to be assumed and effected by the DESIGN-BUILDER under the Design-Build Contract and any other Design-Build documents and, at the request of the DTPW, shall submit a copy of each such subcontract at all tiers to the DTPW for examination. The COUNTY reserves the right to reject any subcontract at any tier contemplated by the DESIGN-BUILDER or its subcontractors at any tier for any portion of the Project, whichever it deems to be in the COUNTY's best interest.
- 7.2 **SERVICES:** All services provided by the sub-contractors shall be pursuant to appropriate agreements between the DESIGN-BUILDER and the sub-contractors which shall contain provisions that preserve and protect the rights of MDC and the DESIGN-BUILDER under this Agreement, and which impose no responsibilities or liabilities on MDC.
- 7.3 **LIST OF FIRMS:** The DESIGN-BUILDER proposes to utilize the following sub-contractors for the Project:

A&A Fonte, Inc.	Holt Communications, Inc.
Agricultural Land Services, Inc.	I & C Earthmovers, Corp.
Alpizar Construction and Associates Corp	Image Resource Group, Inc.
American Pipeline Construction, LLC	Interstate Construction, LLC
Blue Native of The Florida Keys, Inc.	Lead Engineering Contractors, LLC
Bob's Barricades, Inc.	Maytin Engineering Corp.
Cherokee Enterprises, Inc.	Precision Contracting Services, Inc.
CGC Construct Group, LLC	Pylon Cg Inc.
ESP Enterprises, Inc.	RTech Engineering, LLC
Florida Structural Steel and Construction, Inc.	SICE, Inc.
Guaranteed Fence, Corp.	Torres Electrical Supply Company, Inc.
Highway Striping, Inc.	

- 7.4 **REPLACEMENT OF FIRMS:** The DESIGN-BUILDER shall not change any sub-contractor without MDC's prior approval, which approval shall not be unreasonably withheld. A written request from the DESIGN-BUILDER must be submitted to MDC, stating the reasons for the proposed change.
- 7.5 **CONTRACT MEASURES:** The DESIGN-BUILDER is required under this Agreement to achieve the following Contract measures applied to this project as shown in the attached Schedule for Participation and Letter of Intent from DBE Subcontractor, Supplier and/or Consultant as presented in the DESIGN-BUILDER's proposal for the project:

24.00% Disadvantaged Business Enterprise Goal (Construction Services)

ARTICLE 8 SUB-CONTRACTS

- 8.1 **DESIGN-BUILDER PARTICIPATION:** Refer to Exhibit I - Standard Construction General Contract Conditions, Article 6.D – Contractor Participation.
- 8.2 **LIMITATIONS:** The limitations set forth in Section 8.1 of this Article, as to the amount of work that may be subcontracted, do not apply to work performed by equipment-rental agreement. Refer to Exhibit I - Standard Construction General Contract Conditions, Article 6.E – Work Performed by Equipment-Rental Agreement.
- 8.2.1 Where rentals of equipment on an operated basis, from the same lessor, exceed \$10,000, such lessor will be subject to any Affirmative Action Requirements applicable to the project.
- 8.3 **SUB-CONTRACT DOCUMENTS:** The organization of the Contract Documents into divisions, sections and articles, and the arrangement of titles of Contract Drawings shall not control the DESIGN-BUILDER in dividing the Work among sub-contractors nor in establishing the extent of Work to be performed by any trade.
- 8.4 **INSURANCE REQUIREMENTS:** No sub-consultant and/or subcontractor shall be permitted to perform work at the Work site until he/she, or the DESIGN-BUILDER, in compliance with the Insurance Specifications, has furnished satisfactory evidence of required insurance to MDC.
- 8.5 **AGREEMENT TO SCHEDULE:** Each Sub-contractor, as part of his/her submittal of required documentation under this Article, and prior to starting work, shall submit written certification that he/she has reviewed the DESIGN-BUILDER's schedule and agrees to work within the time frames specified therein.

ARTICLE 9 MDC'S RESPONSIBILITIES

- 9.1 **INFORMATION FURNISHED:** Refer to Exhibit I - Standard Construction General Contract Conditions, Article 4 – Owner. MDC, at its expense, shall furnish the DESIGN-BUILDER with the following information, or may authorize the DESIGN-BUILDER to provide the information as a Reimbursable Service. The DESIGN-BUILDER will be entitled to rely on the accuracy and completeness of all information provided by MDC.
- 9.1.1 Information regarding the Project budget, MDC's procedures, safety manuals, guidelines, forms, formats and assistance to establish the Project program.
- 9.1.2 MDC agrees to furnish to the DESIGN-BUILDER any plans and any other data available in MDC files pertaining to the work to be performed under this Agreement. The DESIGN-BUILDER is responsible to request any and all plans and data not furnished, which the

DESIGN-BUILDER knows or should know, is necessary or appropriate for the rendition of the services described herein. Information shown on such plans or data shall be that which has been made available to the COUNTY and shall be provided to the DESIGN-BUILDER without guarantee regarding its reliability and accuracy. The DESIGN-BUILDER shall be responsible for independently verifying such information if it shall be used by the DESIGN-BUILDER to accomplish the work undertaken pursuant to this Contract. The Contracting Officer or Contracting Officer's Representative reserves the right to guarantee the accuracy of information provided by the COUNTY to the DESIGN-BUILDER. When such guarantee is provided in writing, the DESIGN-BUILDER shall not be compensated for independent verification of said information.

- 9.2 PROJECT MANAGEMENT: MDC shall designate a Project Manager to act as liaison between the DESIGN-BUILDER and MDC. The DESIGN-BUILDER shall have general responsibility for management of the Project through all Phases of the work included in this Agreement. The DESIGN-BUILDER shall meet with the Project Manager at periodic intervals throughout the duration of the Work to assess the progress of the DESIGN-BUILDER'S work in accordance with the approved "Project Schedule" to establish and/or review programmatic requirements and scope of the Project. The DESIGN-BUILDER and its Sub-consultants and Sub-contractors should visit the site periodically during the Design and Construction Phases to assess existing conditions. The DESIGN-BUILDER shall communicate with MDC in the most efficient manner and using electronic means to the greatest extent possible as directed by MDC.

- 9.2.1 The Project Manager shall act on behalf of MDC in all matters pertaining to this Agreement and shall issue written authorizations to proceed to the DESIGN-BUILDER for the work to be performed hereunder. In case of emergency, MDC reserves the right to issue oral authorizations to the DESIGN-BUILDER with the understanding that written confirmation shall follow immediately thereafter.

ARTICLE 10 BASIS OF COMPENSATION

- 10.1 DESIGN-BUILD SERVICES FEE: MDC agrees to pay the DESIGN-BUILDER, and the DESIGN-BUILDER agrees to accept for Design-Build Services rendered pursuant to this Agreement, the amount computed under this Section called the "Design-Builder's Fee". The Design-Builder shall separately invoice, be audited and compensated for services rendered upon presentation of proper invoices and backup documentation in accordance with Article 11 and Article 13, Part 13.9.5 of the Agreement.

- 10.1.1 Percentage of Construction Cost - NOT APPLICABLE

- 10.1.2 Agreed Fixed Sum

- 10.1.2.1 Under this compensation basis, the DESIGN-BUILDER agrees to perform the Design-Build Services described in this Agreement for an agreed fixed dollar amount of compensation as follows:

DESIGN-BUILD SERVICES

TOTAL BASE CONTRACT AMOUNT \$326,700,172.91

The aggregate fixed sum for all payments to the DESIGN-BUILDER for Design-Build Services authorized on this Project shall be in accordance with Technical Specifications, Division I – General Requirements - Section 01 29 73, Schedule of Values. **As this Project was procured as Lump Sum Contract, any amounts assigned to individual projects are not defined as contractual values and are, therefore, not indicative of the cost of each of the project components. Any deletions, modifications, additions or changes will be equitably adjusted utilizing fair and reasonable values and mutually agreed upon between the parties and neither party will solely rely on the breakdown of schedule of values.**

10.2 CONTINGENCY ALLOWANCE ACCOUNTS.

This Project is a design-build services agreement for the design-build of a facility on public property; therefore, an Allowance Account is permissible, per Ordinance No. 00-65. This Allowance Account, computed as 10% of the design-related and construction-related portions of the compensation, will be used by MDC for unforeseen conditions necessitating additional design and construction, resulting in additions to the design-build services fee.

The sum of the Contingency Allowance Accounts is Thirty-Two Million, Six Hundred and Seventy Thousand, Seventeen Dollars and Twenty-Nine Cents (\$32,670,017.29).

10.3 DEDICATED ALLOWANCE ACCOUNTS (DAA)

10.3.1 At the discretion of MDC, the DESIGN-BUILDER may be authorized to perform services outside the basic services described in Article 12 below, under a Dedicated Allowance Account (DAA) specifically established for said purpose. Compensation to the DESIGN-BUILDER for any of these services will not exceed the individual amount(s) authorized by MDC and FDOT (for 10.3.1.5 and 10.3.1.6) through direct negotiation with the DESIGN-BUILDER. Expenses provided in the aforementioned allowance are as follows:

10.3.1.1	<u>Art in Public Places:</u>	
	o South Corridor	\$1,253,355.55
	o 168 Street Garage	\$ 680,747.67

DEDICATED ALLOWANCE ACCOUNTS FOR 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>).

DAAs have been established for the exclusive use of the County as a reserve account for the purpose of funding the cost of the Art in Public Places (AIPP). The DAAs shall be calculated at one-half percent (1.5%) of the new construction cost (to include 10% contingency) as defined in Section 2-11.15 of the Code of the County.

Funds under these DAAs will be drawn using a form approved by the County representative and spent or used in accord with the provisions of Section 2-11.15 of the Code of the County. It is understood that any unspent portion of these DAAs is to remain with the County and the DESIGN-BUILDER shall not be entitled to any portion thereof.

10.3.1.2	<u>Permit Fees:</u>	
	▪ South Corridor	\$6,145,061.00
	▪ 168 Street Garage	\$ 622,639.00
	▪ SW 264 th Street	\$ 2,500.00

DEDICATED ALLOWANCE ACCOUNTS FOR PERMITS:

DAAs have been established for the exclusive use of the Department of Transportation and Public Works (DTPW) as reserve accounts for the purpose of funding the cost of all types of permits. The Design-Builder will be reimbursed for the direct (actual) construction permit costs (imposed by the applicable government agency) from these DAAs, upon presentation of paid receipts from the permitting agency, including a copy of the permit. It is understood that any unspent portion of these allowance accounts shall remain with the COUNTY.

10.3.1.3	Off Duty Police (SW 264 th Street)	\$ 15,000.00
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DEDICATED ALLOWANCE ACCOUNT FOR OFF DUTY POLICE:

A DAA has been established for the exclusive use of DTPW as a reserve account for the purpose of funding the cost of Off Duty Police for SW 264th Street. The Design-Builder will be reimbursed for the direct (actual) off-duty police costs from this Dedicated Allowance Account upon presentation of paid receipts from the police. The Dedicated Allowance account shall not exceed the amount of **\$15,000.00**. It is understood that any unspent portion of the allowance account is to remain with the COUNTY.

10.3.1.4	FPL Connection	\$ 2,000.00
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DEDICATED ALLOWANCE ACCOUNT FOR FPL CONNECTION:

A DAA has been established for the exclusive use of the Department of Transportation and Public Works as a reserve account for the purpose of funding the cost of FPL Connection for SW 264th Street. The Design-Builder will be reimbursed, at invoice cost, for the services of the Florida Power and Light (FPL) connection fees from this Dedicated Allowance Account upon presentation of paid invoices from FPL. The Dedicated Allowance account shall not exceed the amount of **\$2,000.00**. It is understood that any unspent portion of the allowance account is to remain with the COUNTY.

10.3.1.5 Design and Post Design Services:

- FDOT Project FM 439984-1-52-01 \$ 45,000.00

DEDICATED ALLOWANCE ACCOUNT FOR FDOT PROJECT: FM 439984-1-52-01: 01 SAFETY IMPROVEMENT PROJECT AT THE INTERSECTION OF SR 5/US 1 AND SW 136TH STREET

A DAA has been established for the exclusive use of MDC as a reserve account for the purpose of funding the cost of design and post design services for FDOT project number FM 439984-1-52-01: 01 Safety Improvement Project at the intersection of SR 5/US 1 and SW 136th Street.

This project scope includes the installation of two new mast arms at the southwest and northeast corners of the intersection including new signal foundation, new signal heads, and new pedestrian push-buttons. The installation of a signal head on mast arm upright at the southeast corner of the intersection, the installation of back-plates and an additional signal head on northbound and southbound approaches, and the installation of a new pedestrian push-button pedestal at the northeast corner. This project will require Right of Way acquisition that will be provided by FDOT.

The Design-Builder shall provide all the necessary site investigations, surveys, geotechnical investigation, utility coordination, and engineering design services. The Design-Builder shall prepare all surveys, geotechnical engineering reports, designs, construction documents including drawings, specifications, as well as obtain all required permits. In addition, the design-build team shall review all shop drawing, respond to request for information (RFI's), make revisions to drawings, and conduct field visits.

- The DAA shall be in the not to exceed amount of **\$45,000.00**. The funding source for this allowance account is FDOT funds. It is understood that any unspent portion of the allowance account shall remain with the COUNTY.
- The Design-Builder shall separately invoice, be audited and compensated for services rendered from this DAA upon presentation of proper invoices in accordance with Article 11 and Article 13, Part 13.9.5 of the Agreement.
- Should the Design-Builder select to utilize HBC Engineering Company to perform the services authorized under this DAA, the Design-Builder shall compensate HBC Engineering Company at the negotiated rates established under FDOT Contract No. Contract No. C9T14, Task Work Order No. 4 (for FDOT Project No. FM 439984-1-32-01).
- Should the Design-Builder elect to utilize sub-consultant(s) other than or in addition to HBC Engineering Company to perform the services authorized under this DAA, the Design-Builder shall compensate those sub-consultant(s) at the rate(s) negotiated between the Design-Builder and the subconsultant(s) for such services, but the

County shall not be responsible for reimbursing the awarded Design-Builder for any amount in excess of the maximum amount stated above.”

10.3.1.6 Design and Post Design Services:

- | | |
|----------------------------------|--------------|
| ▪ FDOT Project FM 429341-2-52-01 | \$ 42,000.00 |
|----------------------------------|--------------|

DEDICATED ALLOWANCE ACCOUNT FOR FDOT PROJECT: FM 429341-2-52-01: SAFETY IMPROVEMENT PROJECT ALONG SR 995 / QUAIL ROOST DRIVE FROM THE SOUTH MIAMI-DADE BUSWAY TO SR 5/US 1

A DAA has been established for the exclusive use of the MDC as a reserve account for the purpose of funding the cost of design and post design services for FDOT projects number 429341-2-52-01: Safety Improvement Project along SR 995 / Quail Roost Drive from the South Miami-Dade Busway to SR 5/US 1.

This project scope includes the installation of pedestrian signals and detectors on new pedestal in all four quadrants of the SR 994 (Quail Roost Dr.) and the South Miami-Dade Busway intersection, as well as the removal of all existing pedestrian signals and detectors located on existing mast-arms. The project will include the installation of a new video detection system and connection of video cables to the cabinet through the interconnect pull box, the installation of a new pull box and the adjustment of the County's Information Technology Department's pull box. Additionally, it will include milling and resurfacing of the existing roadway pavement, the reconstruction of the 6" concrete sidewalk in the northwest and southwest quadrants, the installation of curb and gutter in the northwest quadrant, the update of intersection pavement markings (i.e. crosswalks, stop bars, island chevrons) and the update of intersections signs.

The Design-Builder shall provide all the necessary site investigations, surveys, geotechnical investigation, utility coordination, and engineering design services. The Design-Builder shall prepare all surveys, geotechnical engineering reports, designs, construction documents including drawings, specifications, as well as obtain all required permits. In addition, the design-builder shall review all shop drawing, respond to request for information (RFI's), make revisions to drawings, and conduct field visits.

- The DAA shall be in the not to exceed amount of \$42,000.00. The funding source for this account is FDOT funds. It is understood that any unspent portion of the allowance account shall remain with the COUNTY.
- The Design-Builder shall separately invoice, be audited and compensated for services rendered from this DAA upon presentation of proper invoices in accordance with Article 11 and Article 13, Part 13.9.5 of the Agreement.
- Should the Design-Builder select to utilize Civil Works, Inc. to perform the services authorized under this DAA, the Design-Builder shall compensate Civil Works, Inc. at the negotiated rates established under FDOT Contract No. C9Z90 (for FDOT project number FM 429341-2-32-01).

- Should the Design-Builder elect to utilize sub-consultant(s) other than or in addition to Civil Works, Inc. to perform the services authorized under this DAA, the Design-Builder shall compensate those sub-consultant(s) at the rate(s) negotiated between the Design-Builder and the subconsultant(s) for such services, but the County shall not be responsible for reimbursing the Design-Builder for any amount in excess of the maximum amount stated above.”

10.3.1.7 Design and Post Design Services:

- County Project 20180152 \$ 55,000.00

DEDICATED ALLOWANCE ACCOUNT FOR COUNTY PROJECT 20180152 – ROADWAY IMPROVEMENTS TO SW 264 STREET FROM SW 147 AVENUE TO US-1

A DAA has been established for the exclusive use of MDC as a reserve account for the purpose of funding the cost of design and post design services for Roadway Improvements along SW 264th Street.

The Design-Builder shall provide all the necessary site investigations, surveys, geotechnical investigation, utility coordination, and engineering design services. The Design-Builder shall prepare all surveys, geotechnical engineering reports, designs, construction documents including drawings, specifications, as well as obtain all required permits. In addition, the design-build team shall review all shop drawing, respond to request for information (RFI’s), make revisions to drawings, and conduct field visits.

- The DAA shall be in the not to exceed amount of \$55,000.00. The funding source for this allowance account is Road Impact Fees. It is understood that any unspent portion of the allowance account shall remain with the COUNTY.
- The Design-Builder shall separately invoice, be audited and compensated for services rendered from this DAA upon presentation of proper invoices in accordance with Article 11 and Article 13, Part 13.9.5 of the Agreement.
- The Design-Builder shall compensate its sub-consultant(s) at the rate(s) negotiated between the Design-Builder and the subconsultant(s) for such services, but the County shall not be responsible for reimbursing the awarded Design-Builder for any amount in excess of the maximum amount stated above.

In this regard, the sum of the Dedicated Allowance Accounts is Eight Million, Eight Hundred and Sixty-Three Thousand, Three Hundred and Three Dollars and Twenty-Two Cents (\$8,863,303.22).

- 10.3.2 The DESIGN-BUILDER shall obtain prior authorization from MDC for any and all expenses related to services provided under this account. Failure to obtain such prior authorization shall be grounds for non-payment of said expenses.

- 10.3.3 The parties agree that the above-mentioned amount of compensation may not be authorized and that the DESIGN-BUILDER shall not be entitled to any fees beyond those specified and authorized through applicable Work Orders or task orders, according to the tasks listed in Section 10.3.1, Subparts 1-8.
- 10.3.4 The sum of the Contingency Accounts and the Dedicated Allowance Accounts is Forty-One Million, Five Hundred and Thirty Three Thousand, Three Hundred and Twenty Dollars and Fifty-One Cents (\$41,533,320.51) for all payments to the DESIGN-BUILDER for any Additional Services authorized by the COUNTY's REPRESENTATIVE on this Project.
- 10.3.5 Therefore, the TOTAL CONTRACT AMOUNT for this Contract shall be limited to Three Hundred and Sixty-Eight Million, Two Hundred and Thirty-Three Thousand, Four Hundred and Ninety-Three Dollars and Forty-Two Cents (\$368,233,493.42).

Any further amounts required for this Contract must be submitted to the Board of County Commissioners to authorize a change order to the total Contract Amount.

ARTICLE 11 PAYMENTS TO THE DESIGN-BUILDER

11.1 PAYMENTS TO THE DESIGN-BUILDER

- 11.1.1 All payments will be made upon receipt and review of duly certified invoices stating that the services for which payment is requested have been performed per this agreement. Payments will be processed pursuant to Administrative Order 3-39 and in accordance with Exhibit I – Standard Construction General Contract Conditions, Article 9 – Progress Payments.

For the purpose of processing progress payment applications, the DESIGN-BUILDER will be assigned a specific pay application period ending date by MDC, which will apply to each calendar month throughout the course of the contract until the final application. The DESIGN-BUILDER will be notified of their contract's pay application period ending date at the Post Award meeting.

The Design-Builder shall report via the Business Management Workforce System (BMWS) all sub-consultant and sub-contractor agreements entered into listing award amounts or percentage for this Agreement. Additionally, the Design-Builder shall report all payments made to each sub-consultant and sub-contractor participating on the project and verification of payments received must be confirmed by the sub-consultants and sub-contractors via BMWS. For additional information regarding online BMWS registration, managing County contracts, please contact Small Business Development, at (305) 375-3111 or via email at SBDmail@miamidade.gov.

11.2 RETAINAGE

MDC shall retain a portion of each such invoice equal to ten percent (10%) of the amount due for burdened labor and fixed fee only, accrued by the DESIGN-BUILDER during the Construction phases of the Contract. The DESIGN-BUILDER shall provide for a similar retention in all of his/her subcontracts. The amount retained by MDC during the aforementioned phases shall be released to the DESIGN-BUILDER upon completion of construction, as specified in Exhibit I – Standard Construction General Contract Conditions, Article 9 – Payments. The County shall not withhold retainage for the Engineering, Design, Permitting, Technical Support during Construction and other Professional Services as defined in this Agreement.

ARTICLE 12 SCOPE OF SERVICES

- 12.1 SCOPE OF SERVICES: The scope of services consists of design-build services for the Project, which will include, but not be limited to: full Architectural and Engineering Services necessary to prepare the Architectural Program, Construction Plans and Specifications, Construction, and all related services as fully specified in the Design Build Criteria Package.

The Project is to be developed entirely within the existing public right-of-way generally defined by the existing South-Dade Transitway corridor between the Dadeland South Metrorail Station and SW 344th Street in Florida City (approximately 20 miles), including adjoining stations except at cross streets requiring modifications to bring the intersection to final condition. The Project will include 14 new Bus Rapid Transit (BRT) stations at existing station locations, demolition of existing stations and ancillary structures, rehabilitation of approximately 16 existing Transitway stations that will remain in place, and accommodation of at-grade BRT vehicles. One of the proposed 14 BRT stations will provide a multi-level parking garage. The Project is targeting a formal third-party certification attaining a “Silver” or higher-level rating by incorporating sustainability into the design and construction of the Transitway infrastructure. The Project scope will also include completion of design, construction administration, and construction of Florida Department of Transportation (FDOT) projects. In addition, the Project shall also consider the impact of sea level rise during design and construction in accordance with County requirements. The Project scope is a full “Design-Build” delivery approach that consists of and includes the design, permitting, construction and commissioning of the Project.

Refer to Exhibit L – Design Criteria Package of the RDBS for the full Scope of Services.

ARTICLE 13 GENERAL PROVISIONS

13.1 INDEMNIFICATION AND WAIVER OF LIABILITY

- 13.1.1 Pursuant to section 725.08 of the Florida Statutes, the DESIGN-BUILDER shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys’ fees

and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature to the extent arising out of, relating to or resulting from the negligent performance of this Agreement by the DESIGN-BUILDER or its employees, agents, servants, partners principals or subcontractors. The DESIGN-BUILDER shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The DESIGN-BUILDER expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the DESIGN-BUILDER shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

- 13.1.2 Notwithstanding any provision herein to the contrary, the DESIGN-BUILDER agrees and recognizes that the County and its officers, employees, agents and instrumentalities shall not be held liable or responsible for any claims which may result from any actions, errors or omissions of the DESIGN-BUILDER. In reviewing, approving or rejecting any submissions by the DESIGN-BUILDER or other acts of the DESIGN-BUILDER, the County in no way assumes or shares any responsibility or liability of the DESIGN-BUILDER or sub-consultants, the registered professionals (architects and/or engineers) under this Agreement.
- 13.1.3 **CONTRACT SECURITY:** The DESIGN-BUILDER agrees to execute and deliver within fourteen (14) days after approval of the Recommendation of Award by the Board of County Commissioners, a Design-Builder's Surety Performance and Payment Bond prepared on the applicable bond form included in the RDBS. The Surety Performance and Payment Bond shall be in the amount of 100% of the contract amount. The Bond must be in the form of a Surety Bond written through a local surety bond agency, rated as to Management and strength as set forth below.
- 13.1.4 The DESIGN BUILDER may, in lieu of a surety performance bond and a surety payment bond, submit Two (2) cash bonds, conditioned upon the faithful performance of the work in strict accordance with this Contract and with the Plans, Specifications and the completion of the same free from all liens and within the time limit herein specified; said Bonds shall be so worded as to make the Contract a part thereof and shall contain a clause providing the right of suit or action for those benefits said bond shall be executed as disclosed by the text of said Bonds and Contract to the same extent as if he or they were the oblige or oblige therein specifically mentioned, and all such persons shall be held or deemed to the oblige thereof.

13.2 ERRORS AND OMISSIONS

- 13.2.1 The DESIGN-BUILDER, to the extent of its failure to perform in accordance with the standard of care set forth in this Agreement, is responsible for the professional quality,

technical accuracy, completeness, performance and coordination of all work required under the Agreement (including the work performed by sub-consultants and sub-contractors), within the specified time period and specified cost. The DESIGN-BUILDER shall perform the work utilizing the skill, knowledge and judgment ordinarily possessed and used by a proficient DESIGN-BUILDER with respect to the disciplines required for the performance of the work in the State of Florida. The DESIGN-BUILDER is responsible for and represents that the work conforms to MDC'S requirements as set forth in the Agreement. Subject to Section 13.12 of this Agreement, the DESIGN-BUILDER shall be liable to MDC for all damages to MDC to the extent caused by the DESIGN-BUILDER'S negligent acts or errors or omissions in the performance of the work. In addition to all other rights and remedies, which MDC may have, the DESIGN-BUILDER shall, at its expense, re-perform the services to correct any deficiencies, which result from the DESIGN-BUILDER'S failure to perform in accordance with the above standards. MDC shall notify the DESIGN-BUILDER in writing of any deficiencies and shall approve the method and timing of the corrections. Neither MDC'S inspection, review, approval or acceptance of, nor payment for, any of the work required under the Agreement shall be construed to relieve the DESIGN-BUILDER or any sub-consultant or sub-contractor of its obligations and responsibilities under the Agreement, nor constitute a waiver of any of MDC'S rights under the Agreement or of any cause of action arising out of the performance of the Agreement. The DESIGN-BUILDER and its sub-consultants and sub-contractors shall be and remain liable to MDC in accordance with applicable law for all damages to MDC to the extent caused by any failure of the DESIGN-BUILDER or its sub-consultants and sub-contractors to comply with the terms and conditions of the Agreement or by the DESIGN-BUILDER'S or sub-consultants' or sub-contractors' misconduct, unlawful acts, negligent acts, errors or omissions in the performance of the Agreement. With respect to the performance of work by sub-consultants and sub-contractors, the DESIGN-BUILDER shall, in approving and accepting such work, ensure the professional quality, completeness, and coordination of sub-consultant's and sub-contractor's work.

- 13.2.2 The DESIGN-BUILDER shall be responsible for deficient, defective services and any resulting deficient, defective construction services re-performed within twelve (12) months following final acceptance, unless a longer period is specified within the Contract Documents, and shall be subject to further re-performance, repair and replacement for twelve (12) months from the date of initial re-performance, not to exceed twenty-four months (24) from final acceptance, unless a longer period is specified within the Contract Documents.

13.3 INSURANCE

13.3.1 Within fourteen (14) days after the approval of the Recommendation of Award by the Board of County Commissioners and prior to commencement of Work, the Design-Builder shall obtain all insurance required under this Section with the exception of the Builder's Risk Insurance, which shall be provided upon receipt of the Notice to Occupy

Site, and submit same to MDC for approval. All insurance shall be maintained until the Work has been completed and accepted by MDC. The Design-Builder shall furnish to Miami-Dade County:

The Design-Builder shall maintain coverage as required in A – C below throughout the term of this agreement. The Design-Builder shall furnish to insert your Department's name and address, Certificate(s) of Insurance evidencing insurance coverage that meets the requirements outlined below:

- A. Worker's Compensation Insurance as required by Chapter 440, Florida Statutes.
- B. Commercial General Liability in an amount not less than \$1,000,000 per occurrence, and \$2,000,000 in the aggregate. **Miami-Dade County, the "Owner" Redland Market Village, Inc., City of Homestead, City of Florida City, Florida Department of Transportation, Atlantic Broadband, Comcast Cable, Florida City Gas, Dade County Public Works and Traffic, Florida Gas Transmission Company, Florida Power and Light Distribution, Crown Castle Fiber, Verizon, Redflex Traffic Systems Inc, AT&T/Distribution, American Traffic Solutions, XO Communications, Hotwire, and FP&L Transmission 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 this agreement in an amount not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage combined.

DESIGN STAGE

In addition to the insurance required in A – C above, a certificate of insurance must be provided as follows:

- D. Professional Liability Insurance in the name of the Design-Builder or the licensed design professional employed by the Design-Builder in an amount not less than \$5,000,000 per claim.

CONSTRUCTION PHASE

In addition to the insurance required in A – D above, the Design-Builder shall provide or cause its contractors to provide policies indicating the following type of insurance coverage prior to commencement of construction:

- E. Completed Value Builders' Risk Insurance on an "all risk" basis in an amount not less than one hundred (100%) percent of the insurable value of the building(s) or structure(s). Coverage shall remain in place until final completion of construction has been reached as determined by Department of Transportation and Public Works. **The policy shall be in the name of Miami Dade County and the Contractor.**

CONTINUITY OF COVERAGE

The Design-Builder shall be responsible for assuring that the insurance documentation required in conjunction with this subsection remain in force for the duration of the agreement period, including any and all option years. The Design-Builder will be responsible for submitting renewal insurance documentation prior to expiration.

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 as to management and financial strength:

The company must be rated no less than “A-” as to management, and no less than “Class VII” as to strength, by A.M. Best Company, Oldwick, New Jersey.

NOTE: CERTIFICATE HOLDER MUST READ: **MIAMI-DADE COUNTY**
 111 NW 1st STREET
 SUITE 2340
 MIAMI, FL 33128

- 13.3.2 The DESIGN-BUILDER shall not receive an authorization to begin until it has obtained all insurances required hereunder. The DESIGN-BUILDER shall maintain all required insurances for the full term of this Agreement.

13.4 PERFORMANCE

- 13.4.1 Performance and Delegation: The performance of this Agreement shall not be delegated or assigned by the DESIGN-BUILDER without the written consent of MDC, and such consent will not be given to any proposed delegation which would relieve the DESIGN-BUILDER or their surety of their responsibilities under this Agreement. The services to be performed hereunder shall be performed by the DESIGN-BUILDER’S own staff and the subcontractors and subconsultants specifically identified in Sections 6.2 and 7.2, unless otherwise approved by MDC. The employment of, contract with, or use of services of any other person or firm by the DESIGN-BUILDER as sub-consultant, sub-contractor or otherwise is subject to approval by MDC.
- 13.4.2 Time for Performance: The DESIGN-BUILDER agrees to start all work hereunder upon receipt of a Notice to Proceed and any subsequent Work Orders issued by MDC and complete each Phase within the time stipulated in each Work Order.
- 13.4.3 Performance Evaluations: Performance evaluations of the services rendered under this Agreement shall be performed by MDC and shall be utilized by the County as evaluation criteria for future solicitations.
- 13.4.4 UNFINISHED OR INCOMPLETE WORK

If at any time before Final Completion of the Project the COUNTY’S REPRESENTATIVE finds there is unmanned or unfinished or incomplete Work, or

Work delay or Work stoppages, it shall notify the DESIGN-BUILDER in writing to finish or complete the Work at DESIGN-BUILDER's expense forthwith using whatever professional services, and construction labor, materials and equipment necessary to perform the Work in accordance with the Contract Documents.

When the activity duration for any items shown on the approved Baseline Project Schedule do not appear sufficient to be completed in the time provided, and the affected activities are likely to delay completion of the Project in the sole opinion of the COUNTY'S REPRESENTATIVE, or if the COUNTY'S REPRESENTATIVE otherwise determines that the Work is not progressing in a timely manner towards completion in a timely manner, and the DESIGN-BUILDER fails to make good efforts to for completing any of the above Work activities as specified, the COUNTY'S REPRESENTATIVE shall give notice to the DESIGN-BUILDER in writing specifying the conditions pertaining thereto and directing the DESIGN-BUILDER to take the measures necessary to perform the Work. If the DESIGN-BUILDER does not begin to correct such conditions within five (5) days of such notice, or provide a plan satisfactory to the COUNTY'S REPRESENTATIVE to correct such conditions, it shall be sufficient grounds for the COUNTY'S REPRESENTATIVE to reserve the right to place the DESIGN-BUILDER in default and notify its surety of same.

13.5 PROJECT SUSPENSION OR ABANDONMENT

13.5.1 Refer to Exhibit I - Standard Construction General Contract Conditions, Article 11.D.5) – Suspension of Work.

If the Project is to be suspended for the convenience of MDC for more than six (6) months or abandoned in whole or in part for the convenience of MDC under any phase, MDC shall give seven days notice to the DESIGN-BUILDER of such Project abandonment or suspension. If the Project is to be suspended for less than six (6) months, then the DESIGN-BUILDER shall remain on the Project under this Agreement but will be compensated only for work issued under a Work Order. MDC will not be liable for stand-by, overhead, or any other costs direct or indirect, that the DESIGN-BUILDER may incur outside of any direct costs assigned with a Work Order. If the Project is suspended for the convenience of MDC for more than six (6) months, or abandoned in whole or in part for the convenience of MDC during any phase, the DESIGN-BUILDER shall be permitted to terminate the Agreement and, in the event such termination takes place, the County's obligation should be as though the contract was terminated for convenience. The DESIGN-BUILDER shall be paid, pursuant to and in accordance with Section 13.6.1, for services authorized by Work Order which were performed prior to such suspension or abandonment and MDC shall have no further obligation or liability to the DESIGN-BUILDER under this Agreement. If the Project is resumed after having been suspended for more than six (6) months, the DESIGN-BUILDER'S further compensation may be renegotiated, but MDC will have no obligation to complete the Project under this Agreement, and may hire or contract with

another DESIGN-BUILDER to complete the project. MDC will have no further obligation or liability to the DESIGN-BUILDER.

13.6 TERMINATION OF AGREEMENT

- 13.6.1 By COUNTY For Convenience: Refer to Exhibit I - Standard Construction General Contract Conditions, Article 11.D.1 – Termination for Convenience and 4) – Implementation of Termination.
- 13.6.2 By the COUNTY for Cause: Refer to Exhibit I - Standard Construction General Contract Conditions, Article 11.D.2 – Termination for Default of Contractor and 4) – Implementation of Termination.
- 13.6.3 In the event the DESIGN-BUILDER fails to comply with the material provisions of this Agreement, MDC may declare the DESIGN-BUILDER in default by thirty (30) days prior written notification, if the DESIGN-BUILDER fails to cure the default or take acceptable steps, all to the satisfaction of MDC, to cure the default within that time frame. In such event, the DESIGN-BUILDER shall only be compensated for any completed professional services found acceptable to MDC. In the event partial payment has been made for such professional services not completed, the DESIGN-BUILDER shall return such sums to MDC within ten (10) days after receipt of written notice that said sums are due. The DESIGN-BUILDER shall be compensated on a percentage of the professional services which have been performed and found acceptable to MDC at the time MDC declares a default. Any dispute arising out of this Section shall be resolved in accordance with Section 13.12 “RIGHTS OF DECISIONS AND DISPUTE RESOLUTION”.

13.7 DESIGN-BUILDER’S ACCOUNTING RECORDS

- 13.7.1 Refer to Exhibit I – Standard Construction General Contract Conditions – Article 12.G – Audit Rights.
- 13.7.2 Unless governed elsewhere in the contract, in the event any information provided by the DESIGN-BUILDER during initial contract negotiations or any supplemental agreement negotiations is later determined by MDC not to have been complete, accurate or current at the time of the submittal, an appropriate reduction or increase in the total compensation amount will be made to the contract. If this determination is made by MDC after final payment, MDC shall use all available means to recover said funds including withholding funds due the DESIGN-BUILDER on other MDC contracts. The DESIGN-BUILDER agrees to insert these audit clauses in all of his subcontracts.

13.8 OWNERSHIP AND REUSE OF THE DOCUMENTS

- 13.8.1 All notes, correspondence, documents, designs, drawings, renderings, calculations, specifications, models, photographs, reports, surveys, investigations, computer files that have “read” and “write” capability and any other documents and copyrights thereto for

Services performed or produced in the performance of this Agreement, whether in paper or other hard copy medium or in electronic medium, except with respect to copyrighted standard details and designs owned by the DESIGN-BUILDER or owned by a third party and licensed to the DESIGN-BUILDER for use and reproduction, shall become the property of the County. Refer to Exhibit I -Standard Construction General Contract Conditions, Article 12.M – Patent and Copyright.

However, the County may grant an exclusive license of the copyright to the DESIGN-BUILDER for reusing and reproducing copyrighted materials or portions thereof as authorized by the County in advance and in writing. In addition, the DESIGN-BUILDER shall not disclose, release, or make available any document to any third party without prior written approval from the County. The DESIGN-BUILDER shall warrant to the County that he/she has been granted a license to use and reproduce any standard details and designs owned by a third party and used or reproduced by the DESIGN-BUILDER in the performance of this Agreement. Subject to Section 13.9.1.1 of this Agreement, nothing contained herein shall be deemed to exclude any document from Chapter 119 of the Florida Statutes.

- 13.8.2 The DESIGN-BUILDER may reuse data where appropriate from other sections of the work included in this contract provided irrelevant material is deleted. The COUNTY shall not be re-invoiced for such reused data. The Contracting Officer or Contracting Officer's Representative shall not accept any reused data containing an excess of irrelevant material, which has no connection with the applicable portion of the work. The COUNTY shall not re-use design documents on other projects not contemplated under this Contract. If MDC elects to re-use the plans and specifications for other sites and/or purposes other than those for which it was prepared, it shall be at MDC's sole risk and MDC shall indemnify and hold the DESIGN-BUILDER harmless from and against any liability arising out of any reuse of the DESIGN-BUILDER's documents.
- 13.8.3 The DESIGN-BUILDER shall bind all sub-consultants and sub-contractors to the Agreement requirements for re-use of plans and specifications.

13.9 COMPLIANCE WITH LAWS

- 13.9.1 Refer to Exhibit I - Standard Construction General Contract Conditions, Article 7.E – Permits and Compliance with Laws.

The Agreement shall be governed by the laws of the State of Florida and may be enforced only in a court of competent jurisdiction in Miami-Dade County, Florida.

- 13.9.1.1 In accordance with Florida Statutes 119.07(3)(ee), "Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, ... or other structure owned and operated by an agency as defined in F.S. 119.011 are exempt ..." from public records to ensure the

safety of government infrastructure and to ensure public safety. Information made exempt by this paragraph, with prior approval from the Department, may be disclosed: (i) to another entity to perform its duties and responsibilities; (ii) to a licensed architect, engineer, or contractor who is performing work on or related to the Project; or (iii) upon a showing of good cause before a court of competent jurisdiction. The entities or persons receiving such information shall maintain the exempt status of the information.

- 13.9.1.2 Each employee of the DESIGN-BUILDER and its sub-consultants and sub-contractors that will be involved in the Project, shall sign an agreement stating that they will not copy, duplicate, or distribute the documents unless authorized by MDC.
 - 13.9.1.3 The DESIGN-BUILDER and its sub-consultants and sub-contractors agree in writing that the project documents are to be kept and maintained in a secure location.
 - 13.9.1.4 Each set of the project documents are to be numbered and the whereabouts of the documents shall be tracked at all times.
 - 13.9.1.5 A log shall be developed by the DESIGN-BUILDER and all sub-consultants and sub-contractors contracted by the DESIGN-BUILDER to track each set of documents logging in the date, time, and name of the individual (s) that work on or view the documents. MDC shall prepare and maintain a log to track each set of documents logging in the date, time, and name of the individual (s) that work on or view the documents.
- 13.9.2 The DESIGN-BUILDER shall comply with the financial disclosure requirements of Ordinance No. 77-13 by filing within thirty (30) days of the execution of this Agreement and prior to July 15th of each succeeding year that the Agreement is in effect, one of the following with the Dade County Elections Department, P.O. Box 012241, Miami, FL 33101:
- (1) A source of income statement;
 - (2) A current certified financial statement;
 - (3) A copy of the CONSULTANT'S Current Federal Income Tax Return.

The DESIGN-BUILDER further agrees to comply with the requirements of the County, State and Federal Ordinances, Resolutions and/or Regulations.

The DESIGN-BUILDER further agrees to comply with any other Ordinance or Resolution of the County that may become effective before the execution by both parties of this Agreement.

In addition to the above requirements in this article, the DESIGN-BUILDER agrees to abide by and be governed by all Federal, State and County Procedures, Ordinances, Resolutions and Administrative Orders which may have a bearing on the work involved under this Agreement and may be amended from time to time, including but not limited to:

Federal Statute(s)

- 2 CFR 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements
- 23 CFR 172: Procurement, Management, and Administration of Engineering and Design Related Services
- 49 CFR Part 21 (Title VI of the Civil Rights Act of 1964): Nondiscrimination in Federal Projects
- 23 USC 112(b)(2)(A): Letting of Contracts

Florida Statute(s)

- Section 119.07- Inspection and Copying of Records; Photographing Public Records; Fees; Exemptions.
- Section 119.0701 - Contracts; Public Records
- Section 287.055 - Consultants Competitive Negotiation Act
- Section 287.057 – Procurement of commodities or contractual services
- Section 287.133 - Public Entity Crimes
- Section 287.135 - Prohibition against contracting with scrutinized companies

Ordinance(s)

- 00-85 - Amending Section 2-8.9 of the Code of Miami-Dade County, The Living Wage Ordinance
- 00-96 - Code of Business Ethics: Amending Section 2-8.1(i) of the Code
- 01-105 - Amending Section 2-10.4 of the Miami-Dade County Code for the acquisition of professional architectural, engineering, landscape architecture or land surveying and mapping services
- 03-107 - Amending Section 2-11.1 (s) of the Conflict of Interest and Code of Ethics
- 07-65 – Sustainable Buildings Program
- 08-113 - Amending Sections 2-8.1.1 and 10-33.1 of the Miami-Dade County Code relating to bids from related parties to include a prohibition on collusive bidding
- 11-90 - Relating to the Collection of Data for a Disparity Study
- 14-79 - Sea-Level Rise Ordinance
- 18-33 – Pertaining to Submittal of Certified Payroll (Implementation of LCP Tracker)
- 72-82 - Conflict of Interest Ordinance; as amended by Ordinance No. 00-01 and Ordinance No. 00-46
- 73-77 - Art in Public Places (See 8.08.F for additional information);
- 77-13 - Financial Disclosure
- 82-37 - Affirmative Action Plan
- 90-133 - Disclosure of MDC, Collective Bargaining Agreement, and Employee Wages, Health Care Benefits, Race, National Origin, and Gender

- 90-143 - Responsible Wages and Benefits
- 91-142 - Family Leave, as Amended by Ordinance No. 92-91 - Family Leave, superseded by Ordinance No. 93-118 Family Leave Act, as amended by Resolution R-1499-91 and Resolution R-183-00
- 92-15 - Drug-free Workplace, as Amended by Ordinance No. 00-30
- 94-73 - Value Analysis and Life-Cycle Costing
- 95-178 - Proposers are to verify that all delinquent and currently due fees or taxes have been paid as a condition of award
- 97-35 - Fair Subcontracting Practices as amended by Ordinance No. 98-124.
- 97-104 - Listing of Sub Contractors and Suppliers on County Contracts.
- 97-172 and Administrative Order 3-26 - Amending Section 2-10.4, requiring certain agreements for Professional Architectural and Engineering Services to include Value Analysis as part of the scope of services
- 97-215 - Inspector General
- 98-30 - County Contractors Employment and Procurement Practices
- 99-5 - Domestic Violence Leave
- 99-152 - False Claim Ordinance

Resolution(s)

- R-54-18 – White Reflective Roofing for all County buildings
- R-182-00 – Compliance with ADA and other Laws
- R-183-00 - Family Leave Requirements
- R-273-05 - Public Involvement Planning
- R-516-96 - Independent Private Sector Inspector General (IPSIG) Services
- R-617-17 – Envision Rating System
- R-744-00 - Requiring the continued engagement of critical personnel in contracts for professional services for the duration of the Project.
- R-994-99 - Code of Business Ethics
- R-1049-93 - Affirmative Action Plan Furtherance and Compliance
- R-1106-15 – Aspirational Policy of Miami-Dade County
- R-1103-18: Gold Standard Bus Rapid Transit

Administrative Order(s)

- 3-19 – Prompt Payment
- 3-20 - Independent Private Sector Inspector General (IPSIG) Services
- 3-24 – Responsible Wages and Benefits for County Construction Contracts
- 3-26 - Establishing the Threshold and Guidelines for Feasibility and Value Analysis/Engineering VA/E Studies for Miami-Dade County Construction Projects
- 3-39 - Acquisition of Professional Services.
- 10-10 - Duties and Responsibilities of County Departments for Compliance with the Americans with Disabilities Act (ADA)

Implementing Order(s)

- 8-8 Sustainable Buildings Program
- 10-13 - Public Involvement Plan

- 7-7 – Policies and Procedures Establishing a Public Service Honor Code for Elected and Appointed County Officials and County Employees

Miami-Dade County Code(s)

- Section 2-8.1 - Contracts and Purchases
- Section 2-8.8 – Fair Subcontracting Practices
- Section 2-10.4 - Acquisition of Professional Architectural, Engineering, Landscape Architectural or Land Surveying and Mapping Services
- Section 2.11.1 - Conflict of Interest and Code of Ethics
- Section 2-11-15 – Works of art in public places
- Section 10-34 - Listing of Subcontractors Required

13.9.4 AFFIRMATIVE ACTION

- 13.9.4.1) The DESIGN-BUILDER’S Affirmative Action Plan submitted pursuant to Ordinance 82-37, as approved by the DTPW’s Office of Civil Rights and any approved update thereof, are hereby incorporated as contractual obligations of the DESIGN-BUILDER to Miami-Dade County hereunder. The DESIGN-BUILDER shall undertake and perform the affirmative actions specified herein. The COR may declare the DESIGN-BUILDER in default of this agreement for failure of the DESIGN-BUILDER to comply with the requirements of this paragraph.

13.9.5 PROMPT PAYMENT

- 13.9.5.1 The DESIGN-BUILDER’S attention is directed to Miami-Dade County Ordinance No. 94-40, and Section 2-8.1.4 of the Code of Miami-Dade County providing for expedited payments to small businesses by County agencies and the Public Health Trust; creating dispute resolution procedures for payment of County and Public Health Trust obligations; and requiring the prime Contractor to issue prompt payments, and have the same dispute resolution procedures as the County, for all small business subcontractors. The time for which payment shall be due is thirty (30) days from the receipt of a proper invoice. Failure of the DESIGN-BUILDER 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 or Public Health Trust contract and debarment procedures of the County.

13.9.6 OFFICE OF THE COUNTY INSPECTOR GENERAL AND INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL

- 13.9.6.1 Refer to Exhibit I – Standard Construction General Contract Conditions – Article 12.G.2) -Inspector General.

13.9.6.2 INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL: Refer to Exhibit I – Standard Construction General Contract Conditions – Article 12.G.2)c. The attention of the DESIGN-BUILDER is hereby directed to the requirements of AO 3-20 and R-516-96; 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 DESIGN-BUILDER 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.

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 DESIGN-BUILDER, its officers, agents and employees, lobbyists, county staff and elected officials.

Upon ten (10) days written notice to DESIGN-BUILDER from an IPSIG, the DESIGN-BUILDER 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 DESIGN-BUILDER'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, bid and change order estimates, 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 document, 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.

13.9.7 Reserved.

13.9.8 Not Used.

13.9.9 The DESIGN-BUILDER must also submit with the executed agreement, to be filed with the Clerk of the Board, any required executed affidavit.

13.9.10 CERTIFICATION OF WAGE RATES: The DESIGN-BUILDER hereby certifies and warrants that wage rates and other factual unit costs, as submitted in support of the compensation provided are accurate, complete and current as of the date of this Agreement. It is further agreed that said compensation shall be adjusted to exclude any significant costs where MDC shall determine that the contract price of services was increased due to inaccurate, incomplete or unclear wage rates or other factual unit

costs. All such contract compensation adjustments shall be made within one (1) year following the end of the contract, or acceptance of the work by MDC, whichever is later.

TRUTH IN NEGOTIATION: pursuant to A.O. 3-39 and Florida State Statutes Chapter 287.055 5(a): For all lump sum costs or costs plus a fixed fee contract in which a fee will exceed one hundred fifty thousand dollars (\$150,000; 287.017 - Category 4), the COUNTY will require the firm receiving the award to execute a Truth-In-Negotiation Certificate as required by Chapter 287, Florida Statutes. The above language suffices as the Truth-In-Negotiation Certificate when included in a contract in which a fee will exceed the above-referenced amount.

13.10 MISCELLANEOUS PROVISIONS – Refer to Exhibit I, Standard Contract General Contract Conditions, Article 12 – Miscellaneous Provisions.

13.10.1 This Agreement does not confer on the DESIGN-BUILDER any exclusive rights to MDC’S work. Work Orders will be issued under this Agreement at the sole discretion of MDC. MDC reserves at all times, the right to perform any and all architectural engineering services in-house or with other professional architects or engineers as provided by Section 287.055, Florida Statutes, and Section 2-10.4, Code of Miami-Dade County, or as otherwise provided by law.

13.10.2 FORCE MAJEURE shall mean an act of God, epidemic, lightning, earthquake, fire, explosion, hurricane, tropical storm at a strength warranting closure of County facilities by the Mayor and cessation of work, flood or similar occurrence, strike, an act of a public enemy, terrorism, or blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, which has had or may reasonably be expected to have a material adverse effect on the rights and obligations under this Contract, and which, by the exercise of due diligence, such parties shall not have been able to avoid. Such acts or events DO NOT INCLUDE inclement weather (except as noted above/below) or the acts or omissions of sub-consultants/subcontractors, third-party consultants/contractors, material men, suppliers, or their subcontractors, unless such acts or omissions are otherwise encompassed by the definition set forth above.

Weather more severe than the norm shall apply only as it affects particular portions of the Work and operations of the Design-Builder, as determined by the Contracting Officer’s Representative. The weather more severe than the norm is defined as any situation exceeding the mean data as recorded by The National Climatic Data Center, Asheville, North Carolina and published by the National Oceanic and Atmospheric Administration (This data is taken from the table of normals, means, and extremes in the most recent Local Climatological Data, Annual Summary with Comparative Data, Miami, Florida).

No party hereto shall be liable for its failure to carry out its obligations under the Contract during a period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations, but the obligation of the party or parties relying on such Force Majeure shall be suspended only during the continuance of any inability so caused and such cause shall, so far as possible, be remedied with all reasonable dispatch to the extent possible.

It is further agreed and stipulated that the right of any party hereto to excuse its failure to perform by reason of Force Majeure shall be conditioned upon such party giving, to the other party or parties, written notice of its assertion that a Force Majeure delay has commenced within ten (10) working days after such commencement, unless there exists good cause for failure to give such notice, in which event, failure to give such notice shall not prejudice any party's right to justify any non-performance as caused by Force Majeure unless the failure to give timely notice causes material prejudice to the other party or parties.

- 13.10.3 Standard of Care: In the performance of its services, DESIGN-BUILDER shall exercise that degree of care and skill customarily exercised by other professionals performing similar services in the same locality and time period.
- 13.10.4 Responsibility for Others: DESIGN-BUILDER shall be responsible to MDC for Design-Build Services and the services of DESIGN-BUILDER sub-consultants and sub-contractors. DESIGN-BUILDER shall not be responsible for the acts or omissions of MDC or other parties engaged by MDC nor for their construction means, methods, techniques, sequences, or procedures, or their health and safety precautions and programs.
- 13.10.5 Right of entry: MDC grants to DESIGN-BUILDER, if the project site is owned by the County, permission for a right of entry by the DESIGN-BUILDER, its employees, agents and sub-consultants and sub-contractors, upon the project site for the purpose of providing the services. If the project site is not owned by the County, the DESIGN-BUILDER is responsible for making arrangements with property owner for right of entry from time to time by DESIGN-BUILDER, its employees, agents and sub-consultants and sub-contractors, upon the project site for the purpose of providing the services. Extensions of time may be provided by MDC to the extent the property owner unreasonably prohibits the DESIGN-BUILDER from entering the property. MDC recognizes that the use of investigative equipment and practices may unavoidably alter the existing site conditions and affect the environment in the area being studied, despite the use of reasonable care. In the event existing site conditions have been altered, the DESIGN-BUILDER shall restore site to original condition.
- 13.10.6 Claims for Consequential Damages. Notwithstanding anything to the contrary and to the extent not covered by insurance coverages required under the Agreement, the Design-Builder and Owner waive Claims against each other for consequential damages

arising out of or relating to this Design-Build Contract. This mutual waiver includes, but is not limited to:

1. Damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
2. Damages incurred by the Design-Builder for loss of financing, business and reputation, loss of bonding capacity, and for loss of profit except anticipated profit arising directly from the Work.
3. Punitive or special damages

- 13.10.7 Energy Efficient Building Tax Credit (if applicable) - Energy Efficient Building Tax Credit (IF APPLICABLE) – The Energy Policy Act (EP Act) of 2005 (Section 1331) as established IRS Section 179D, allows taxpayers to accelerate depreciation on the cost of qualified energy efficient commercial building property placed-in-service after December 31, 2005. This incentive was recently extended by the Emergency Economic Stabilization Act of 2008, to include improvements placed-in-service before January 1, 2014. The returns may be amended going back three tax years, so projects that come online in 2007 or afterwards are eligible.

The Design-Builder is designated as the Designer/Construction Manager (“the Designer”) for the energy efficient improvements incorporated in the Energy Consumption Reduction Project (“the Project”) for:

1. The purposes of allocating accelerated depreciation benefits pursuant to Section 179D of the Internal Revenue Code of 1986, as amended (the “Code”).
2. If County and the Internal Revenue Service (IRS) determine that the Design-Builder is eligible and shall receive accelerated depreciation benefits as a “Designer” for the purposes of Section 179D of the Code or that the Design-Builder shall otherwise benefit financially from the monetization of the accelerated depreciation benefit, the Design-Builder hereby agrees to discount its contract price or provide a cash rebate to County (the determination of rebate versus discount to be determined by County in its sole discretion) in an amount equal to the total financial benefit realized by the Design-Builder; at the time the financial benefit to the Design-Builder becomes ascertainable.
3. County reserves the right to retain a third party consultant (the “Consultant”) –to manage and administer the process of obtaining and monetizing the accelerated depreciation benefit derived from the Project and to designate the “Consultant” as the “Designer” of the energy efficient improvements for the purposes of Section 179D of the Code.

4. The County agrees to cooperate in all reasonable respects with the Design-Builder's efforts to obtain and monetize any such benefits derived from the Project on behalf of County.

13.10.8 E-VERIFY:

The attention of the Design-Builder is hereby directed to the requirements of the State of Florida Office of the Governor Executive Order No. 11-02.

The Design-Builder hereby agrees to utilize the U.S. Department of Homeland Security's E-Verify system, in accordance with the terms governing use of the system, to confirm the employment eligibility of all persons assigned or authorized by the Design-Builder to perform work pursuant to the Contract with the County.

13.11 SUSTAINABLE BUILDINGS PROGRAM

- 13.11.1 The primary mechanism for determining compliance with the program shall be the U. S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Rating System. All construction projects are required to meet the standards delineated in Ordinance 07-65 and Implementing Order 8-8. Compliance shall be determined by completing a formal certification process with the U.S. Green Building Council, or as otherwise directed by the County's Sustainability Manager.
 - New Construction: All new construction projects shall be required to attain "Silver" or higher-level rating under the LEED-NC Rating System.
 - Major Renovations & Remodels: All major renovations/remodels shall attain "Certified" or higher-level rating under the LEED-NC Rating System.
 - Non-major Renovations/Remodels: All non-major renovations/remodels begun shall attain "Certified" or higher-level rating under the appropriate LEED Rating System such as LEED-NC, LEED-EB or LEED-CI.
- 13.11.2 Renovations, remodels, and other building upgrades not meeting the above criteria are encouraged to incorporate the maximum number of LEED-approved green building practices as are feasible from a practical and fiscal perspective; however, LEED Certification will not be required.
- 13.11.3 Substitution of Standard: The requirement for applying the appropriate LEED standard under any of the above-referenced categories may be exempted or modified due to special circumstances of the project. Such exemption or modification shall be for the express purpose of ensuring the use of the most appropriate or relevant rating standard, and shall not, in any way, exempt the requirement to apply green building practices to the maximum extent possible. For example, infrastructure projects shall pursue the Institute for Sustainable Infrastructure Envision certification rating system, Level Silver, in accordance with Miami-Dade County Legislative Resolution No. R-617-17

(Legistar File Number 171122). This substitution process shall be administered by and through the County's Sustainability Manager.

13.12 RIGHTS OF DECISIONS AND DISPUTE RESOLUTION

13.12.1 The following provisions shall govern disputes under this Contract.

- a. In the event the Contractor and Owner are unable to resolve their differences concerning any determination made by the Engineer or Owner on any dispute or claim arising under or relating to the Contract (referred to in this Section as a "Dispute"), either the Contractor or Owner may initiate a dispute in accordance with the procedure set forth in this article. Exhaustion of these procedures shall be a precondition to any lawsuit permitted hereunder.
- b. All Disputes shall be decided by the Department Director or designee.
- c. As soon as practicable, the Department Director or designee shall adopt a schedule for the Contractor and Owner to file written submissions stating their respective positions and the bases therefore. The written submissions shall include copies of all documents and sworn statements in affidavit form from all witnesses relied on by each party in support of its position. Within 20 working days of the date on which such written submissions are filed, the Department Director or designee shall afford each party an opportunity to present a maximum of one hour of argument. The Department Director or designee may decide the Dispute on the basis of the affidavits and other written submissions if, in his opinion, there is no issue of material fact and the party is entitled to a favorable resolution pursuant to the terms of this Contract. As part of such decision, the Department Director or designee shall determine the timeliness and sufficiency of each notice of claim and claim at issue as provided in this article. The Department Director or designee shall have the authority to rule on questions of law, including disputes over contract interpretation, and to resolve claims, or portions of claims, via summary judgment where there are no disputed issues of material fact. Furthermore, the Department Director or designee is authorized by both parties to strike elements of claims seeking relief or damages not available under the contract (such as, but not limited to, claims for lost profits, off-site overhead, loss of efficiency or productivity claims or claim's preparation costs) by summary disposition.
- d. In the event that the Department Director or designee determines that the affidavits or other written submissions present issues of material fact, he shall allow the presentation of evidence in the form of lay or expert testimony directed solely to the issues which he may specifically identify to require factual resolution. The testimonial portion of the process shall not exceed one day in duration per side, including opening statements and closing arguments, if allowed by the Department Director or designee at his reasonable discretion.

- e. No formal discovery shall be allowed in connection with any proceeding under this article. Notwithstanding the foregoing, both parties agree that all of the audit, document inspection, information and documentation requirements set forth elsewhere in this contract shall remain in force and effect throughout the proceeding. The Department Director or designee shall not schedule the hearing until both parties have made all their respective records available for inspection and reproduction and the parties have been afforded reasonable time to analyze the records. The continued failure of a party to comply with the document inspection, examination, or submission requirements set forth in this contract shall constitute a waiver of that party's claims and/or defenses, as applicable. Hearsay evidence shall be admissible but shall not form the sole basis for any finding of fact. Failure of any party to participate on a timely basis, to cooperate in the proceedings, or to furnish evidence in support or defense of a claim shall be a criteria in determining the sufficiency and validity of a claim.
- f. The Department Director or designee shall issue a written decision within 15 working days after conclusion of any testimonial proceeding and, if no testimonial proceeding is conducted, within 45 days of the filing of the last written submission. This written decision shall set forth the reasons for the disposition of the claim and a breakdown of any specific issues or subcontractor claims. As indicated previously, the decision of the Department Director or designee is not binding on the parties, but will be admissible in a court of competent jurisdiction.
- g. If either party wishes to protest the decision of the Department Director or designee, such party may commence an action in a court of competent jurisdiction, within the periods prescribed by law, it being understood that the review of the court shall be limited to the question of whether or not the Department Director or designee's determination was arbitrary and capricious, unsupported by any competent evidence, or so grossly erroneous to evidence bad faith.
- h. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the Engineer's interpretation. Any presentation or request by the Contractor under this article will be subject to the same requirements for Submittal of Claims in this article.

13.13 CERTIFICATION

- 13.13.1 The DESIGN-BUILDER certifies that no companies or persons, other than bonafide employees working solely for the DESIGN-BUILDER or the DESIGN-BUILDER'S County approved sub-consultants and sub-contractors, have been retained or employed to solicit or secure this Agreement or have been paid or guaranteed payment of any

fees, commissions, percentage fees, gifts or any other considerations contingent upon or resulting from the award or making of this Agreement. The DESIGN-BUILDER also certifies that no County personnel, whether a full-time or part-time employee, has or shall be retained or employed in any capacity, by the DESIGN-BUILDER or the DESIGN-BUILDER'S County approved sub-consultants and sub-contractors, to accomplish the work contemplated under the terms of this Agreement. For breach or violation of this Certification, MDC shall have the right to annul this Agreement without liability.

13.14 SOVEREIGNTY

- 13.14.1 COUNTY'S Rights as Sovereign. It is expressly understood that notwithstanding any provision of this Contract and the COUNTY'S status thereunder:
- (1) The COUNTY retains all of its sovereign prerogatives and rights as a COUNTY under Florida laws and shall in no way be stopped from withholding or refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations of whatever nature applicable to the planning, design, construction and development of the Project and the Site or the operation thereof, or be liable for the same; and
 - (2) The COUNTY shall not by virtue of this Contract be obligated to grant the Project Developer any approvals of applications for building, zoning, planning or development under present or future laws and ordinances of whatever nature applicable to the planning, design, construction, development and/or operation of the Project and the Site.
- 13.14.2 No Liability for Exercise of Police Power. Notwithstanding and prevailing over any contrary provision in this Contract or in any of the Contract Documents, any COUNTY covenant or obligation that may be contained in this Contract or any of the Contract Documents, including but not limited to the following:
- (1) To cooperate with, or provide good faith, diligent, reasonable or other similar efforts to assist the DESIGN-BUILDER regardless of the purpose required for such cooperation;
 - (2) To execute documents or give approvals, regardless of the purpose required for such execution or approvals;
 - (3) To apply for or assist the DESIGN-BUILDER in applying for any COUNTY, City or third party permit or needed approval; or
 - (4) To contest, defend against, or assist the DESIGN-BUILDER in contesting or defending against any challenge of any nature shall not bind the Board, the Department, Regulatory and Economics Resources or any other COUNTY, City, federal or state department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits,

waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the COUNTY or other applicable governmental agencies in the exercise of its police power; and the COUNTY shall be released and held harmless, by the DESIGN-BUILDER from any liability, responsibility, claims, consequential or other damages, or losses to the DESIGN-BUILDERS or to any third parties resulting from denial, withholding or revocation (in whole or in part) of any zoning or other changes, variances, permits, waivers, amendments, or approvals of any kind or nature whatsoever. Without limiting the foregoing, the Parties recognize that the approval of permits may require the COUNTY to exercise its quasi-judicial or police powers. Notwithstanding any other provision of this Contract, the COUNTY shall have no obligation to approve, in whole or in part, any application by the DESIGN-BUILDER. The COUNTY'S obligation to use reasonable good faith efforts in the processing and obtaining of such permits shall not extend to any exercise of quasi-judicial or police powers, and shall be limited solely to ministerial actions, including the timely acceptance and processing of any applications. Moreover, in no event shall a failure of the COUNTY to adopt any of the permits be construed a breach or default of this Contract.

13.15 SURVIVAL

The parties acknowledge that any of the obligations in the Contract which by nature would continue beyond the termination, cancellation or expiration of the Contract including, indemnification, shall survive termination, cancellation or expiration thereof.

13.16 REMEDIES

Subject to the terms of this Agreement, the Parties may avail themselves of each and every remedy herein specifically given to it now or existing at law or in equity, and each and every such remedy shall be in addition to every other remedy so specifically given or otherwise so existing and may be exercised from time to time and as often and in such order as may be deemed expedient by the Parties. The exercise or the beginning of the exercise, of one remedy shall not be deemed a waiver of the right to exercise, at the same time or thereafter, of any other remedy. The Parties' rights and remedies as set forth in the Contract are not exclusive and are in addition to any other rights and remedies in law or in equity.

13.17 USE AND POSSESSION PRIOR TO COMPLETION

13.17.1 Refer to Exhibit I -Standard Construction General Contract Conditions, Article 8.E – Use and Possession.

13.17.2 Notwithstanding the use and possession by the County of any completed portion or partially completed portion of the Work, the applicable time period for the Contractor's guarantee, warranties and Warranty Bond shall not commence until issuance of the

Certificate of Acceptance of Final Inspection or said portion of the Work is put into revenue service as set forth in the Contract Documents.

13.18 INDEPENDENT CONTRACTOR

- 13.18.1 The DESIGN-BUILDER shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which it performs the Work required under the terms of the Contract Documents. The DESIGN-BUILDER shall be liable for its own acts and omissions as well as those of its employees, agents, sub-consultants, subcontractors and suppliers. Nothing contained herein shall be construed as creating an employment or agency relationship between the County and the DESIGN-BUILDER.
- 13.18.2 Terms in the Contract Documents referring to direction from the County or the County shall be construed as providing for direction as to policy and the result of the Work only, and not as to means by which such result is obtained.

13.19 SANCTIONS FOR CONTRACTUAL VIOLATIONS

Proposal and contract documents shall provide that, notwithstanding any other penalties for firms that have discriminated in violation of Article VII of Chapter 11A of the Code, the County may terminate the contract or require the termination or cancellation of the sub-consultant contract. In addition, a violation by a respondent or sub consultant to the respondent, or failure to comply with the Administrative Order (A.O.) 3-39 may result in the imposition of one or more of the sanctions listed in the A.O.

13.20 CHANGES

- 13.20.1 Refer to Exhibit I - Standard Construction General Contract Conditions, Article 10 – Changes. The County may, at any time, without invalidating the Agreement and without notice to the Sureties, by a written Change Order, order modifications in the Work and/or the Contract Documents, including changes, modifications, additions or deletions.
- 13.20.2 The Contractor may, at any time, submit in writing to the County proposed modifications to the Work. The County will review such proposals and recommend the approval or denial of such proposed modifications to the County, and the County, at its sole discretion, may either approve or deny such proposed modifications.

Upon accepting modifications proposed by the Contractor, the County will execute and issue a Change Order. The denial by the County of the Contractor's proposed modification shall neither provide the Contractor with any basis for a claim for damages nor an adjustment of the Time of Completion, nor shall the denial release the Contractor from its contractual responsibilities under the Contract Documents.

- 13.20.3 Except as herein provided, no order, statement or conduct of the County shall be treated as a Change Order or entitle the Contractor to additional compensation or an equitable adjustment hereunder.
- 13.20.4 If any Change Order causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the Work, an equitable adjustment will be made, and the Agreement will be accordingly modified in writing.
- 13.20.5 Within fifteen (15) days or a mutually agreed upon timeframe of receiving a request from the County or upon submission of a proposed modification the Contractor shall submit, with each change, modification, addition or deletion, involving an increase or decrease in the cost of performing the Work, an itemized cost breakdown covering any Subcontractor's work as well as its own. The Contractor shall also indicate proposed payment terms and any increase or decrease in the Time of Completion as a result of the proposed modification. The itemized breakdown shall include, but is not limited to, the following:
- (A) Material quantities and unit prices;
 - (B) Engineering costs;
 - (C) Labor costs (identified with the specific item manufactured or installed or operation performed);
 - (D) Equipment costs;
 - (E) Overhead as determined by an independent audit in accordance with FAR Part 31 of the Contractor's overhead rates and approval by the County;
 - (F) Profit – not to exceed 15%; and
 - (G) Employment taxes under the Federal Insurance Contributions Act and Federal Unemployment Tax Act.

The Contractor shall also include, as part of its submission, a subnet schedule showing a complete breakdown of all of the tasks required to complete the proposed modification, including the impact of the modification on the Project Schedule. This subnet schedule shall be in the same format as, and fully integrated into, the Project Schedule.

- 13.20.6 Adjustments in the Contract Sum resulting from a change, modification, addition or deletion in the Work shall be determined by one or more of the following:
- (A) By agreement;

- (B) By unit price adjustment as determined by MDC; or
- (C) By the County on the basis of the County's estimate of an equitable increase or decrease in the Contract Sum.

If adjustments in the Contract sum are implemented the Contractor, if not in agreement may pursue the Dispute Resolution Procedures.

- 13.20.7 No allowance shall be made, or recovery be allowed, to the Contractor for loss of anticipated profit or overhead recovery as a result of a portion of the Work not being performed by reason of a change, modification, addition or deletion in the Work.
- 13.20.8 Adjustments in the Time of Completion of the Contract shall only be allowed if the Work included in the change, modification, addition or deletion falls on the critical path of the Project Schedule or alters such critical path so as to extend the time required for completion of the Work. The critical path will be determined from the latest approved version of the Contractor's Project Schedule.
- 13.20.9 MDC shall have the right at any time during the progress of the Work to increase or decrease the Work. Promptly after being notified of a change, Contractor shall submit an itemized estimate of any cost or time increases or savings it foresees as a result of the change. Except in an emergency endangering life or property, or for minor changes ordered by the Contracting Officer which may result in increased compensation from MDC to the Contractor, no addition or changes to the Work shall be made except upon written order of MDC, and MDC shall not be liable to Contractor for any increased compensation or adjustment to the Contract Time without such written order. No officer, employee or agent of MDC is authorized to orally direct any increase or decrease in the Work.
- 13.20.10 The Contractor's written acceptance of a Change Order, absent a written reservation of rights, shall constitute the Contractor's final and binding agreement to the provisions thereof and a waiver by the Contractor of any direct claims, resulting therefrom. Disagreement with a Change Order shall in no way excuse the Contractor from complying with, and prosecuting, the work set forth in the Change Order. Should the Contractor disagree with any Change Order, it shall, within thirty (30) days after receipt of the Change Order, submit to the County a written statement specifically setting forth the nature and monetary extent of such disagreement. No such claim by the Contractor shall be considered if it is asserted after the earlier of thirty (30) days of Contractor's receipt of the Change Order or after final payment under the Agreement has been made.

13.21 DESIGN-BUILDER'S OFFICE

At least thirty (30) days prior to the shipment of the first equipment related to the Project to the County's property and thereafter, until the issuance of the Acceptance Certificate by the County,

the Design-Builder shall maintain an office in Miami-Dade County, Florida, to maintain close communication with the County.

13.22 PLANT AND FACILITY INSPECTIONS

The County and/or their authorized representative, may inspect, the Contractor's plant(s) or facility(ies) during normal business hours, any materials, parts or equipment procured or manufactured at said plant or facility, as well as, may inspect, at the source of supply, any materials, parts or equipment procured and/or manufactured by a Subcontractor or Supplier or other person, for installation into, or to be used for, or the Work. The County, or its authorized representative, shall have escorted entry at all times, during normal business hours, to such parts of the plants that pertain to the manufacture or production of o South Corridor (South-Dade Transitway Rapid Transit or materials, parts or equipment to be installed into or used for a South Corridor (South-Dade Transitway Rapid Transit Project or the Work. Adequate facilities to make the necessary inspection shall be furnished, at no cost, to the County. The responsibility for providing South Corridor (South-Dade Transitway Rapid Transit Project and materials, parts and equipment to install into, or use for, South Corridor (South-Dade Transitway Rapid Transit Project or the Work and properly completing the Work rests entirely with the Contractor, notwithstanding any prior inspections or tests by the County, the County or their authorized representative.

13.23 EQUAL OPPORTUNITY

13.23.1 EQUAL EMPLOYMENT OPPORTUNITY

The DESIGN-BUILDER shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, ancestry, marital status, physical handicap, place of birth or national origin. The DESIGN-BUILDER shall take affirmative actions to ensure that applicants are employed and that employees are treated during their employment without regard to their race, religion, color, sex, age, marital status, physical handicap or national origin. Evidence of such actions shall be reported on forms supplied by the COUNTY.

Such actions shall include, but shall not be limited to the following: employment; upgrading, transfer or demotion; recruitment or recruitment advertising; layoff or termination; rates of pay or other form of compensation and selection for training, including apprenticeship. The DESIGN-BUILDER agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the COUNTY setting forth the provisions of this Equal Opportunity Clause.

The DESIGN-BUILDER shall comply with all applicable provisions of the Civil Rights Acts of 1964; Executive Order 11246 of September 24, 1965 as amended by Executive Order 11375; Executive Order 11625 of October 13, 1971; the Age Discrimination in Employment Act, effective June 12, 1968; the rules and regulations, and relevant orders of the Secretary of Labor; Florida Statutes, Chapter

760 (Florida Civil Rights Act of 1992, as amended) and Dade County Ordinance 75-46.

13.23.2 NONDISCRIMINATION

During the performance of this Agreement, the DESIGN-BUILDER agrees to state in all solicitations or advertisements for employees placed by or on behalf of the DESIGN-BUILDER that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, age, marital status, physical handicap or national origin. If requested to do so the DESIGN-BUILDER shall furnish all information and reports required by Executive Order 11246 of September 24, 1965 as amended by Executive Order 11375 and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to their books, records and accounts by the COUNTY, and compliance review agencies for purposes of investigation to ascertain compliance with such rules and regulations and orders.

13.24 PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF A PUBLIC AGENCY

If applicable, the Design-Builder 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 Design-Builder 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.

IF THE DESIGN-BUILDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DESIGN-BUILDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 375-5773; ISD-VSS@MIAMIDADE.GOV; 111 NW 1 STREET, SUITE 1300, MIAMI, FLORIDA 33128.

13.25 ASSIGNMENT/ASSIGNABILITY:

13.25.1 ASSIGNMENT: The Design-Builder shall not assign, transfer, or otherwise dispose of this Contract, including any rights, title or interest therein, or their power to

execute such Contract to any person, company or corporation without the prior written consent of DTPW. DTPW's consent for an assignment will not be unreasonably withheld.

- 13.25.2 **ASSIGNABILITY:** DTPW may assign its rights and obligations under the Contract to any successor to the rights and functions of DTPW or to any governmental agency to the extent required by applicable laws or governmental regulations or to the extent that DTPW deems necessary or advisable under the circumstances.

13.26 FLORIDA DEPARTMENT OF TRANSPORTATION REQUIREMENTS

- 13.26.1 When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with FDOT as an Additional Insured on the Commercial General Liability policy/ies procured above.
- 13.26.2 **Records Retention.** The County shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to FDOT at all times during the period of this Agreement and for five years after final payment is made. Copies of these records shall be furnished to FDOT upon request. Records of costs incurred include the County's general accounting records and the Project records, together with supporting documents and records, of the Design-Builder and all subconsultants and subcontractors performing work on the Project, and all other records of the Design-Builder, subconsultants and subcontractors considered necessary by the FDOT for proper audit of costs.
- 13.26.3 **Notification Requirements When Performing Construction on FDOT's Right-of-Way.** In the event the cost of the Project is greater than \$250,000.00, and the Project involves construction on FDOT's right-of-way, the DESIGN-BUILDER shall:
- i. Require the construction work of the Project that is on FDOT's right-of-way to be performed by a FDOT prequalified contractor.
- 13.26.4 **Deliverable(s):** Plans and Specifications: In the event that this Agreement involves the purchasing of capital equipment or the construction and equipping of facilities, where plans and specifications have been developed, the DESIGN-BUILDER shall provide an Engineer of Record's Certification that certifies Project compliance as listed below. For the plans, specifications, construction contract documents, and any and all other engineering, construction, and contractual documents produced by the Engineer of Record, hereinafter collectively referred to as 'plans' the DESIGN-BUILDER will certify that:
- a) All plans comply with federal, state, and professional standards as well as

- minimum standards established by FDOT as applicable;
- b) The plans were developed in accordance with sound engineering and design principles, and with generally accepted professional standards;
- c) The plans are consistent with the intent of the Project as defined in Exhibits “A” and “B” of the FDOT grant agreement as well as the Scope of Services; and
- d) The plans comply with all applicable laws, ordinances, zoning and permitting requirements, public notice requirements, and other similar regulations.

The DESIGN-BUILDER, upon request by FDOT, shall provide plans and specifications to FDOT for review and approvals.

13.27 ENTIRETY OF AGREEMENT

- 13.27.1 This Agreement represents the entire and integrated Agreement between MDC and the DESIGN-BUILDER. This Agreement may not be amended, changed, modified, or otherwise altered in any particular, at any time after the execution hereof, except by the Contracting Officer’s Representative or by resolution of the Board of County Commissioners of Miami-Dade County and written agreement by the DESIGN-BUILDER and MDC, as applicable.
- 13.27.2 If any portion of this Agreement is deemed illegal or unenforceable by a court of law, the remainder of the contract remains valid.
- 13.27.3 Since proceeds from the Charter County Transit System Sales Surtax levied pursuant to Section 29.121 of the Code of Miami-Dade County may be used to pay for all or some part of the cost of this Contract, no award of this Contract shall be effective and thereby give rise to a contractual relationship with the County unless and until the following have occurred: the County Commission, after review by the Citizens’ Independent Transportation Trust, awards the contract, and such award becomes final (either by expiration of 10 days after such award without veto by the Mayor, or by Commission override of a veto).

ARTICLE 14
SIGNATURES

IN WITNESS HEREOF, the parties hereto have caused this agreement to be executed by their appropriate officials as of the date first above written.

WHEN THE DESIGN-BUILDER IS A CORPORATION

ATTEST:
Secretary:

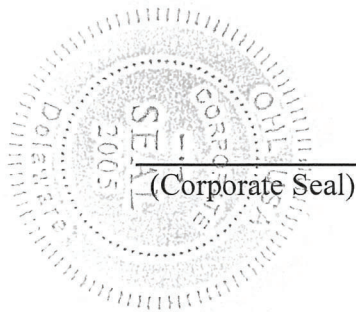
Cesar Pereira
Signature

Donald Hickey

OHL USA, INC.
Donald Hickey
Signature

By:

Cesar Pereira
OHL, USA, INC.



(Corporate Seal)

Exec. Vice President
Legal Name and Title

**WHEN THE DESIGN-BUILDER IS A SOLE PROPRIETORSHIP
OR OPERATES UNDER A TRADE NAME**

ATTEST:
Witness:

Signature

Legal Name of Firm

Witness:

Signature

Legal Name of Firm

Date Signed

By: _____
Signature

WHEN THE DESIGN-BUILDER IS A PARTNERSHIP

ATTEST:

Witness:

Signature

Legal Name of Partnership

Witness:

Signature

Legal Name and Title

Date Signed

By:

Signature

(Seal)

Legal Name and Title

By:

Signature

WHEN THE DESIGN-BUILDER IS AN INDIVIDUAL

Witness:

Signature

Legal Name

Witness:

Signature

Signature

MIAMI-DADE COUNTY, FLORIDA

Approved as to Insurance Requirements:

Approved for Legal Sufficiency:

Risk Management Division

Assistant County Attorney

Date: _____

Date: _____

IN WITNESS WHEREOF the said MIAMI-DADE COUNTY, FLORIDA, has caused this Agreement to be executed in its name by the County Mayor, 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**

County Mayor

By: Kay Sullivan, Clerk of the Board

By:

Signature

Signature

Date:

Distribution:


One Original to Clerk of the Board
One Original to User Department's Project File
One Original to Internal Services Department
One Original to Office of Civil Rights
One Original to Design-Builder
One Original to Project Manager



Memorandum



To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Javier A. Betancourt, Executive Director 

Date: July 16, 2020

Re: CITT AGENDA ITEM 7B:
RESOLUTION BY THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST
RECOMMENDING THE BOARD OF COUNTY COMMISSIONERS (BCC) APPROVE
AWARD OF A DESIGN-BUILD SERVICES AGREEMENT FOR A TOTAL CONTRACT
AMOUNT NOT TO EXCEED **\$368,233,493.42**, INCLUSIVE OF A CONTINGENCY
ALLOWANCE OF \$32,670,017.29 AND A TOTAL CONTRACT TERM OF 800
CALENDAR DAYS, TO OHL USA, INC. FOR A PROJECT ENTITLED "DESIGN-BUILD
SERVICES FOR THE SOUTH CORRIDOR (SOUTH DADE TRANSITWAY) RAPID
TRANSIT PROJECT, CONTRACT NO. CIP155-DTPW19-DB; WAIVING SECTION 2-
10.7 OF THE CODE OF MIAMI-DADE COUNTY; AUTHORIZE THE USE OF PEOPLE'S
TRANSPORTATION PLAN BOND PROGRAM FUNDS FOR THE SOUTH CORRIDOR
PROJECT WHICH WAS IN THE ORIGINAL EXHIBIT 1 TO THE PEOPLE'S
TRANSPORTATION PLAN AND THE PARK-AND-RIDE FACILITY ON THE
TRANSITWAY AT SW 168TH STREET (PHASE 2) WHICH WAS ADDED TO THE FIVE-
YEAR IMPLEMENTATION PLAN IN FEBRUARY 2020 AND AUTHORIZE THE COUNTY
MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME AND TO
EXERCISE THE RIGHTS CONTAINED THEREIN (**DTPW – BCC LEGISLATIVE FILE
NO. 201283**) **SURTAX FUNDS REQUESTED**

On July 16, 2020, the CITT voted (10-0) to forward a favorable recommendation to the Board of County Commissioners (BCC) for the approval of the above referenced item, CITT Resolution No. 20-022. The vote was as follows:

Joseph Curbelo, Chairperson – Aye
Alfred J. Holzman, 1st Vice Chairperson – Aye
Oscar J. Braynon, 2nd Vice Chairperson – Aye

Glenn J. Downing, CFP® – Aye
Jose Jimenez – Absent
Hon. Anna E. Lightfoot-Ward, Ph.D. – Absent
Miles E. Moss, P.E. – Aye
Marilyn Smith – Aye
Robert Wolfarth – Aye

Ashley V. Gantt, Esq. – Aye
Prakash Kumar – Absent
Jonathan Martinez – Aye
Paul Schwiep, Esq. – Absent
L. Elijah Stiers, Esq. – Aye

c: Jennifer Moon, Deputy Mayor
Bruce Libhaber, Assistant County Attorney