

**Date:** October 17, 2023

**To:** Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners

**From:** Daniella Levine Cava  
Mayor



Agenda Item No. 8(A)(1)

**Subject:** Contract Award Recommendation for Approval to Award a Design-Build Services Agreement to Lemartec Corporation, Park 6 Employee Garage: Contract No. DB21-MDAD-01

## SUMMARY

This item is recommending the County enter into a Design-Build Services Agreement (DBSA) with Lemartec Corporation (Lemartec) for the provision of design-build services to design and construct an employee parking facility at Miami International Airport (MIA) known as the “Park 6 Employee Garage”. This new facility is needed to provide additional parking spaces for approximately 35,000 employees that work at MIA, which is open for business around the clock, 365 days a year. The Park 6 Employee Garage will be located in MIA’s Terminal core area and will provide at minimum an additional 2,240 parking spaces. Because of its proposed location, it will reduce the amount of time it takes employees that park in remote facilities to reach the core Terminal and the need for employee airport transfer services. Attached to this memorandum is Exhibit A which shows the location of the proposed Park 6 Employee Garage in relation to the existing employee parking facilities at MIA as well as the number of parking spaces available for use in each facility. As displayed in the exhibit, at this time, there are three employee parking areas that consist of two garages and one surface parking lot that provide a total of 7,256 parking spaces for MIA employees, they are as follows: (i) Park 8 (1,075 spaces), (ii) Building 3094 (1,095 spaces), and (iii) the Employee Parking Lot (5,086 spaces). Because of the number of airport employees that work eight-to-ten-hour days between the peak hours of 7:00 a.m. and 6:00 p.m., these parking facilities fill up quickly from Monday through Friday. The Park 6 Employee Garage will provide the additional capacity needed to accommodate current demand, furthermore, it will be designed to accommodate future demand growth resulting from the planned expansion of the South Terminal to the east.

A review of the County’s Capital Improvements Information System showed the recommended vendor has an average evaluation score of 3.5 out of a possible maximum score of 4.0, which is indicative of good performance. (See Attachment A: Contractor Evaluations Report).

According to the Firm History Report, as provided by the Internal Services Department’s (ISD) Small Business Development (SBD) Division, within the last three years, Lemartec has received three (3) contracts as a Prime Contractor with a total value of \$61,402,510.00, and one (1) contract as a Prime Contractor in October 2019 with a value of \$2,500,481.00, making for a grand total of \$63,902,991.00. (See Attachment B: A/E Firm History Report).

## RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve a competitive award of a DBSA to Lemartec entitled: “Design-Build Services Agreement for Miami International Airport– Park 6 Employee Parking Garage Contract No. DB21-MDAD-01” in the maximum amount of \$110,629,896.68,

inclusive a total of \$16,055,035.52 in allowance accounts, and \$271,817.93 for the Office of the County's Inspector General.

The term of this DBSA is for nine hundred (900) calendar days.

**Price Adjustment to Lemartec's Base Bid of \$94,303,043.23**

Under the terms and conditions of this DBSA, Lemartec is responsible for all cost escalation between the bid due date (of December 22, 2022) and 180 days after the due date. However, Lemartec is eligible for a one-time price adjustment for all cost escalation between 181 calendar days after the bid due date and the award date of this DBSA. The price adjustment would be based on Engineering News Record (ENR) Building Cost Index (BCI) using a simple percentage method, which is calculated by dividing the current month and year BCI index value at the time of award by the value of the BCI index 181 calendar days after the bid due date.

It is important to note that the price adjustment will be honored only if the calculated percentage increase is greater than five percent, and that the adjustment will not increase profit or overhead. For example, if this DBSA is awarded by the Board in October 2023, it has been projected that the price adjustment would be less than a percent increase of 2.15 percent, in this case, Lemartec would not receive a price escalation increase because the percentage increase is below 5 percent. In the same regard, if this DBSA is approved by the Board in November 2023, the price adjustment would be a percent increase of 2.15 percent, which equates to a price escalation increase of \$2,027,515.43. Once again, Lemartec would not receive the price escalation increase because the percentage increase is below 5 percent.

**SCOPE**

The scope of work for this DBSA includes, but is not limited to the design, construction, and commissioning of a 7-level (ground+6 elevated slabs) by 5 bay wide post-tensioned, cast-in-place concrete structure with a minimum of 2,240 parking spaces. The building footprint is 325' x 390'. The 325' is on the north/south sides; the 390' is the east/west sides. The proposed parking garage has 90-degree parking spaces on either side of each 65-foot-wide bay separated by a 24-foot-wide traffic aisle. Two of the five bays have sloped ramps also with 90-degree parking. Each level is connected to MIA's Park 4 garage with two vehicular/pedestrian bridges. The new structure is also connected from the elevated roadway to the south with two vehicular lanes with parking control devices. The structure is approximately 83'-9" high and has an area on each level of 127,000 gross square feet (GSF) for a total of approximately 895,000 GSF. The site also contains an at-grade parking area for 34 high vehicles on the east side.

MIA is located primarily within District 6 which is represented by Commissioner Kevin M. Cabrera, however, the impact of this agenda item is countywide in nature as MIA is a regional asset.

The prime and subconsultant project technical certification requirements consist of: Architectural - 14.00, Architectural Construction Management - 18.00, Highway Systems – Site Development and Parking Lot Design – 3.01, Highway Systems – Bridge Design – 3.03, Highway Systems – Signing, Pavement Marking, and Channelization - 3.09, Telecommunication Systems – 8.00, Soils, Foundations and Materials Testing – Geotechnical and Material Engineering Services – 9.02, Soils, Foundations and Materials Testing – Concrete and Asphalt Testing Services – 9.03, Soils, Foundations and Material Testing – Non-Destructive Testing and Inspections – 9.04, Environmental Engineering – Stormwater Drainage Design Engineering Services- 10.01 General Structural Engineering – 11.00 General Mechanical - 12.00, General Electrical Engineering – 13.00, Surveying and Mapping – Land Surveying – 15.01, Surveying and Mapping – Underground Utility Location – 15.03, General Civil Engineering - 16.00, Engineering Construction Management – 17.00, and Landscape Architecture – 20.00.

On September 16, 2021, ISD's SBD Division assigned a 10.50 percent Small Business Enterprise – Architectural & Engineering (SBE-A&E) goal, a 16.49 percent Small Business Enterprise – Construction (SBE-CON) goal, a 1.96 percent Small Business Enterprise – Services (SBE-G/S) goal, and a 10 percent Community Work Force Program (CWP) goal. It should be noted that a 14.00 percent SBE-A&E goal was achieved during the County's negotiation process of this DBSA with Lemartec.

The proposal submitted by Tutor Perini Building Corporation did not meet the prequalification/technical certification requirements pursuant to the Request for Design-Build Services criteria and was deemed non-compliant by the County's Strategic Procurement Department (SPD). Furthermore, on June 7, 2022, ISD's SBD Division reviewed the remaining proposals and deemed that the proposals submitted by Belzona Florida, LLC and Kaufman Lynn Construction, Inc. were non-compliant with the 10.50 percent SBE-A&E goal requirements assigned to this design-build project.

### **DELEGATED AUTHORITY**

This Board authorizes the County Mayor or County Mayor's designee to exercise the provisions thereof, including the authority to execute Contract No. DB21-MDAD-01 and the authority to exercise the termination provisions, and to exercise all relevant authority granted the County Mayor or County Mayor's designee pursuant to Sections 2-285 and 2-285.2 of the Miami-Dade County Code.

### **BACKGROUND**

As previously stated, construction of the proposed Park 6 Employee Garage is necessary to provide MIA employees with additional parking facilities. Today, there are three employee parking facilities that together provide only 7,256 parking spaces for approximately 35,000 MIA employees. The parking facilities are near maximum capacity during the work week because of the number of employees that work between the peak hours of 7:00 a.m. and 6:00 p.m. The Park 6 Employee Garage will provide easier access to the MIA Terminal as well as the additional parking capacity needed to accommodate MIA employees.

At this time, there are three (3) adjacent parking garages to the north of MIA, Park 3, Park 5, and Park 7 that are collectively known as the "Dolphin Garage", and two (2) adjacent parking garages to the south, Park 2 and Park 4 that are collectively known as the "Flamingo Garage." Because the Park 6 Employee Garage will be located immediately adjacent to the Park 4 garage, it will be added to the grouping for the "Flamingo Garage." It is the Aviation Department's intent to rebrand the three (3) Flamingo garages as the "South Garage" and the three (3) Dolphin garages as the "North Garage."

The contract term (900 calendar days) of this DBSA becomes effective upon the execution of the Notice to Proceed by all parties. The project must reach "Substantial Completion" within 720 calendar days of the commencement date set forth in the Notice to Proceed and Final Completion within 900 calendar days of the commencement date or Lemartec will be assessed liquidated damages by the County. If Lemartec fails to achieve Substantial Completion by the established date, liquidated damages will be assessed in the amount of \$4,900.00 per calendar day, moreover, if Lemartec fails to achieve Final Completion by the established date, liquidated damages will be assessed in the amount of \$3,200.00 per calendar day. The liquidated damages assessed by the County will be cumulative if both the Substantial Completion Contract Date and the Final Completion Contract Date are exceeded.

All firms were evaluated in accordance with Section 2-10.4 of the Miami-Dade County Code, Implementing Order 3-34, and Administrative Order 3-39. In accordance with the legislation, Lemartec Corporation is the recommended firm.

**FISCAL IMPACT/FUNDING SOURCE**

This DBSA is valued at \$110,629,896.68 for a term of 900 calendar days with no renewal options. As discussed in the Recommendation section (on page 2) of this memorandum, the Aviation Department projects that a price adjustment will not be issued to Lemartec because the calculated percentage increase will remain below 5 percent at the time of award, therefore, Lemartec will not qualify for such adjustment.

See the table below for a breakdown of the fiscal impact without a price adjustment.

Basic Services Amount	Total Allowance Accounts Amount	Inspector General Fee (Code Section 2-1076)
\$94,303,043.23	\$16,055,035. 52	\$271,817.93

The project is in the Adopted Budget and Multi-Year Capital Plan. See the table below for further details. (See Attachment C: Adopted Budget and Multi-Year Capital Plan FY 2022-23, Page 170)

Funding Source(s)	Index Code	Sub-object Code	Amount	Project No. & Description	Site No.
Future Aviation Financing	EA502	N/A	\$106,463,434.00	Adopted Budget and Multi-Year Capital Plan FY 2022-23, Volume 3, Page 170	N/A
FDOT Grants	N/A	N/A	\$4,166,463.00	Adopted Budget and Multi-Year Capital Plan FY 2022-23, Volume 3, Page 170	N/A

See the table below for specific funding types, and whether they are applicable to this DBSA.

Funding Type	Applicable (Yes or No)
People’s Transportation Plan (PTP)	No
General Obligation Bond (GOB)	No
American Recovery and Reinvestment Act (ARRA- Economic Stimulus)	No

**TRACK RECORD/MONITOR**

The designated staff contact to track and monitor this contract is Contract Manager: Sylvia Novela, 305-876-7048, [SNovela@flymia.com](mailto:SNovela@flymia.com) and Project Manager Felix Pereira, 305-876-1622, [FPerira@flymia.com](mailto:FPerira@flymia.com).

**PROCUREMENT HISTORY**

The Request to Advertise (RTA) was filed with the Clerk of the Board on January 3, 2022. A total of eleven (11) proposals were received by the submittal deadline of February 28, 2022.

The proposal submitted by Tutor Perini Building Corporation did not meet the prequalification/technical certification requirements pursuant to the Request for Design-Build Services and was deemed non-compliant by SPD. Consequently, the proposal from Tutor Perini Building corporation was not evaluated by the Competitive Selection Committee (CSC). On June 7, 2022, ISD’s SBD Division reviewed the remaining proposals and deemed that the proposals submitted by Belzona Florida, LLC and Kaufman Lynn Construction, Inc. were non-compliant with the 10.50 percent SBE-A&E goal requirement assigned to this

design-build project. Consequently, those proposals were not evaluated by the Competitive Selection Committee (CSC). (See Attachment D: Project Worksheet and Compliance Review)

The design-build solicitation process involves a two-step selection process, Step 1 – Evaluation of Qualifications, and Step 2 – Evaluation of Technical and Price Proposal.

On July 7, 2022, the CSC evaluated the experience and qualifications, then scored and ranked proposals from the eight (8) responsive proposers. In accordance with the Step 1 evaluation criteria outlined in the solicitation document, the CSC voted to advance the five (5) highest ranked proposers to submit technical and price proposals for Step 2 evaluation, as shown in Table A below.

**Table A.**

<b>Firm</b>	<b>Total Qualitative Points</b>	<b>Final Ranking</b>
Suffolk NV2A A Joint Venture LLC	446	1
Lemartec Corporation	444	2
Americaribe Gryphon Joint Venture	443	3
Kast Construction LLC	435	4
MCM- Dragados, JV	432	5

On September 9, 2022, the Step 1 meeting was reconvened due to County Resolution No. R-62-22, which amended Implementing Order 3-34, and became effective July 11, 2022, the CSC was provided with all reports and findings from the Office of Inspector General and the Office of Commission on Ethics produced on August 23, 2022 regarding any Proposer and their proposed subcontractor(s) for consideration while scoring in accordance with the applicable criteria identified in the solicitation. The CSC validated their Step 1 scores made during the previous meeting held July 7, 2022, with no changes.

On December 9, 2022, MCM-Dragados, JV, one of the short-listed proposers, withdrew from participation in this solicitation. The proposer did not state why their firm withdrew from the evaluation process.

On December 28, 2022, four (4) technical and price proposals were received from the remaining proposers.

On May 17, 2023, Step 2 – Evaluation of Technical and Price Proposal Meeting was held. The remaining four (4) proposers were provided the opportunity to showcase their proposals via oral presentations to the CSC. At such time, the CSC evaluated and scored the technical proposals, the price proposals and bid bond envelopes were opened and the bid prices were read into the record. The final ranking is shown on the next page in Table B.

**Table B.**

<b>Firm</b>	<b>Total Adjusted Qualitative Points</b>	<b>Bid Price</b>	<b>Total Adjusted Ordinal Score</b>	<b>Final Ranking</b>
Lemartec Corporation	456	\$94,303,043.23	206,805	1
Suffolk NV2A A Joint Venture LLC	464	\$103,060,736.00	222,114	2
Kast Construction LLC	453	\$116,888,838.00	258,033	3
Americaribe Gryphon Joint Venture	441	\$114,356,000.00	259,311	4

The Negotiation Committee was approved by the County Mayor’s designee on June 12, 2023. (See Attachment E: Negotiation Authorization, List of Respondents and Tabulation Sheets).

The Negotiation Committee negotiated with the highest ranked firm (Lemartec) on July 7, July 17, 2023, July 31, 2023, August 4, 2023, and August 10, 2023.

**VENDOR(S) RECOMMENDED FOR AWARD**

The table below depicts a summary of the recommended firm.

<b>Vendor Name</b>	<b>Principal Address</b>	<b>Local Address</b>	<b>Number of Employee Residents*</b>	<b>Principal</b>
			<b>1) Miami-Dade County</b> <b>2) Percentage (%)</b>	
<b>Lemartec Corporation</b>	3390 Mary Street, Suite 166 Coconut Grove, FL 33133	800 South Douglas Road, Suite 1200 Coral Gables, FL 33134	123	Manuel Garcia-Tunon, President
			<b>1) 83</b> <b>2) 67.5%</b>	

\*Pursuant to R-1011-15, the percentage of employee residents is the percentage of the vendor’s employees who reside in Miami-Dade County as compared to the vendor’s total workforce.

The sub-consultants/subcontractors for this project are A. D. A. Engineering, Inc. and SDM Consulting Engineers, Inc.

**DUE DILIGENCE**


Pursuant to R-187-12, MDAD conducted due diligence in accordance with SPD’s Procurement Guidelines to determine vendor responsibility including verifying corporate status and that no performance or compliance issues exist. The lists referenced include Capital Improvements Information System, Small Business Development Division database, Sunbiz, Tax Collector’s Office, convicted vendors, debarred vendors, delinquent contractors, suspended vendors, and federal excluded parties list. Also examined as part of this due diligence: Florida Division of Business and Professional Regulation. There were no adverse findings relating to vendor responsibility.

**APPLICABLE ORDINANCES AND MEASURES**

The table below depicts various legislative policies, and whether they are applicable to this item.

Title	Legislation	Applicable (Yes or No)	Notations
In-house Capabilities	Resolution R-1204-05	Yes	MDAD evaluated and determined that MDAD does not have the in-house capabilities to perform design and construction services due to the multidiscipline expertise and workforce size required for the design and construction of a project of this complexity.
Consultants’ Competitive Negotiation Act	Florida Statute 287.055	Yes	
Local Preference	Code Section 2-8.5	No	
Local Certified Veteran Business Enterprise Preference	Code Section 2-8.5.1	No	
Small Business Enterprise - Architecture and Engineering	Code Section 2-10.4.01 and Implementing Order 3-32	Yes	SBD assigned a 10.50 percent SBE-A&E goal to the project, however, a 14.00 percent goal was achieved during the negotiation process of this DBSA.
Small Business Enterprise – Construction	Code Section 10-33.02. and Implementing Order 3-32	Yes	16.49 percent
Small Business Enterprise - Services	Code Section 2-8.1.1.1.1 and Implementing Order 3-41	Yes	1.96 percent
Small Business Enterprise - Goods	Code Section 2-8.1.1.1.2 and Implementing Order 3-41	No	
Community Workforce Goal	Code Section 2-1701 and Implementing Order No. 3-37	Yes	10.00 percent

Title	Legislation	Applicable (Yes or No)	Notations
Responsible Wages and Benefits for County Construction Contracts	Code Section 2-11.16 and Implementing Order No. 3-24	Yes	
Residents First Training and Employment Program	Code Section 2.-11.17 and Implementing Order No. 3-61	Yes	
Employ Miami-Dade Program Community	Code Section 2-1701 and Administrative Order No. 3-63	Yes	
Affirmative Action Furtherance and Compliance	Resolution No. 1049-93	Yes	
Americans with Disabilities Act	Resolution No. 385-95 as amended by Resolution No. 182-00.	Yes	
Disadvantage Business Enterprise	Federal Regulation 49 CFR Part 26	No	
Sea Level Rise	Ordinance 14-79	Yes	Sea Level Rise will be considered as part of the design.
Sustainable Buildings Program	Implementing Order 8-8	Yes	These design services required will comply the Sustainability Buildings Program. The design work will result in the construction of a public project as defined in Implementing Order I.O. 8-8.
Art in Public Places	Code Section 2-11.15	Yes	
Office of Inspector General Fee	Code Section 2-1076	Yes	
Buy American Iron and Steel Procurement Program	Ordinance 2-22	Yes	



Jimmy Morales  
Chief Operations Officer




Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners  
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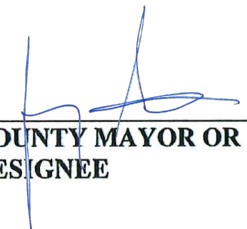
**Signature Page**  
**Contract No: DB21-MDAD-15**  
**to Lemartec Corporation**

**BUDGET  
APPROVAL  
FUNDS  
AVAILABLE:**

 8/15/2023  
\_\_\_\_\_  
**OFFICE OF MANAGEMENT DATE  
AND BUDGET (OMB) *NM*  
DIRECTOR**

**APPROVED AS  
TO LEGAL  
SUFFICIENCY:**

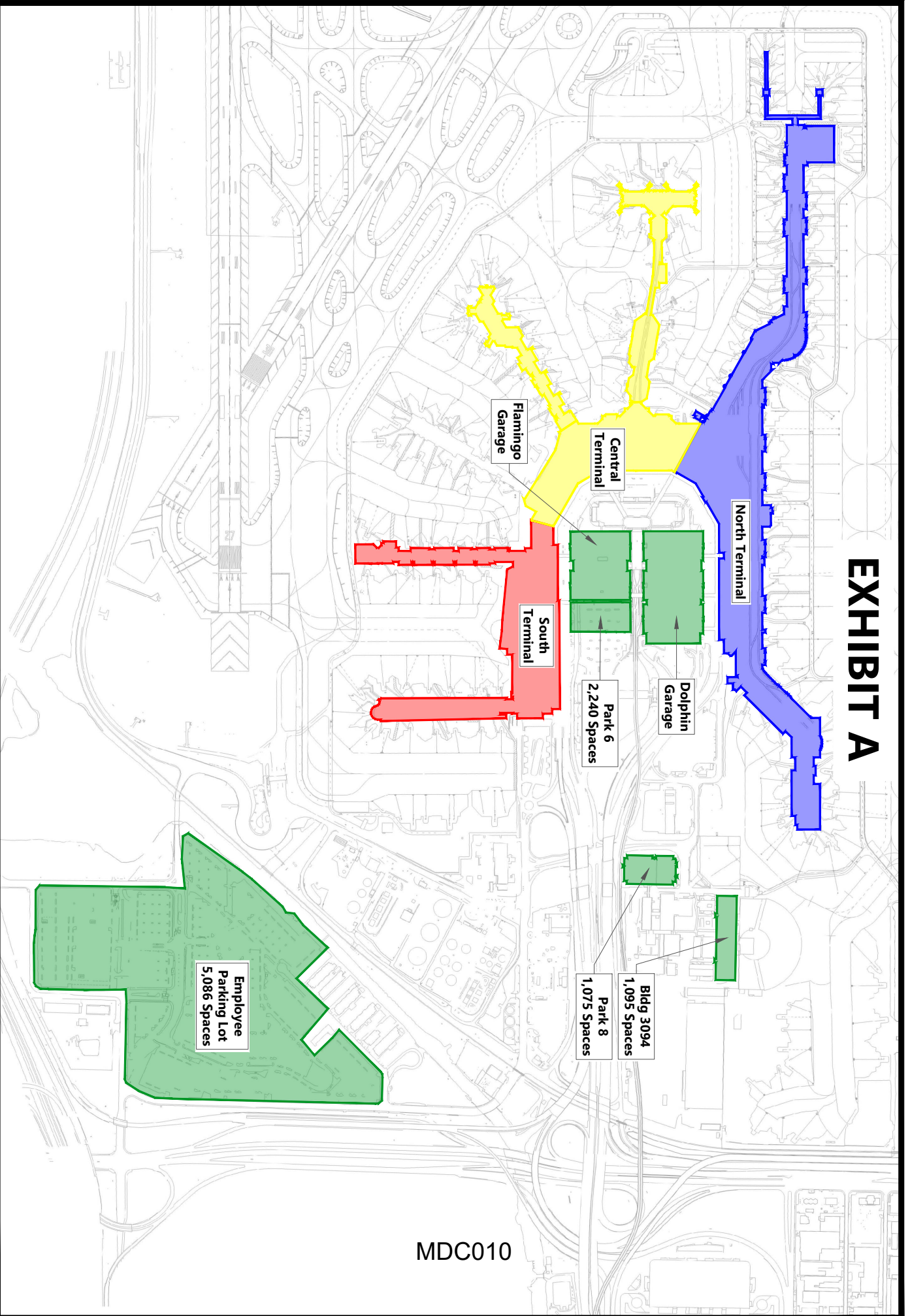
 8-14-23  
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 8-29-23  
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**COUNTY MAYOR OR  
DESIGNEE      DATE**

**CLERK  
DATE**

\_\_\_\_\_  
**DATE**

# EXHIBIT A



MDC010

# Attachment A

## Contractor Evaluations Report



## Capital Improvements Information System

### Contractor Evaluations Report (All Contracts)

<u>Dept</u>	<u>Contract</u>	<u>Type</u>	<u>Contractor / Architect Name</u>	<u>Date</u>	<u>Rater</u>	<u>Period</u>	<u>Rate</u>
FR	<u>MDFRD-DB-08</u> WO: 1	DES	<u>Lemartec Corporation</u>	5/29/2007	Jesus Farinas	Project conclusion or closeout	<u>2.7</u>
PR	<u>402202-05-005 GOB</u> <u>ESP</u> WO: 1	CON	<u>Lemartec Corporation</u>	6/10/2014	John Gouthro	Interim	<u>3.9</u>
PR	<u>402202-05-005 GOB</u> <u>ESP</u> WO: 1	CON	<u>Lemartec Corporation</u>	6/10/2014	John Gouthro	Completion of construction	<u>3.9</u>

Evaluation Count: 3 Contractors: 1 Average Evaluation: 3.5

# Attachment B

## A&E Firm History Report



## Vendor Profile: Contract Assignments

- General
- Public Profile
- Users
- Commodity Codes
- Contacts & Owners
- Comments
- Certifications
- Contracts**
- Concessions
- Site Visits
- Workforce Comp/EEO
- EDP Registrations
- Docs
- Reports

**Lemartec Corporation** System Vendor Number: **20098545**  
[Mark As Favorite](#)

View Summary

[Refresh Table](#) [Reset Filters](#) [Download](#)

To **resort** click on column title. To **filter** click on the drop down menu.

Assignment Type	Status	Contract Number & Title	Prime Contractor	Assigned Contacts	Dates	Current Value	Paid To Date
All ▼	All ▼	All ▼		All ▼			
Prime	Open	<a href="#">2017-034.01: South Florida Container Terminal New Administration and Maintenance Facilities</a>		Ingrid Zuniga Johanna Diaz	10/10/2019 - 12/31/2050	\$2,500,481	\$11,872,071
Prime	Open	<a href="#">5222020: Virgin Trains Aventura Station (MOT Fence)</a>		Johanna Diaz	5/26/2020 - 5/27/2020	\$12,593	\$0
Prime	Open	<a href="#">AA-047A (1): OPF Embassair FBO (Lemartec)</a>		Jeanine Figueroa Ingrid Zuniga Kristian Socarras	4/12/2021 - 4/12/2022	\$1,820,256	\$29,951,523
Subcontractor (Tier 1)	Open	<a href="#">Brightline Aventura Passenger Rail Station - 2019: Brightline Aventura Passenger Rail Station</a>	VIRGIN TRAINS USA LLC	Jeanine Figueroa Ingrid Zuniga Nicole Noriega	11/19/2019 - 11/20/2020	-\$15,117,479	\$11,773,871
Prime	Open	<a href="#">DB19-SEA-01_0001: CRUISE TERMINAL F EXPANSION</a>		Jeanine Figueroa Ingrid Zuniga Johanna Diaz	8/27/2020 - 10/31/2022	\$59,569,661	\$81,941,652
Subcontractor (Tier 1)	Open	<a href="#">Y-088A: Bombardier New Aircraft Service Center</a>	FONTAINEBLEAU CONSTRUCTION LLC	Manuel Garcia-Tunon	11/14/2019 - 11/13/2020	\$13,661,664	\$0

1 - 6 of 6 records displayed: [Previous Page](#) < Page 1 ▼ > [Next Page](#) Records per page 20 ▼

# Attachment C

Adopted Budget and Multi-Year  
Capital Plan FY 2023-24, Page 170

## FY 2022 - 23 Adopted Budget and Multi-Year Capital Plan

**MIAMI INTERNATIONAL AIRPORT (MIA) - MISCELLANEOUS PROJECTS SUBPROGRAM**

**PROGRAM #: 200000096**



**DESCRIPTION:** Rehabilitate Taxiway T and S; realign Taxiway R; construct Airport Operations Control Room (AOC); construct new employee parking garage; replace Concourses E through H ticket counters; and repair MIA parking garage structure

**LOCATION:** Miami International Airport  
Unincorporated Miami-Dade County

**District Located:** 6  
**District(s) Served:** Countywide

<b>REVENUE SCHEDULE:</b>	<b>PRIOR</b>	<b>2022-23</b>	<b>2023-24</b>	<b>2024-25</b>	<b>2025-26</b>	<b>2026-27</b>	<b>2027-28</b>	<b>FUTURE</b>	<b>TOTAL</b>
Aviation 2016 Commercial Paper	40,638	0	0	0	0	0	0	0	40,638
Aviation 2021 Commercial Paper	58,962	0	0	0	0	0	0	0	58,962
Aviation Revenue Bonds	840	9,292	0	0	0	0	0	0	10,132
Double-Barreled GO Bonds	20,000	0	0	0	0	0	0	0	20,000
FDOT Funds	10,575	9,019	0	0	0	0	0	0	19,594
Federal Aviation Administration	38,509	0	0	0	0	0	0	0	38,509
Future Financing	0	45,440	207,194	61,310	0	0	0	0	313,944
Improvement Fund	1,567	0	0	0	0	0	0	0	1,567
Reserve Maintenance Fund	351	0	0	0	0	0	0	0	351
<b>TOTAL REVENUES:</b>	<b>171,442</b>	<b>63,751</b>	<b>207,194</b>	<b>61,310</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>503,697</b>
<b>EXPENDITURE SCHEDULE:</b>	<b>PRIOR</b>	<b>2022-23</b>	<b>2023-24</b>	<b>2024-25</b>	<b>2025-26</b>	<b>2026-27</b>	<b>2027-28</b>	<b>FUTURE</b>	<b>TOTAL</b>
Construction	158,484	63,054	206,234	60,834	0	0	0	0	488,606
Planning and Design	12,958	697	960	476	0	0	0	0	15,091
<b>TOTAL EXPENDITURES:</b>	<b>171,442</b>	<b>63,751</b>	<b>207,194</b>	<b>61,310</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>503,697</b>

**MIAMI INTERNATIONAL AIRPORT (MIA) - NEW PROGRAM CONTINGENCY**

**PROGRAM #: 2000001674**

**DESCRIPTION:** Provide contingency funding for various unusual and/or extraordinary project costs including but not limited to unforeseen construction costs

**LOCATION:** Miami International Airport  
Unincorporated Miami-Dade County

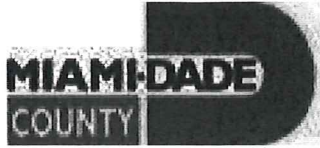
**District Located:** 6  
**District(s) Served:** Countywide

<b>REVENUE SCHEDULE:</b>	<b>PRIOR</b>	<b>2022-23</b>	<b>2023-24</b>	<b>2024-25</b>	<b>2025-26</b>	<b>2026-27</b>	<b>2027-28</b>	<b>FUTURE</b>	<b>TOTAL</b>
Future Financing	0	0	0	0	0	0	0	385,290	385,290
<b>TOTAL REVENUES:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>385,290</b>	<b>385,290</b>
<b>EXPENDITURE SCHEDULE:</b>	<b>PRIOR</b>	<b>2022-23</b>	<b>2023-24</b>	<b>2024-25</b>	<b>2025-26</b>	<b>2026-27</b>	<b>2027-28</b>	<b>FUTURE</b>	<b>TOTAL</b>
Construction	0	0	0	0	0	0	0	385,290	385,290
<b>TOTAL EXPENDITURES:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>385,290</b>	<b>385,290</b>



# Attachment D

## SBD Project Worksheet and Compliance Review



# Small Business Development Division

## Project Worksheet

**Project/Contract Title:** Design-Build Services for the MIA - Park 6 Employee Garage  
**Received Date:** 7/27/2021  
**Revised:** 9/2/2021  
**Project/Contract No:** DB21-MIA-01  
**Funding Source:** Future Financing  
**Department:** Aviation  
**Estimated Cost of Project/Bid:** \$80,979,645.97

**Description of Project/Bid:** Scope of work includes, but is not limited to; the design, construction, and commissioning of a 7-level (ground + 6 elevated slabs) by 5 bay wide post-tensioned, cast-in-place concrete structure with a minimum of 2,240 parking spaces. Each level is connected to the Park 6 garage with two vehicular/pedestrian bridges.

Contract Measures Recommendation		
Measure	Program	Goal Percent
Goal	SBE-A&E	10.50%
Goal	SBE-Con	16.49%
Goal	SBE-G/S	1.96%

### Reasons for Recommendation

#### SMALL BUSINESS ENTERPRISE CONSTRUCTION (SBE-Con)

SBD reviewed this project pursuant to Implementing Order 3-22 measures. Project information analyzed included the project's scope of services, estimated project cost, minimum requirements/qualifications and funding source. Additional factors included surveys conducted with certified firms to determine availability and assignment of the noted measure. An SBE-Con goal of 16.49% for the trades - .72%, Metals-.73%, Thermal & Moisture Protection- 2.06%, Openings- .36%, Finishes-3.37%, Fire Suppression- 1.49%, Plumbing- 2.52%, Heating, Ventilation, and Air Conditioning- .27%, Electrical-.95%, Electronic Safety and Security- .62%, Earthwork- .45%, Exterior Improvements- 2.72%, and Utilities- .23%.

The Total SBE-Con estimated cost =\$59,543,172.00 (SBE-CON Goal 16.49% or est. value \$9,818,353)

#### SMALL BUSINESS ENTERPRISE - ARCHITECTURAL & ENGINEERING (SBE/A&E)

SBD reviewed this project pursuant to Implementing Order 3-32 measures. Project information analyzed included the project's scope of services, estimated project cost, minimum requirements/qualifications and funding source. Additional factors included surveys conducted with certified firms to determine availability and assignment of the noted measure. An SBE-A&E goal of 10.50% for Categories (TC's) 3.09-Highway Systems-1.00%, 9.02-Geotechnical and Materials Services-1.00%, 9.03- Concrete and Asphalt Testing Services-1.00%, 9.04- Non-Destructive Testing and Inspections- 1.00%, 10.01- Stormwater Drainage Design Engineering Services-.50%, 12.00- General Mechanical Engineering – 2.00%, 15.01-Land Surveying – .50%, 15.03-Underground Utility Location-.50%, 16.00-General Civil Engineering- 2.00%, and 20.00-Landscape Architecture-1.00%.

The Total SBE-A&E estimated cost =\$2,977,158.65 (SBE-A/E Goal 10.50% or est. value \$312,604.66)

#### SMALL BUSINESS ENTERPRISE SERVICES (SBE-Services)

SBD reviewed this project pursuant to Implementing Order 3-41 & measures. Project information analyzed included the project's scope of services, estimated project cost, minimum requirements/qualifications and funding source. Additional factors included surveys conducted with certified firms to determine availability and assignment of the

noted measure. An SBE-S goal of 1.96% for the services portion of this contract for -Construction Office trailer-.03%, Janitorial Cleaning Services-.08%, Scheduling/ Estimating -.15%, Waste Disposal- .17%, LEED Consultant- .33%, Commissioning- .50%, Building Documentation Services-.65%, and Permitting Services-.04%.

The Total SBE-Service estimated cost = \$1,165,354.00 (SBE-G/S Goal 1.96% or est. value \$1,165.354)

**A 10% CWP Workforce Goal is appropriate for this contract.**

NAICS 238910 Building demolition, NAICS 237310 Asphalt paving (i.e., highway, road, street, public sidewalk), NAICS 237310 Runway, airport, line painting (e.g., striping), NAICS 238130 Framing contractors, NAICS 238160 Roofing contractors, NAICS 238220 HVAC (heating, ventilation and air-conditioning) contractors, NAICS 238220 Plumbing contractors, NAICS 238220 Sprinkler system, building, installation, NAICS 238290 Door, commercial- or industrial-type, installation, NAICS 238330 Flooring Contractors, NAICS 238390 Waterproofing contractors, NAICS 238910 Grading construction sites, NAICS 238910 Site Preparation Contractors, NAICS 238320 Painting and Wall Covering Contractors, NAICS 238210 Electrical Contractors and Other Wiring Installation Contractors, NIGP 91039 Janitorial and Custodial Services, NIGP 96109 Building Permit Services, NIGP 95896 Waste Management Services, NIGP 96600 PRINTING AND TYPESETTING SERVICES, MDC-TCC 12 GENERAL MECHANICAL ENGINEERING, MDC-TCC 16 GENERAL CIVIL ENGINEERING, MDC-TCC 20 LANDSCAPE ARCHITECTURE, MDC-TCC 03-01 SITE DEVELOPMENT AND PARKING LOT DESIGN, MDC-TCC 03-09 SIGNING, PAVEMENT MARKING, AND CHANNELIZATION, MDC-TCC 09-02 GEOTECHNICAL AND MATERIALS ENGINEERING SERVICES, MDC-TCC 09-03 CONCRETE AND ASPHALT TESTING SERVICES, MDC-TCC 09-04 NON-DESTRUCTIVE TESTING AND INSPECTIONS, MDC-TCC 10-01 STORMWATER DRAINAGE DESIGN ENGINEERING SERVICES, MDC-TCC 15-01 Surveying and Mapping - Land Surveying, MDC-TCC 15-03 Underground Utility Location, NIGP 91410 Building Documentation Services

Living Wages:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	Highway:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	Heavy Construction:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Responsible Wages:	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	Building:	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>			

*Danielle Leine Carr*

County Mayor (Aviation Only)

*9/16/21*

Date

**DATE:** June 07, 2022

**TO:** Namita Uppal, Chief Procurement Officer  
Internal Services Department

**FROM:** Gary Hartfield, Division Director  
Small Business Development  
Internal Services Department



**SUBJECT:** **REVISED** Compliance Review - Step 1  
Project No. DB21-MDAD-01  
Design-Build Services for the MIA – Park 6 Employee Garage.

Small Business Development (SBD), a Division of the Internal Services Department, has completed its Step 1 review of the subject project. The established contract measures for this project are a 10.50% SBE-A&E sub-consultant goal, a 16.49% SBE-Con subcontractor goal and a 1.96% SBE-G/S sub-contractor goal.

The Strategic Procurement Division of the Internal Services Department submitted proposals that included the Certificate of Assurance for the firms listed below acknowledging the project’s SBE measures. Each firm also submitted their Utilization Plan (UP) identifying the SBE sub-consultants to fulfill the SBE-A&E goal via the Business Management Workforce System (BMWS) per the Step 1 review process. Please find the results of SBD’s Step 1 review below.

<u>FIRM:</u>	<u>STATUS:</u>
1. Americaribe-Grycon Joint Venture	Compliant
2. Archer Western Construction, LLC	Compliant
3. Kast Construction, LLC	Compliant
4. Kaufman Lynn Construction, Inc.	Non-Compliant
5. Lemartec Corporation	Compliant
6. MCM-Dragados JV	Compliant
7. OHLA Building, Inc.	Compliant
8. Suffolk/NV2A, JV	Compliant
9. The Weitz Company, LLC	Compliant
10. Belzona Florida LLC	Non-Compliant

**SUMMARY:**

**1. Americaribe-Grycon Joint Venture** committed to utilize the following certified SBE-A&E firms: Laura Llerena and Associates, Inc. to perform Technical Category (TC) 20.00 (Landscape Architecture) at 0.50%, Mobio Architecture, Inc. to perform TCs 14.00 (Architecture) and 18.00 (Architectural Construction Management) at 20.00% and Premiere Design Solutions, Inc. to perform TCs 3.01 (Highway Systems – Site Development and Parking Lot Design), 3.09 (Highway Systems – Signing, Pavement Marking, and Channelization), 10.01 (Stormwater Drainage Design Engineering Services), 15.01 (Surveying and Mapping – Land Surveying), 15.03 (Underground Utility Location), 16.00 (General Civil Engineering) and 17.00 (Engineering Construction Management) at 2.00% for a total of 22.50%. Each sub-consultant confirmed their participation via the BMWS in agreement with the measure.

Americaribe-Grycon Joint Venture has satisfied the contract’s 10.50% SBE-A&E sub-consultant goal and the Step 1 review process.

**2. Archer Western Construction, LLC** committed to utilize the following certified SBE-A&E firms: 300 Engineering Group, P.A. to perform TCs 16.00 (General Civil Engineering) and 17.00 (Engineering Construction Management) at 2.00%, Douglas Wood Associates, Inc. to perform TC 11.00 (General Structural Engineering) at 7.00% and GCES Engineering Services, LLC to perform TCs 9.02 (Geotechnical and Material Engineering Services), 9.03 (Concrete and Asphalt Testing Services) and 9.04 (Non-Destructive Testing and Inspections) at 1.50% for a total of 10.50%. Each sub-consultant confirmed their participation via the BMWS in agreement with the measure.

Archer Western Construction, LLC has satisfied the contract's 10.50% SBE-A&E sub-consultant goal and the Step 1 review process.

**3. Kast Construction, LLC** committed to utilize the following certified SBE-A&E firms: Gartek Engineering Corporation to perform TCs 12.00 (General Mechanical Engineering) and 13.00 (General Electrical Engineering) at 11.00%, GSLA Design, Inc. to perform TC 20.00 (Landscape Architecture) at 1.50%, Longitude Surveyors, LLC to perform TCs 15.01 (Surveying and Mapping – Land Surveying) and 15.03 (Underground Utility Location) at 0.75% and Pacifica Engineering Services, LLC to perform TCs 9.02 (Geotechnical and Material Engineering Services) and 9.03 (Concrete and Asphalt Testing Services) at 0.75% for a total of 15.00%. Each sub-consultant confirmed their participation via the BMWS in agreement with the measure.

Kast Construction, LLC has satisfied the contract's 10.50% SBE-A&E sub-consultant goal and the Step 1 review process.

**4. Kaufman Lynn Construction, Inc.** failed to submit their Utilization Plan identifying the firm(s) that will fulfill the measure established within the timeframe specified by SBD; subsequently Kaufman Lynn Construction, Inc. via email informed SBD that they will not be able to meet the required SBE-A&E measure. As stipulated on Section IX.A.1.b of I.O. 3-32, the Implementing Order for the SBE-A&E Program: *"Respondents who fail to submit the required Certificate of Assurance at the time of proposal submission or a Utilization Plan upon request within the time frame specified by SBD shall be considered non-compliant"*.

As such, Kaufman Lynn Construction, Inc. has been found Non-compliant with the overall Small Business measures established for this contract.

**5. Lemartec Corporation** committed to utilize the following certified SBE-A&E firms: A.D.A. Engineering, Inc. to perform TCs 3.01 (Highway Systems – Site Development and Parking Lot Design), 3.09 (Highway Systems – Signing, Pavement Marking, and Channelization), 10.01 (Stormwater Drainage Design Engineering Services), 16.00 (General Civil Engineering) and 17.00 (Engineering Construction Management) at 7.00% and SDM Consulting Engineers, Inc. to perform TCs 12.00 (General Mechanical Engineering), 13.00 (General Electrical Engineering) and 17.00 (Engineering Construction Management) at 7.00% for a total of 14.00%. Each sub-consultant confirmed their participation via the BMWS in agreement with the measure.

Lemartec Corporation has satisfied the contract's 10.50% SBE-A&E sub-consultant goal and the Step 1 review process.

**6. MCM-Dragados JV** committed to utilize the following certified SBE-A&E firms: GCES Engineering Services, LL. to perform TCs 9.02 (Geotechnical and Material Engineering Services), 9.03 (Concrete and Asphalt Testing Services) and 9.04 (Non-Destructive Testing and Inspections) at 4.00%, Johnson, Avedano,

Lopez, Rodriguez and Walewski Engineering Group, Inc. to perform TCs 12.00 (General Mechanical Engineering) and 13.00 (General Electrical Engineering) at 18.00% and Robayna and Associates, Inc. to perform TCs 15.01 (Surveying and Mapping – Land Surveying) and 15.03 (Underground Utility Location) at 3.00% for a total of 25.00%. Each sub-consultant confirmed their participation via the BMWS in agreement with the measure.

MCM-Dragados JV has satisfied the contract's 10.50% SBE-A&E sub-consultant goal and the Step 1 review process.

**7. OHLA Building, Inc.** committed to utilize the following certified SBE-A&E firms: Hadonne Corp. to perform TCs 15.01 (Surveying and Mapping – Land Surveying) and 15.03 (Underground Utility Location) at 3.00%, Laura Llerena and Associates, Inc. to perform TC 20.00 (Landscape Architecture) at 2.00% and RE Chisholm Architects, Inc. to perform TCs 14.00 (Architecture) and 18.00 (Architectural Construction Management) at 47.00% for a total of 52.00%. Each sub-consultant confirmed their participation via the BMWS in agreement with the measure.

OHLA Building, Inc. has satisfied the contract's 10.50% SBE-A&E sub-consultant goal and the Step 1 review process.

**8. Suffolk/NV2A, JV** committed to utilize the following certified SBE-A&E firms: Assurance Consulting Engineers, LLC to perform TCs 11.00 (General Structural Engineering) and 16.00 (General Civil Engineering) at 0.50%, Cordova Rodriguez & Associates, Inc. to perform TCs 3.01 (Highway Systems – Site Development and Parking Lot Design), 10.01 (Stormwater Drainage Design Engineering Services), 16.00 (General Civil Engineering) and 17.00 (Engineering Construction Management) at 4.50%, DDA Engineers, P. A. to perform TCs 11.00 (General Structural Engineering) and 17.00 (Engineering Construction Management) at 0.25% and Louis J. Aguirre & Associates, P.A. to perform TCs 8.00 (Telecommunication Systems), 12.00 (General Mechanical Engineering), 13.00 (General Electrical Engineering) and 17.00 (Engineering Construction Management) at 5.50% for a total of 10.75%. Each sub-consultant confirmed their participation via the BMWS in agreement with the measure.

Suffolk/NV2A, JV has satisfied the contract's 10.50% SBE-A&E sub-consultant goal and the Step 1 review process.

**9. The Weitz Company, LLC** committed to utilize the following certified SBE-A&E firms: Delta G Consulting Engineers, Inc. to perform TCs 12.00 (General Mechanical Engineering) and 13.00 (General Electrical Engineering) at 9.50% and Laura Llerena and Associates, Inc. to perform TC 20.00 (Landscape Architecture) at 1.00% for a total of 10.50%. Each sub-consultant confirmed their participation via the BMWS in agreement with the measure.

The Weitz Company, LLC has satisfied the contract's 10.50% SBE-A&E sub-consultant goal and the Step 1 review process.

**10. Belzona Florida LLC** failed to submit the required Certificate of Assurance (COA) form at time of bid submittal; pursuant Section IX.A.1.b of I.O. 3-32, the Implementing Order for the SBE-A&E program: *"Respondents who fail to submit the required Certificate of Assurance at the time of proposal submission ... shall be considered non-compliant"*. As a result, Belzona Florida LLC has been found non-compliant with the overall Small Business measure established for this project.

SBD has verified that none of the aforementioned firms is listed on the *Compliance Report of Open and Closed Small Business, Wage and/or Workforce Violations in the last three (3) years* with an open violation. Please be reminded that SBD's review is specific to the SBE-A&E Program, the Strategic Procurement Division of the Internal Services Department is responsible for any other issues that may exist during Step 1 of this Selection Process.

**After award but prior to the commencement of construction, the awarded design-builder will be required to complete additional Utilization Plans identifying the firms that will fulfill the SBE-Con and SBE-G/S subcontractor goals.**

Should you have any questions or need any additional information, please do not hesitate to call Jhonnatan Escalante, Capital Improvement Project Analyst, at (305) 375-3192.

C. Laurie Johnson, SBD  
Pablo Valin, ISD  
Amado Gonzalez, ISD

# Attachment E

Negotiation Authorization, List of  
Respondents and Tabulation Sheets



# Memorandum



**Date:** June 7, 2023

**To:** Namita Uppal, C.P.M.  
Director and Chief Procurement Officer  
Strategic Procurement Department

**Through:** Lydia Osborne, Ph.D., C.P.P.O., C.P.P.B., NIGP-CPP  
Strategic Procurement Division Director *Lydia Osborne*  
Strategic Procurement Department

**From:** Amado Gonzalez  
Competitive Selection Committee Coordinator *Amado Gonzalez*

**Subject:** NEGOTIATION AUTHORIZATION  
Miami-Dade Aviation Department (MDAD)  
Design-Build Services for Miami International Airport - Park 6 Employee Garage  
SPD PROJECT NO. DB21-MDAD-01

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The Competitive Selection Committee has completed the evaluation of the proposals submitted in response to the referenced Strategic Procurement Department solicitation and consistent with the guidelines published in the Request for Design-Build Services (RDBS).

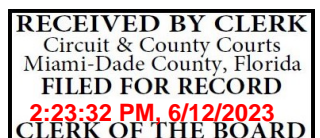
**ISD Project No.:** DB21-MDAD-01

**Project Title:** Design-Build Services for Miami International Airport - Park 6 Employee Garage

**Scope of Services Summary:** The Project includes, but is not limited to; the design, construction, and commissioning of a seven-level (ground + six elevated slabs) by five bay wide post-tensioned, cast-in-place concrete structure with a minimum of 2,240 parking spaces. The building footprint is 325' x 390'. The 325' is on the north/south sides; the 390' is the east/west sides. The parking garage has 90-degree parking spaces on either side of each 65-foot-wide bay separated by a 24-foot-wide traffic aisle. Two of the five bays have sloped ramps also with 90-degree parking. Each level is connected to the Park 6 garage with two vehicular/pedestrian bridges. The new structure is also connected from the elevated roadway to the south with two vehicular lanes with parking control devices. The structure is approximately 83'-9" high and has an area on each level of 127,000 GSF for a total of approximately 895,000 GSF. The site also contains an at-grade parking area for 34 high vehicles on the east side. Additionally, the design must comply with off-street parking requirements for Electrical Vehicles (EV) in accordance with Miami-Dade County Ordinance No. 19-17. The selected Design-Builder must develop the project using BIM (Building Information Modeling) and shall comply with the requirements stipulated in the MDAD BIM Standards Manual. Please refer to the attached Scope of Service and Experience and Qualifications for the complete scope.

**Participation Restrictions:** Pursuant to Florida Statutes 287.055, "A design criteria professional (DCP) 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. The Design Criteria Professional (DCP) for the Project is Bermello, Ajamil and Partners, Inc. Consequently, Bermello, Ajamil and Partners, Inc. and its sub-consultants, BND Engineering; Desman; Fraga Engineering; Sol-Arch; and TGA Design are ineligible to render services on this project.

MDC025



The Prime Consultant and sub-consultants for Contract No. A18-MDAD-01B: Capital Improvement Program Specialized Services, who will be managing this contract on behalf of MDAD are ineligible to render services on this project. Consequently, CBRE Heery, Inc., Bekka Group, Inc., De Zayas Bitar Construction Company, Hammond & Associates, Inc., EAC Consulting, Inc are ineligible. Additionally, the Prime Consultant for Contract No. A18-MDAD-01A, Hill International, Inc., is also ineligible to render services on this project.

**Preferred Experience and Qualifications:** Please refer to the attached Scope of Service and Experience and Qualifications.

**Estimated Cost of Contract:** The estimated design-build project cost is \$85,999,802.00, inclusive of contingencies and allowances.

**Estimated Term of Contract:** 900 Calendar Days

**Small Business Development Goal/Measure:** The Internal Services Department's Small Business Development Division established a 10.5% Small Business Enterprise – Architectural & Engineering Goal, 16.49% Small Business Enterprise - Construction Goal, 1.96% Small Business Enterprise – Goods & Services Goal, and a 10.00% - Community Work Force Program (CWP) Goal are applicable to this solicitation.

**Advertisement Date:** January 3, 2022

**Step 1 Proposals Received:** Eleven (11) proposals were received through BidSync on February 28, 2022.

**Proposers:** Please refer to the attached List of Respondents.

**Step 1 Strategic Procurement Department Compliance Review:** The proposal submitted by Tutor Perini Building Corporation did not meet the prequalification/technical certification requirements pursuant to the RDBS and was deemed non-compliant. Consequently, the proposal from Tutor Perini Building Corporation was not evaluated by the Competitive Selection Committee.

**Small Business Enterprise Compliance Review:** The proposals submitted by Belzona Florida, LLC and Kaufman Lynn Construction, Inc., were deemed non-compliant with the Small Business Enterprise – Architectural and Engineering (SBE – A/E) Program requirements. Consequently, the proposals from Belzona Florida, LLC and Kaufman Lynn Construction, Inc., were not evaluated by the Competitive Selection Committee. Please refer to the attached Compliance Review Memorandum dated June 7, 2022.

**Selection Process:** The Design-Build solicitation process involves a two-step selection process, Step 1 – Evaluation of Qualifications and Step 2 – Evaluation of Technical and Price Proposals. Step 1 is the evaluation of the design-build team's qualifications based on their proposal. Step 2 is the evaluation of competitive technical and price proposals for short-listed firms deemed responsive at Step 1.

**Step 1 Evaluation:** On July 7, 2022, the Competitive Selection Committee evaluated the experience and qualifications, then scored and ranked the proposals from the eight (8) responsive proposers. In accordance with the Step 1 evaluation criteria outlined in the

solicitation document, the Competitive Selection Committee voted to advance the five (5) highest ranked proposers to submit technical and price proposals for the Step 2 evaluation process.

**Step 1 Results:** Please see the attached Step 1 Tabulation Sheet.

**Reconvened Step 1:** The Step 1 meeting was reconvened on September 9, 2022, due to County Resolution No. R-62-22, which amended Implementing Order 3-34, and became effective on July 11, 2022, the Competitive Selection Committee was provided with all reports and findings of the OIG and the COE produced on August 23, 2022 regarding any Proposer and their proposed subcontractor(s) for consideration while scoring in accordance with the applicable criteria identified in the solicitation. The CSC validated their Step 1 scores made during their previous meeting on July 7, 2022, with no changes.

**Withdrawal:** On December 9, 2022, MCM-Dragados JV, one of the short-listed proposers, withdrew from participation in this solicitation. The proposer did not state why their firm withdrew from the evaluation process.

**Step 2 Proposals:** Four (4) technical and price proposals were received through BidSync on December 28, 2022.

**Step 2 Evaluation:** On May 17, 2023, the Competitive Selection Committee evaluated the four (4) remaining Proposers, Lemartec Corporation, Suffolk NV2A A Joint Venture LLC, Kast Construction LLC, and Americaribe Gryphon Joint Venture, based upon the established Step 2 evaluation criteria. After the Competitive Selection Committee scored the technical proposals, the price proposals and bid bond envelopes were opened, and the bid prices were read into the record. The final ranking was determined by dividing the bid price by the qualitative score to yield an adjusted bid. The qualitative scores, bid prices, adjusted bid, and final rankings are noted below:

Design-Builder	Qualitative Score	Bid Price	Adjusted Bid	Final Ranking
Lemartec Corporation	456	\$94,303,043.23	206,805	1
Suffolk NV2A A Joint Venture LLC	464	\$103,060,736.00	222,114	2
Kast Construction LLC	453	\$116,888,838.00	258,033	3
Americaribe Gryphon Joint Venture	441	\$114,356,000.00	259,311	4

**Step 2 Results:** Please see the attached Step 2 Tabulation Sheet.

**Circumstances Regarding Project Delays:** The project delays totaled 213 days, which included the following: the Step 1 submittal date was extended for 25 days upon request from MDAD; County Attorney responsiveness determinations resulted in a delay of 100 days; the Step 2 submittal date was extended for 54 days upon request from MDAD; and there was a 34-day delay due to the substitution of a Competitive Selection Committee member.

**Request for Appointment of Negotiation Committee:** Pursuant to Section 2-10.4 (6) of the Code of Miami-Dade County, the Strategic Procurement Department (SPD) hereby requests the

County Mayor or his designee approve the following Negotiation Committee, for the purpose of negotiating one (1) Design-Build Contract for this solicitation with the top ranked firm:

Amado Gonzalez, A&E Consultant Selection Coordinator, SPD, will be the Negotiation Committee Coordinator.

Negotiation Committee:

- Felix Pereira, Chief of Design, MDAD
- Richard Cabrera, Construction Manager 3, MDAD
- Jose Luis Rodriguez, Engineer 4, MDAD
- Raymond Lee, Construction Manager 2, MDAD

**Request for Authorization to Enter Negotiations:** Pursuant to Section 2-10.4 (6) of the Code of Miami-Dade County, it is hereby requested that the County Mayor or his designee approve the selection of the following Design-Builder for the purpose of negotiating one (1) Design-Build Contract, as recommended by the Competitive Selection Committee:

### **SELECTION FOR DESIGN-BUILD NEGOTIATION**

#### **Lemartec Corporation**

The following firms will serve as alternates:

Suffolk NV2A A Joint Venture LLC  
Kast Construction LLC  
Americaribe Gryphon Joint Venture

Pursuant to the Code of Silence legislation included in the Conflict of Interest and Code of Ethics Ordinance, and Section 2-11.1 of the County Code, the County Mayor or his designee will report to the Board of County Commissioners any of the following instances:

- When negotiations do not commence, or other affirmative action is not taken, within 30 days of the Competitive Selection Committee's recommendation.
- When the County Mayor or his designee's recommendation to award or reject is not made within 90 days from the date of the Competitive Selection Committee's recommendation.

If approved, the Negotiation Committee is to proceed with contract negotiations in accordance with Section 2-10.4(6) of the Code of Miami-Dade County and submit the signed contract to be presented to the Board of County Commissioners for final approval no later than 60 days from the date of the memorandum. Should negotiations fail with the recommended firm, approval is requested to initiate negotiations with the alternate firm(s).

If a satisfactory agreement cannot be reached within the 60-day period, a report is required to be prepared fully explaining all problems resulting from the negotiations. If negotiations are proceeding within a reasonable timeframe, then negotiations are to continue, and the report is to be submitted upon completion. The final contract and report should be sent to the Strategic Procurement Department, Architectural and Engineering Unit.

Approved:

*Namita Uppal*

Digitally signed by Namita Uppal  
DN: cn=Namita Uppal,  
o=Miami Dade County,  
ou=Chief Procurement Officer,  
email=uppal@miamidade.gov, c=US  
Date: 2023.06.12 13:32:51  
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Namita Uppal, C.P.M.  
Director and Chief Procurement Officer

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Date

**Attachments:**

1. Scope of Services and Experience and Qualifications
2. List of Respondents
3. Small Business Development Compliance Memorandum
4. Step 1 Tabulation Report
5. Step 2 Tabulation Report

c: Competitive Selection Committee  
Clerk of the Board of County Commissioners

## **SCOPE OF SERVICES AND EXPERIENCE AND QUALIFICATIONS**

### **SCOPE OF SERVICES SUMMARY:**

The Project includes Design-Build Services for the Employee Parking at Park 6 (EPG6) - Miami International Airport, a new employee parking garage on a surface parking lot located in the core of the airport. The garage is designated as Park 6 following the numbering system in use today. Three adjacent north garages are Park 3, Park 5 & Park 7, collectively known as the "Dolphin Garage." Two adjacent south garages are Park 2 & Park 4, collectively known as the "Flamingo Garage." This new garage will be immediately adjacent to Park 4 and thus added to the "Flamingo Garage." It is MDAD's intent soon to rebrand these three adjacent Flamingo garages as the "South Garage" and to rebrand the three adjacent "Dolphin Garages" as the "North Garage." The site is located north of the elevated roadway across from South Terminal, west of the Central Chiller Plant, east of the Park 4 Garage and south of the MIA Mover elevated track.

The Work of the project includes, but is not limited to; the design, construction, and commissioning of a 7-level (ground + 6 elevated slabs) by 5 bay wide post-tensioned, cast-in-place concrete structure with a minimum of 2,240 parking spaces. The building footprint is 325' x 390'. The 325' is on the north/south sides; the 390' is the east/west sides. The parking garage has 90-degree parking spaces on either side of each 65-foot-wide bay separated by a 24-foot-wide traffic aisle. Two of the five bays have sloped ramps also with 90-degree parking. Each level is connected to the Park 6 garage with two vehicular/pedestrian bridges. The new structure is also connected from the elevated roadway to the south with two vehicular lanes with parking control devices. The structure is approximately 83'-9" high and has an area on each level of 127,000 GSF for a total of approximately 895,000 GSF. The site also contains an at-grade parking area for 34 high vehicles on the east side. Additionally, the design must comply with off-street parking requirements for Electrical Vehicles (EV) in accordance with Miami-Dade County Ordinance No. 19-17. The selected Design-Builder must develop the project using BIM (Building Information Modeling) and shall comply with the requirements stipulated in the MDAD BIM Standards Manual.

### **EXPERIENCE AND QUALIFICATIONS:**

Preferred Experience and Qualification Requirements for the Design-Build Team:

1. Lead A/E and A/E Sub-consultants are preferred to have completed three (3) projects in the last ten (10) years of similar scope, construction value and delivery schedule as described in the scope of services denoted above. Lead A/E in addition to those A/E Sub-consultants assigned to perform Technical Categories 3.01, 3.03, 11.00, 12.00, 13.00 and 16.00 are preferred to have two (2) active Florida State registered licensed professional Architects and/or Engineers assigned to the project, in a similar responsible position for:
  - a. Project Manager
  - b. Assistant Project Manager
  
2. Lead Constructor is preferred to have completed one (1) project in the last ten (10) years of similar scope, construction value and delivery schedule. Construction Contractor Key Personnel should have a minimum ten (10) years of experience and/or three (3) projects for similar construction scope, value, and delivery schedule in a similarly responsible position for each of the following Key Personnel:
  - a. Lead Construction Manager
  - b. Assistant Lead Construction Manager
  - c. Specialty Lighting Consultant



**MIAMI DADE COUNTY  
INTERNAL SERVICES DEPARTMENT**

**LIST OF RESPONDENTS**

**Project Name:** Design-Build Services for Miami International Airport (MIA) - Park 6 Employee Garage

**Project No.:** DB21-MDAD-01

**Measures:** 10.50% SBE-A/E, 16.49% SBE-CON, 1.96% SBE-GS, 10%

**No. of Agreements:** 1

**Contract Type:** DESIGN BUILD

**Submittal Date:** 02/28/2022

**Team No.:** 1

**Prime Name:** BELZONA INC

**Trade Name:**

**Prime Local Preference:** No

**FEIN No.:** 112525267

**Team No.:** 2

**Prime Name:** SUFFOLK NV2A A JOINT VENTURE, LLC

**Trade Name:**

**Prime Local Preference:** Yes

**FEIN No.:** 830649046

<b>Sub-Consultants Name</b>	<b>Trade Name</b>	<b>Subs FEIN No.</b>
a. ZYSCOVICH INC	ZYSCOVICH ARCHITECTS	592754852
b. ASSURANCE CONSULTING ENGINEERS, LLC		851456743
c. BCC ENGINEERING LLC		650540100
d. BLISS & NYITRAY INC		591203311
e. CHEN MOORE AND ASSOCIATES INC		592739866
f. CORDOVA RODRIGUEZ & ASSOCIATES INC		650982262
g. LOUIS J AGUIRRE & ASSOCIATES PA		650164013
h. DDA ENGINEERS PA		650138165
i. NV5	KACO	271979486

**Team No.:** 3

**Prime Name:** TUTOR PERINI BUILDING CORP.

**Trade Name:**

**Prime Local Preference:** Yes

**FEIN No.:** 860083406

<b>Sub-Consultants Name</b>	<b>Trade Name</b>	<b>Subs FEIN No.</b>
a. BEA ARCHITECTS INC		651020158
b. ROBAYNA AND ASSOCIATES INC		592119073
c. TERRACON CONSULTANTS INC		421249917
d. CONEMCO ENGINEERING, INC	CONEMCO CONSULTANTS	262216389
e. CARY KOPCZYNSKI & CO INC PS	CKC STRUCTURAL ENGINEERS	911310671
f. GRAEF-USA INC.	GRAEF	391083592
g. LAURA LLERENA & ASSOCIATES INC		591983295
h. Spinnaker Group		832279620

MDC031



**MIAMI DADE COUNTY  
INTERNAL SERVICES DEPARTMENT**

**LIST OF RESPONDENTS**

**Project Name:** Design-Build Services for Miami International Airport (MIA) - Park 6 Employee Garage

**Project No.:** DB21-MDAD-01

**Measures:** 10.50% SBE-A/E, 16.49% SBE-CON, 1.96% SBE-GS, 10%

**No. of Agreements:** 1

**Contract Type:** DESIGN BUILD

**Submittal Date:** 02/28/2022

**Team No.:** 4

**Prime Local Preference:** No

**Prime Name:** THE WEITZ COMPANY LLC

**FEIN No.:** 421512625

**Trade Name:**

<b>Sub-Consultants Name</b>	<b>Trade Name</b>	<b>Subs FEIN No.</b>
a. LEO A DALY COMPANY		470363104
b. WGI INC		650271367
c. NOVA ENGINEERING & ENVIRONMENTAL LLC		260347209
d. DELTA G CONSULTING ENGINEERS INC		650361739
e. LAURA LLERENA & ASSOCIATES INC		591983295
f. HORTON LEES BROGDEN LIGHTING		132671278

**Team No.:** 5

**Prime Local Preference:** Yes

**Prime Name:** KAUFMAN LYNN CONSTRUCTION INC

**FEIN No.:** 650098115

**Trade Name:**

<b>Sub-Consultants Name</b>	<b>Trade Name</b>	<b>Subs FEIN No.</b>
a. RODRIGUEZ & QUIROGA ARCHITECTS CHARTERED		592277900
b. WALKER PARKING CONSULTANTS/ENGINEERS INC	WALKER CONSULTANTS	381782774
c. MILLER LEGG & ASSOCIATES INC		650563467
d. TRANSYSTEMS CORPORATION	TRANSYSTEMS CORPORATION CONSULTANTS	430839725
e. PACIFICA ENGINEERING SERVICES, LLC		822566399
f. TERRACON CONSULTANTS INC		421249917
g. SGM ENGINEERING INC		593101052

**MDC032**





**MIAMI DADE COUNTY  
INTERNAL SERVICES DEPARTMENT**

**LIST OF RESPONDENTS**

**Project Name:** Design-Build Services for Miami International Airport (MIA) - Park 6 Employee Garage

**Project No.:** DB21-MDAD-01

**Measures:** 10.50% SBE-A/E, 16.49% SBE-CON, 1.96% SBE-GS, 10%

**No. of Agreements:** 1

**Contract Type:** DESIGN BUILD

**Submittal Date:** 02/28/2022

**Team No.:** 6

**Prime Local Preference:** Yes

**Prime Name:** OHL BUILDING INC

**FEIN No.:** 650584540

**Trade Name:**

<b>Sub-Consultants Name</b>	<b>Trade Name</b>	<b>Subs FEIN No.</b>
a. R E CHISHOLM ARCHITECTS INC		650131871
b. JACOBS ENGINEERING GROUP INC		954081636
c. SGM ENGINEERING INC		593101052
d. WINGERTER LABORATORIES INC		590594442
e. BLISS & NYITRAY INC		591203311
f. HADONNE CORP		651089850
g. LAURA LLERENA & ASSOCIATES INC		591983295
h. A & A FONTE INC		760750728
i. ARFRAN INC		592210528
j. MANNY & LOU PLUMBING CONTRACTORS, INC.		592551072
k. DADE ELECTRIC SERVICE INC		592008798
l. SEQUIL SYSTEMS INC		611429151
m. LIGHTSWITCH ORLANDO INC		200241947
n. DON BELL SIGNS LLC		593761150

**Team No.:** 7

**Prime Local Preference:** Yes

**Prime Name:** MCM-DRAGADOS, JV

**FEIN No.:** 261235269

**Trade Name:**

<b>Sub-Consultants Name</b>	<b>Trade Name</b>	<b>Subs FEIN No.</b>
a. NETTA ARCHITECTS, LLC		141837265
b. PEVIDA HIGHWAY DESIGNERS LLC		811298871
c. LANGAN ENGINEERING & ENVIRONMENTAL		223167382
d. GCES ENGINEERING SERVICES LLC		461012695
e. BLISS & NYITRAY INC		591203311
f. JOHNSON AVEDANO LOPEZ RODRIGUEZ &		592600954
g. ROBAYNA AND ASSOCIATES INC		592119073
h. FAITH GROUP, LLC	FAITH GROUP CONSULTING LLC	200568153
i. CALVIN GIORDANO & ASSOCIATES INC		650013869
j. HORTON LEES BROGDEN LIGHTING		132671278
k. THA Consulting, Inc.		232756408
l. ARDURRA GROUP INC	KING ENGINEERING ASSOCIATES	591782900
m. MCO CONSTRUCTION & SERVICES INC		650400906

**MDC033**



**MIAMI DADE COUNTY  
INTERNAL SERVICES DEPARTMENT**

**LIST OF RESPONDENTS**

**Project Name:** Design-Build Services for Miami International Airport (MIA) - Park 6 Employee Garage

**Project No.:** DB21-MDAD-01

**Measures:** 10.50% SBE-A/E, 16.49% SBE-CON, 1.96% SBE-GS, 10%

**No. of Agreements:** 1

**Contract Type:** DESIGN BUILD

**Submittal Date:** 02/28/2022

**Team No.:** 8

**Prime Local Preference:** Yes

**Prime Name:** KAST CONSTRUCTION LLC

**FEIN No.:** 843446391

**Trade Name:**

<b>Sub-Consultants Name</b>	<b>Trade Name</b>	<b>Subs FEIN No.</b>
a. PGAL INC		760291476
b. EAC CONSULTING INC		650519739
c. WALTER P MOORE & ASSOCIATES INC		741554339
d. GARTEK ENGINEERING CORPORATION		592032388
e. TLC ENGINEERING SOLUTIONS INC		591228645
f. GSLA DESIGN INC.		650410637
g. LONGITUDE SURVEYORS LLC		364551726
h. PACIFICA ENGINEERING SERVICES, LLC		822566399
i. TRIFECTA CONSTRUCTION SOLUTIONS INC		200104784
j. BEKKA GROUP INC		455612715
k. FLORIDA LEMARK CORPORATION		592784516

**Team No.:** 9

**Prime Local Preference:** Yes

**Prime Name:** AMERICARIBE GRYPHON JOINT VENTURE

**FEIN No.:** 825148293

**Trade Name:**

<b>Sub-Consultants Name</b>	<b>Trade Name</b>	<b>Subs FEIN No.</b>
a. MOBIO ARCHITECTURE INC		300793220
b. M. ARTHUR GENSLE JR. & ASSOCIATES, INC.	GENSLER	941663305
c. WALTER P MOORE & ASSOCIATES INC		741554339
d. PREMIERE DESIGN SOLUTIONS INC		260571068
e. RS&H INC		592986466
f. ROSS & BARUZZINI INC		430787438
g. LAURA LLERENA & ASSOCIATES INC		591983295
h. RICHARD GARCIA & ASSOCIATES INC		383674385
i. HORTON LEES BROGDEN LIGHTING		132671278
j. WOOD ENVIRONMENT & INFRASTRUCTURE SOLUT		911641772

MDC034



**MIAMI DADE COUNTY  
INTERNAL SERVICES DEPARTMENT**

**LIST OF RESPONDENTS**

**Project Name:** Design-Build Services for Miami International Airport (MIA) - Park 6 Employee Garage

**Project No.:** DB21-MDAD-01

**Measures:** 10.50% SBE-A/E, 16.49% SBE-CON, 1.96% SBE-GS, 10%

**No. of Agreements:** 1

**Contract Type:** DESIGN BUILD

**Submittal Date:** 02/28/2022

**Team No.:** 10

**Prime Local Preference:** Yes

**Prime Name:** LEMARTEC CORPORATION

**FEIN No.:** 591917239

**Trade Name:**

<b>Sub-Consultants Name</b>	<b>Trade Name</b>	<b>Subs FEIN No.</b>
a. WOLFBERG ALVAREZ & PARTNERS INC		591713092
b. PEREZ & PEREZ ARCHITECTS PLANNERS INC		592400309
c. A D A ENGINEERING INC		592064498
d. BOTAS ENGINEERING INC		650670569
e. PROFESSIONAL SERVICE INDUST INC (PSI)		370962090
f. BLISS & NYITRAY INC		591203311
g. SDM CONSULTING ENGINEERS INC		592346110
h. MANUEL G VERA AND ASSOC INC		591741639
i. CURTIS & ROGERS DESIGN STUDIO INC		650294753
j. KVC CONSTRUCTORS INC		650547228
k. FINROCK ENTERPRISES LLC		831421288
l. EV SERVICES INC		205779421
m. SEQUIL SYSTEMS INC		611429151

**Team No.:** 11

**Prime Local Preference:** Yes

**Prime Name:** ARCHER WESTERN CONSTRUCTION LLC

**FEIN No.:** 270887868

**Trade Name:**

<b>Sub-Consultants Name</b>	<b>Trade Name</b>	<b>Subs FEIN No.</b>
a. EXP US SERVICES INC		460523964
b. 300 ENGINEERING GROUP PA		562612529
c. A & P CONSULTING TRANSPORTATION ENGINEERS CORP		650770583
d. DOUGLAS WOOD ASSOCIATES INC		650343713
e. WALTER P MOORE & ASSOCIATES INC		741554339
f. KEITH & ASSOCIATES INC		650806421
g. MILLER LEGG & ASSOCIATES INC		650563467
h. TIERRA SOUTH FLORIDA INC		200282450
i. GCES ENGINEERING SERVICES LLC		461012695
j. LEAD ENGINEERING CONTRACTORS, LLC		812774010
k. K2 CONSTRUCTION CONSULTANTS INC	K2 PROJECT CONTROLS SYSTEMS	521696321

MDC035

**STEP 1 TABULATION SHEET  
JULY 7, 2022**

**MIAMI-DADE AVIATION DEPARTMENT (MDAD)  
Design-Build Services for Miami International Airport (MIA) -  
Park 6 Employee Garage**

MDC036

**ISD PROJECT NO. DB21-MDAD-01**

RANK	FIRM NAME	COMPETITIVE SELECTION COMMITTEE						TOTAL QUALITATIVE POINTS	QUALITATIVE RANK	LOCAL PREFERENCE RANGES	FINAL RANK
		Richard Cabrera, MDAD	Jose Luis Rodriguez, MDAD	Shannon Lee-Sin, ISD	Richard Bechtold, MDCR	Liza Herrera, DTPW	SUB-TOTAL				
1	<b>BELZONA INC (ELIMINATED)</b>										
2	<b>SUFFOLK NV2A A JOINT VENTURE, LLC (LOCAL)</b> 1A - Qualifications of Firms Including the Team Members Assigned to the Project (Max. 50 points) 2A - Knowledge and Past Experience of Similar Type Projects (Max. 25 points) 3A - Past Performance of the Firms (Max. 20 points) 4A - Amount of Work Awarded and Paid by the County (Max. 5 points) Sub-Total	46 21 15 3 85	47 23 16 5 91	49 23 10 3 85	48 24 19 3 94	46 25 17 3 91	236 116 77 17 446	1	468 424	1	
		<i>Tie Breakers for Total Qual= Sub-Total Points for 1A, 2A, 3A, 4A</i>									
3	<b>TUTOR PERINI BUILDING CORP (ELIMINATED)</b>										
4	<b>THE WEITZ COMPANY LLC (NON-LOCAL)</b> 1A - Qualifications of Firms Including the Team Members Assigned to the Project (Max. 50 points) 2A - Knowledge and Past Experience of Similar Type Projects (Max. 25 points) 3A - Past Performance of the Firms (Max. 20 points) 4A - Amount of Work Awarded and Paid by the County (Max. 5 points) Sub-Total	42 17 17 5 81	48 24 18 4 94	43 12 4 5 64	48 24 19 4 95	45 25 18 5 93	226 102 76 23 427	7	448 406	8	
		<i>Tie Breakers for Total Qual= Sub-Total Points for 1A, 2A, 3A, 4A</i>									
5	<b>KAUFMAN LYNN CONSTRUCTION INC (ELIMINATED)</b>										
6	<b>OHL BUILDING INC (LOCAL)</b> 1A - Qualifications of Firms Including the Team Members Assigned to the Project (Max. 50 points) 2A - Knowledge and Past Experience of Similar Type Projects (Max. 25 points) 3A - Past Performance of the Firms (Max. 20 points) 4A - Amount of Work Awarded and Paid by the County (Max. 5 points) Sub-Total	41 16 11 2 70	43 22 15 4 84	49 18 6 2 75	49 24 20 2 95	45 25 17 2 89	227 105 69 12 413	8	434 392	7	
		<i>Tie Breakers for Total Qual= Sub-Total Points for 1A, 2A, 3A, 4A</i>									
7	<b>MCM-DRAGADOS, JV (LOCAL)</b> 1A - Qualifications of Firms Including the Team Members Assigned to the Project (Max. 50 points)	44	42	41	47	47	221				



**STEP 1 TABULATION SHEET  
JULY 7, 2022**

**MIAMI-DADE AVIATION DEPARTMENT (MDAD)  
Design-Build Services for Miami International Airport (MIA) -  
Park 6 Employee Garage  
ISD PROJECT NO. DB21-MDAD-01**

MDC038

NAME OF FIRM(S)	COMPETITIVE SELECTION COMMITTEE						Total Qualitative Points	Qualitative Rank	Local Preference Ranges	FINAL RANK
	Richard Cabrera, MDAD	Jose Luis Rodriguez, MDAD	Shannon Lee-Sin, ISD	Richard Bechtold, MDCR	Liza Herrera, DTPW	SUB-TOTAL				
1A - Qualifications of Firms Including the Team Members Assigned to the Project (Max. 50 points)	43	46	50	48	43	230	6	449	6	
2A - Knowledge and Past Experience of Similar Type Projects (Max. 25 points)	19	23	10	23	25	100				
3A - Past Performance of the Firms (Max. 20 points)	16	17	17	19	19	88				
4A - Amount of Work Awarded and Paid by the County (Max. 5 points)	2	3	2	2	1	10				
<b>Sub-Total</b>	<b>80</b>	<b>89</b>	<b>79</b>	<b>92</b>	<b>88</b>	<b>428</b>		<b>407</b>		

*Tie Breakers for Total Qual= Sub-Total Points for 1A, 2A, 3A, 4A*

**Amado Gonzalez, ISD Non-Voting Chairperson**





**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners

**DATE:** October 17, 2023

**FROM:**   
Gen Bonzon-Keenan  
County Attorney

**SUBJECT:** Agenda Item No. 8(A)(1)

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(A)(1)  
10-17-23

RESOLUTION NO. \_\_\_\_\_

RESOLUTION APPROVING DESIGN BUILD SERVICES AGREEMENT BETWEEN MIAMI-DADE COUNTY AND LEMARTEC CORPORATION FOR DESIGN BUILD SERVICES, CONTRACT NO. DB21-MDAD-01, IN AN AMOUNT NOT TO EXCEED \$110,629,896.68 FOR A TERM OF NINE HUNDRED CALENDAR DAYS AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE DESIGN BUILD AGREEMENT AND TO EXERCISE THE TERMINATION PROVISION CONTAINED THEREIN

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum and documents, copies of which are incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that:

**Section 1.** This Board hereby approves the award of a Design-Build Services Agreement to Lemartec Corporation for the provision of design build services, Contract No. DB21-MDAD-01 in an amount not to exceed \$110,629,896.68 for a term of nine-hundred calendar days in substantially the form attached hereto and made a part hereof.

**Section 2.** This Board authorizes the County Mayor or County Mayor's designee to exercise the provisions thereof, including the authority to execute Contract No. DB21-MDAD-01 and the authority to exercise the termination provisions, and to exercise all relevant authority granted the County Mayor or County Mayor's designee pursuant to sections 2-285 and 2-285.2 of the Miami-Dade County Code.

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:

Oliver G. Gilbert, III, Chairman	
Anthony Rodríguez, Vice Chairman	
Marleine Bastien	Juan Carlos Bermudez
Kevin Marino Cabrera	Sen. René García
Roberto J. Gonzalez	Keon Hardemon
Danielle Cohen Higgins	Eileen Higgins
Kionne L. McGhee	Raquel A. Regalado
Micky Steinberg	

The Chairperson thereupon declared this resolution duly passed and adopted this 17<sup>th</sup> day of October, 2023. 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

JUAN FERNANDEZ-BARQUIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

*DMM*

David M. Murray

## CONTRACT SUMMARY

**THIS CONTRACT** made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

by and between Miami-Dade County, Florida, by its Board of County Commissioners, hereinafter called the Owner and

LEMARTEC CORPORATION, a Florida corporation

hereinafter called the Design-Builder:

WITNESSETH, that the said Design-Builder, for and in consideration of the payments hereinafter specified and agreed to be made by the County, hereby covenants and agrees to furnish and deliver all the materials required, to do and perform all the Work and labor, in a satisfactory and workmanlike manner, required to complete this Contract within the time specified, in strict and entire conformity with the Plans, Technical Specifications and other Contract Documents, which are hereby incorporated by reference, for;

**PROJECT TITLE:** Design-Build Services for Miami International Airport Park 6 Employee Garage

**BID NO:** DB21-MDAD-01

**CONTRACT TIME:** Completion of the Work within the Contract Time is of the essence. The Contract Time for this Work is 900 calendar days from the effective date established in the Notice To Proceed.

**INDEMNITY:** The value of the indemnity hereunder shall not exceed \$1,000,000.

**CONTRACT MEASURES:** The Design-Builder is required under this Agreement to achieve a Small Business Enterprise (SBE) Goal in accordance with the Contract Measures applied to this Project as shown in Article 14, "Special Provisions" of this Agreement (Appendix A) as presented in the Design-Builder's Proposal for the Project. The Director may declare the Design-Builder in default of this agreement for the failure of the Consultant to comply with the requirements of this paragraph.

**LIQUIDATED DAMAGES:** The Design-Builder must engineer, design, permit, construct, test and commission the Work to bring the Work to Substantial Completion within seven hundred twenty (720) calendar days of the commencement date set forth in the Notice to Proceed (the "Substantial Completion Date") and to Final Completion within nine hundred (900) calendar days from the date set forth in the Notice to Proceed (the "Final Completion Date").

If the Design-Builder does not achieve Substantial Completion by the established Substantial Completion Date, Liquidated Damages (LDS) will be assessed in the amount of four thousand-nine hundred dollars (\$4,900) per calendar day, which will be paid to the County by the Design-Builder. If the Design-Builder does not achieve Final Completion by the established Final Completion Date, LDS will be assessed in the amount of three thousand two hundred dollars (\$3,200) per calendar day, which will be paid to the County by the Design-Builder. LDS will be cumulative if both the Substantial Completion Contract Date and the Final Completion Contract Date are exceeded. All assessments of LDS to the Design-Builder may be adjustments to Payments due to the Design-Builder.

**LIQUIDATED INDIRECT COSTS:** Liquidated Indirect Costs recoverable by the Contractor shall be \$8,900 per day for each day for each day the Contract is delayed due to compensable excusable delay.

In consideration of these premises, the County hereby agrees to pay to the Design-Builder for the said Work, when fully completed, the TOTAL MAXIMUM CONTRACT PRICE (the "Contract Price") of

**ONE HUNDRED TEN MILLION SIX HUNDRED AND TWENTY-NINE THOUSAND EIGHT HUNDRED AND NINETY-SIX DOLLARS AND SIXTY-EIGHT CENTS (\$110,629,896.68),**

consisting of the following accepted items or schedules of Work as taken from the Bid Form:

<u>Construction Cost</u> .....	\$90,796,793.23
<u>Design Cost</u> .....	\$ 3,506,250.00
<u>Owner Contingency Fee for Construction (5%)</u> .....	\$ 4,539,839.66
<u>Owner Contingency fee for Design (10%)</u> .....	\$ 350,625.00
<u>Owner Dedicated Allowance (10%)</u> .....	\$ 9,079,679.32
<u>Owner Dedicated Allowance for Permitting Fees (.5%)</u> .....	\$ 453,983.97
<u>Owner Dedicated Allowance for Inspector General Fee (.25%)</u> \$ .....	\$ 271,817.93
<u>Owner Dedicated Allowance for Art in Public Places (1.5%)</u> .....	\$ 1,630,907.57

The Design Builder shall be entitled to a one-time price adjustment for cost escalation between 181 calendar days (after the bid bond expiration) and the award of the contract. Such adjustment shall be based on escalation of the ENR (Engineering News Record) BCI (Building Cost Index), using a simple percentage method. Calculations shall be made by dividing the current month and year index value at award by the value of the index for the month and year for the date of 181 calendar days after the bid due date.

The single price adjustment will be as of the date of award of the contract only when the current BCI value varies by more than 5% from the BCI prevailing in the month when the bids were received and for the marginal escalation in excess of 5% of BCI, and without an increase in profit and overhead.

All risks of any further cost escalation after award of the contract shall be assigned to the Contractor, and no requests for adjustment of escalation costs shall be entertained after award if this Agreement.

The County may audit the Contractor's records related to adjustments made under this provision, and Contractor agrees that the payments contemplated herein are subject to the Audit provisions set forth in the Agreement.

Price adjustments up or down are to be passed to those subcontractors that purchase the materials.

The total maximum Contract Price is subject to such additions and deductions as may be provided for in the Contract Documents. Partial and Final Payments will be made as provided for in the Contract Documents.

Notwithstanding and prevailing over any other provision of the Contract Documents to the contrary, the County Mayor or County Mayor's designee's may exercise the provisions of Section 2-285.2 (4) (d) and (e) of the Code of Miami-Dade County. Individual change orders or amendments shall not exceed 10 percent of the base contract price in cumulative percentage amount; provided however, that the foregoing limitation shall not apply to any change order or amendment related to emergency actions impacting remediation, public safety, health requirements or recovery from natural disaster and the foregoing change orders and amendments shall require ratification by the Board; provided further that the County Mayor or his designee may reduce in any amount the scope and compensation payable under this Contract and grant compensable and non-compensable time extensions thereunder. Pursuant to Section 2-285.2 (6), the County Mayor or the County Mayor's designee's award and execution of this Contract is subject to ratification by the Board of County Commissioners. If the County Mayor or the County Mayor's designee's action is not ratified, and such legislative action becomes final, this Contract shall be deemed terminated without further notice. In such event, the Design-Builder shall not be entitled to recovery of any lost profits or other consequential or indirect damages. However, the Design-Builder is eligible for payment for any work done prior to failure of the ratification, in accordance with the Article 9 of the General Conditions.



Continue to next page.

A handwritten signature in blue ink, appearing to be 'MSF', is located in the bottom right corner of the page.

**IN WITNESS WHEREOF**, the above parties have caused this Contract to be executed by their appropriate officials as of the date first above written.

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

ATTEST: Luis G. Montaldo, Clerk Ad Interim  
Miami-Dade County, Florida

By: \_\_\_\_\_  
Mayor or designee

By: \_\_\_\_\_  
Deputy Clerk

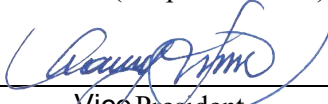
(MIAMI-DADE COUNTY SEAL)

DESIGN-BUILDER (If Corporation)

\_\_\_\_\_

Lemartec Corporation  
\_\_\_\_\_  
(Corporate Name)

Approved for Form and Legal Sufficiency

By:   
\_\_\_\_\_  
Vice President  
Manuel Garcia-Tuñon

\_\_\_\_\_  
(Assistant County Attorney)

Attest: \_\_\_\_\_  
Secretary

CONTRACTOR (if Partnership or Corporate Joint Venture)

(A) PARTNERSHIP OR CORPORATE  
JOINT VENTURER:

(B) PARTNERSHIP OR CORPORATE  
JOINT VENTURER:

\_\_\_\_\_  
(Corporate Name)

\_\_\_\_\_  
(Corporate Name)

By: \_\_\_\_\_  
President

By: \_\_\_\_\_  
President

Attest \_\_\_\_\_  
Secretary

Attest \_\_\_\_\_  
Secretary

(ATTACH ADDITIONAL SHEETS FOR EACH JOINT VENTURER, AS NEEDED)

NAME OF MANAGING JOINT VENTURER:

By \_\_\_\_\_  
Signature of Authorized Representative of Joint Venture

Witnesses as to Above

\_\_\_\_\_(CORPORATE SEAL)

**STANDARD DESIGN- BUILD**  
**GENERAL CONTRACT CONDITIONS**  
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## 1. DEFINITIONS

Addendum/Addenda: A modification or clarification of the Contract Documents distributed to prospective Proposers prior to the opening of Bids.

Administrative Orders (AO): Establishes operating methods, administrative procedures, and/or delineates organizational responsibilities for identified procedures. Administrative Orders relate to these responsibilities and are under the authority of the Mayor. Administrative Orders may be viewed at the following hyperlink: <http://www.miamidade.gov/ao/home.asp?Process=completelist>

AIP: The Airport Improvement Program, a grant-in-aid program, administered by the Federal Aviation Administration. No requirement of the AIP Act, the rules and regulations implementing the Act, or this Contract shall be construed as making the Federal Government a party to the Contract, nor will any such requirement interfere, in any way, with the right of either party to the Contract.

Air Operations Area: The Air Operations Area (AOA) shall mean any area of the airport used or intended to be used for landing, taking off or surface maneuvering of aircraft. An air operation area shall include paved or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft in addition to its associated runway, taxiway or apron.

Allowance Account (Contingency Account): Account in which a stated maximum dollar amount is included in the Contract for the purpose of funding, at the sole discretion of the Owner, unforeseen and/or changed conditions or extra work arising during the prosecution of the Work or any other changes issued by the Owner. The scope and limitations regarding use of the Allowance Account are contained in the Contract Documents. The performance of any work under this Allowance Account, shall be authorized by a written Work Order issued by the Owner.

Allowance Account(s) (Dedicated): Account(s) in which stated maximum dollar amount(s) are included in the Contract solely and exclusively for the purpose of funding specific items of work at the sole discretion of the Owner. The scope and limitations regarding use of the Dedicated Allowance Account(s) are contained in the Contract Documents.

Art in Public Places: Miami-Dade County program established in Miami-Dade County Code Section 2-11.15 providing a one and a half percent (1.5%) of each County project's construction and engineering design cost to fund a public art component within the Project. Coordination and installation of the Artist's work is included as part of the scope of the Design-Builder's services to the extent that it is defined in the Bid Documents. The cost of this program is budgetary, funded by the Department, and shall not be included in the Design-Builder's bid.

Artist: Person(s) chosen through the Art in Public Places program to design and fabricate or specify an integrated work of art for the Project. The term Artist as may be referred to in the Contract Documents means the Artist and/or their authorized representative.

Baseline Schedule(s): A schedule submitted by the Design/Builder in accordance with the Contract Documents, reviewed and approved by the Owner that is used by the Design/Builder to plan the performance of the Work. The Contract Documents may require interim Baseline Schedules be submitted for only a portion of the initial Work to be followed by a Baseline Schedule covering all the Work. The Baseline Schedule shall also be used to quantify delays in accordance with the Contract Documents. While the Baseline Schedule remains unchanged, updates to the Baseline Schedule are prepared and submitted by the Design/Builder per the Contract Documents. The Baseline Schedule shall only be revised and submitted again for review and approval by the Owner as required by the Contract Documents.

BCC: Board of County Commissioners, the governing board of Miami-Dade County.

Beneficial Occupancy: The point at which the Owner Design Criteria Professional determines that the Work or any portion thereof can be occupied from a regulatory and work function standpoint prior to Substantial Completion of the Work. Beneficial Occupancy will not relieve the Design-Builder of any of its obligations relative to Substantial Completion, or of its responsibility to fully complete the Work in accordance with the Contract Documents.

Calendar Day: Every day shown on the calendar.

Certificate of Substantial Completion: Certificate issued to the Design-Builder by the Owner certifying that Substantial Completion has been achieved.

Certificate of Completion: Certificate issued by the local building official providing proof that a structure or system is complete and, for certain types of permits, is released for use and may be connected to a utility system. This certificate does not grant authority to occupy a building, such as a shell building, prior to the issuance of a Certificate of Occupancy by the local building official.

Certificate of Final Acceptance: Certificate issued to the Design-Builder by the Owner certifying that Final Acceptance has been achieved in accordance with the definition reflected herein (see Final Acceptance definition).

Certificate of Occupancy: Certificate issued by the local building official after the building official inspects the building or structure and finds no violations of the provisions of applicable codes or other laws that are enforced by the local building department.

Change Notice: A document issued by the Design Criteria Professional or Owner to the Contractor 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.

Claim: A Claim should include any request for additional compensation, time, or other relief arising out of or relating to the Contract Documents, including without limitation, requests for equitable adjustments and breach of contract.

Commissioning: A quality-focused process for enhancing the delivery of a project. The process focuses upon verifying and documenting that all of the commissioned systems and assemblies are planned, designed, installed, tested, operated, and maintained to meet the Owner's Project Requirements.

Contract Documents: The Request for Design-Build Services (RDBS), the DCP, the Design-Builder's proposal, the Proposal Bond, Condition of Award Requirements, Contract Summary, Performance Bond, Payment Bond, General Conditions, Special Provisions, Supplementary Provisions, and Technical Specifications, together with all Addenda, Change Orders, Work Orders, Schedules and shop drawings.

Construction Inspection Services (CIS): Services performed by the Owner or a consultant to the Owner to verify that the Work is being performed in accordance with the Contract Documents. The use of these services shall not relieve the Design/Builder of their responsibilities under the Contract Documents.

Contract Drawings: Any Plans, profiles, cross-sections-, elevations, schedules, and details provided by the Owner or the DCPR which show locations, character, dimensions and details of the Work. Contract Drawings are confidential under the Florida Public Records Act and the Design-Builder is responsible for maintaining confidentiality during and after the progress of the Work.

Contract Summary: The written agreement between the County and the Design-Builder for performance of the Work in accordance with the requirements of the Contract Documents and for the payment of the agreed consideration.

Contract Time: The number of days allowed for completion of the Work commencing with the effective date set forth in the Notice to Proceed and ending with the date of Substantial Completion or Final Completion, including completion of punch list items, as determined by the Owner or the Owner's designee. The Contract Time will be stipulated in the Contract Documents unless extended by a Change Order or by a Work Order.

Consulting Engineers: Miami-Dade Aviation Department Bond Engineer, Consulting Engineers/Supervising Architects to the Miami-Dade Aviation Department.

Construction Contract: The agreement executed by the Design-Builder and the Owner covering the performance of the Work including the furnishing of labor, superintendence, materials, tools and equipment as indicated in the Contract Documents. The term "Contract" shall have the same meaning.

Construction Staging Area: Property which may be available for use by the Contractor during the construction period for the purpose of storing products and construction equipment and for the purpose of staging the Work. The construction staging area(s), if applicable, are defined in the Contract Documents.

County: See Owner.

County Mayor: The Mayor of Miami-Dade County, Florida, or the County Mayor's designee.

Critical Path: The longest sequence of tasks in time from start to finish.

Days: Unless otherwise designated, days mean calendar days.

Department Director: The Director of the Miami-Dade County Aviation Department implementing the work or the Director's designee.

Department Director's Representative: The person or persons designated by the Department Director to act on his behalf in the administration of the contract within the limits of their respective authorization.

Delays: May be Excusable or Non-Excusable. Excusable Delays may be Compensable or Non-Compensable, as further defined within the text of these General Conditions.

Design-Builder: 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.

Design Criteria Package (DCP): The document provided as part of the RDBS, Step Two, Request for Proposal, which may consist of addenda, narrative description, quality standards and references, preliminary sketches or site plans, project performance standards, criteria or requirements, other technical data, survey information concerning the Work Site, space and distance requirements, material quality standards, schematic layouts and conceptual design criteria of the Project, cost or budget estimates, design and construction schedules, Work Site development requirements, provisions for utilities, storm water retention and disposal, parking requirements, as may be applicable to the specific project, and performance-oriented drawings and/or specifications of the construction which stipulates the project scope of Work and technical requirements for which all DESIGN-BUILDERS are to base their proposals and, if awarded the Contract, any subsequent design.

Design Criteria Professional (DCPR): The Architect or Engineer who has been retained by the County to prepare the Design Criteria Package pursuant to 288.055, Florida Statutes, and who will provide oversight of the Design-Builder on behalf of the Owner pursuant to the provisions on these General Covenants and Conditions.

Direct Costs: Direct Costs recoverable by the Design-Builder 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 additional cost of rental of any Special Equipment or Machinery pursuant to Article 10.E.2.g. 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 Design Criteria Professional or Owner as necessary to install the permanent materials in an efficient and workmanlike manner. For special equipment or machinery not listed in said document, the Design-Builder 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 Design Criteria Professional or Owner. No additional payment shall be made to the Design-Builder for fuel, lubricants, for wear and tear, transportation, insurance or depreciation. Any equipment or machinery not designated by the Design Criteria Professional or Owner as special equipment and machinery shall be considered Overhead.

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.

Field Representative/Construction Manager: An authorized representative of the Owner that may provide administrative and construction inspection services during the pre-construction, construction, and closeout phases of the Contract and through which the orders of the Owner shall be given. The Field Representative has no authority to modify or waive any provision of the Contract Documents.

Final Acceptance: The formal written acceptance by the Owner of the completed Work.

Final Completion: Point in time when the Owner determines that all physical Work has been completed in accordance with the Contract Documents and all deficiencies listed within the Certificate of Substantial Completion, Punch List and other attachments have been corrected to the satisfaction of the Design Criteria Professional or Owner. (See Article 8 Contract Time Paragraph D. Substantial Completion, Final Completion and Final Acceptance).

Force Account: A method of payment measured by actual cost of the labor, materials and equipment plus a mark-up for Indirect Costs, as distinct from other payment methods such as lump sum or unit price, for Extra Work ordered by Change Order and/or Work Order (See Article 10 Changes Paragraph G. Force Account).

Force Majeure: Force Majeure as used herein shall mean Acts of God, strikes, lockouts, any late delivery of the Owner's supplied material and equipment due to transportation delays beyond Department's control, or other industrial disturbances; acts of public enemy, blockades, wars, insurrections, or riots; epidemics, landslides, earthquakes, fire, storms, floods, or washouts; arrests, title disputes, or other litigation; governmental restraints, either Federal or County, civil or military; civil disturbances; explosions; inability to obtain necessary materials or equipment, supplies, labor, or permits whether due to existing or future rules, regulations, orders, laws, or proclamations, either Federal, State or County, civil or military, or otherwise; and other causes beyond the control of the Department or County, whether or not specifically enumerated herein. For the purposes of this Contract, disruptions related to COVID-19 are not force majeure events, inclusive of loss of labor supply and supply chain disruptions related to COVID-19 restrictions imposed locally or internationally.

Furnishing: Manufacturing, fabricating, or purchasing 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.

General Conditions: This section of the Contract Documents which specifies, in general, the contractual conditions.

Green Building Practices: Environmentally and socially-conscious practices that emphasize processes and methods of design and construction that reduce exposure to noxious materials, conserve non-renewable energy and scarce materials, minimize life-cycle ecological impact of energy and materials, employ renewable energy or materials that are sustainably harvested, protect and restore local air, water, soils, flora and fauna, and support pedestrians, bicycles, mass transit and other alternatives to fossil-fueled vehicles.

Implementing Orders (IO): Establishes specific Board of County Commissioner legislation or policies that fall under their authority, including fees departments charged to the public. Implementing Orders are submitted to the Board of County Commissioners for their action to accept, amend, or reject. Implementing Orders may be viewed at the following hyperlink: <http://www.miamidade.gov/ao/home.asp?Process=completelist>

Indirect Costs: Overhead, as defined below.

Installation, Install 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.

LEED (Leadership in Energy and Environmental Design): An ecology-oriented building certification program run under the auspices of the U.S. Green Building Council (USGBC) which concentrates its efforts on improving performance across five key areas of environmental and human health: energy efficiency, indoor environmental quality, materials selection, sustainable site development, and water savings.

LEED AP: A person(s) that is an employee of the Design-Builder that is certified by the GBCI or successor entity in the specialty specified in the Request for Qualifications/Proposals for this Project. The Design-Builder, through the LEED AP, shall (1) assist the Owner in the Project LEED registration, application and certification process; (2) coordinate and otherwise guide the Design-Builder in the design of the Project in order to achieve the points needed for the desired LEED certification; and (3) monitor the Design-Builder for the documentation required to meet the Design-Builder's obligations to achieve the LEED credit points stipulated in the Contract Documents.

LEED Certification Documents: Reports, documents, or other supporting data required to apply for and obtain the desired LEED certification.

LEED Certification Plan: Plan developed by the LEED AP and the Design-Builder to develop and monitor the documentation required during design and construction for the LEED certification application process. The LEED Certification Plan shall include project LEED certification phases and milestones and shall be approved by the Project Manager.

LEED Certification Plan: Plan developed by the LEED AP and the Design-Builder to develop and monitor the documentation required during design and construction for the LEED certification application process. The LEED Certification Plan shall include project LEED certification phases and milestones and shall be approved by the Project Manager.

LEED Status Report: A periodic report produced by the LEED AP to inform the Owner and other stakeholders in the Project on the status of the design and construction relative to earning LEED credit points for the Project.

Lessee: Any individual, partnership or corporation having a tenant relationship with the County.

Limit of Work: Boundary within which the Work is to be performed.

Liquidated Damages: The amount that the Design-Builder accepts, as stipulated in the Contract Documents, which will be deducted from the Contract Price for each day of delay due to a Non-Excusable Delay. (See Article 8 Contract Time Paragraph F. Liquidated Damages and Liquidated Indirect Costs).

Liquidated Indirect Costs Rate: The amount, stipulated in the Contract Documents, which will be added to the Contract Price for each day of delay due to a Compensable Delay. The Design-Builder accepts this sum as full compensation for the Design-Builder's and all its subcontractors' Indirect Costs, for each day of Compensable Delays. This amount is agreed to include any costs other than Direct Costs incurred by the Design-Builder and all its subcontractors of any tier in the performance of this Contract. (See Article 8 Contract Time, Paragraph F. Liquidated Damages and Liquidated Indirect Costs).

Lump Sum Bid Item: A bid item in which quantity is not separately measured for payment in units but rather is based on the amount bid by the Design-Builder as indicated in the Bid Form and made a part of the Contract. Partial payments of Lump Sum Bid Items will be conditionally made, based upon an approved schedule of values, and will be subject to reconciliation in the event that the work of a Lump Sum Bid Item is not fully completed in accordance with the requirements of the Contract Documents.

Miami-Dade County (MDC): A political subdivision of the State of Florida, the Owner.

Miami-Dade County Code of Ordinances: Central repository for Governing Legislation where Ordinances are codified and kept current with subsequent amendments. The Miami-Dade County Code of Ordinances can be viewed at the following hyperlink: [https://library.municode.com/fl/miami-dade-county/codes/code\\_of\\_ordinances](https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances)

Milestone: A completion date as defined in the Contract Documents.

Mobilization and Engineering Schedule: An initial schedule prepared by the Design-Builder in Critical Path Method (CPM) format provided to the County to indicate the specific Design-Builder activities

for the main mobilization and engineering period immediately after the commencement date set forth in the NTP, including Design-Builder submittals to the County for compliance review with the Contract Documents. This Schedule does not need to have the detail required for construction and other activities to be conducted beyond the first one hundred twenty (120) days after the commencement date set forth in the NTP. Its purpose is to achieve an early common schedule basis for working coordination while the architecture, engineering, design and permitting, and mobilization activities are progressing to enable development of the Baseline Project Schedule for the entire Project. This Mobilization and Engineering Schedule shall be submitted for approval within 30 days after the commencement date set forth in the NTP and shall be the basis for development of the Final Baseline Schedule.

Modified Total Cost Claim: The variant of the total cost approach that allows for an adjustment of the damage amount to compensate for bid errors, costs resulting from the Design-Builder's own actions, and costs resulting from the actions of third parties. Design-Builder agrees, as a condition of entering into this Contract, that it has waived the right to bring any Modified Total Cost Claim against the County in the event Design-Builder asserts any claim for additional monies or additional contract time pursuant to this contract, without limitation.

Near Term Schedule: The near-term project schedule shall delineate, in the same detail as required for the overall project schedule, the work anticipated for the first ninety (90) calendar days after the commencement date set forth in the Notice to Proceed (NTP), with the balance of project duration, including all milestones, shown in summary form. The near-term project schedule shall be prepared and submitted to the Field Representative prior to the Notice to Proceed.

Notice to Proceed: Written notice from the Owner 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 the Design Criteria Professional or the Owner 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 Design-Builder shall comply with the termination provisions of this Contract.

OOM: Office of the Mayor.

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 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 Project 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.

Owner: Miami-Dade County, whose governing body is the BCC acting in its proprietary capacity through its duly authorized agents. When these Contract Documents require the action of individual persons, the documents contain specific references to these persons. In particular, the documents shall refer to the BCC when approval of the BCC is specifically required and to the Design Criteria Professional when the Design Criteria Professional's approval is specifically required.

Payment and Performance Bond: The Bond, in the form agreed to by the Parties and attached hereto and incorporated herein as Exhibit 1, executed by the Design-Builder and its Surety assuring that the Design-Builder will, in good faith, perform and guarantee the work in full conformity with the terms of the Contract Documents and will promptly pay all persons supplying the Design-Builder with labor, materials, or supplies, used directly or indirectly by the Design-Builder in the prosecution of the Work. This bond shall be a single instrument bond for twice the penal sum (to cover 100 percent of the total maximum contract amount for payment-related issues and 100 percent of the total maximum contract amount for performance-related issues).

Project: The design and construction of the Park 6 Employee Garage ISD Project No. DB21-MDAD-01, as defined in the Contract Documents including, but not limited to, the Design Criteria Package and this Contract with all amendments, and all work implied or appurtenant thereto needed for a structure that fulfills the County's needs as defined in the RDBS, the DCP, and the Contract Documents.

Project Manual: A portion of the Contract Documents, prepared by the Design Criteria Professional.

Project Record Documents: Documents submitted by the Design-Builder 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 Design Criteria Professional for all elements of the work completed under the contract. Final payment is conditional upon the receipt of Project Record Documents.

Project Testing Laboratory: The laboratory(ies) employed by the County to perform under the direction of the Design Criteria Professional all quality assurance testing.

Proper Invoice: An invoice which conforms with the present requirements of the County Department.

Proposal Security: (Also known as Bid Bond) The cashier's check, certified check or bid bond, accompanying the Proposal and submitted by the prospective Proposer, as a guarantee that the prospective Proposer will enter into a contract with the Owner for the performance of the Work and furnish acceptable bonds and insurance if the Contract is awarded to the prospective Proposer.

Proposer: An individual, firm, partnership, corporation or combination thereof, submitting a Bid for the Work.

Punch List: A list issued by the Owner to the Design-Builder of work elements requiring remedial action or completion by the Design-Builder before Final Completion is issued to the Design-Builder.

Resolution: An action taken by a vote of the Miami Dade County Board of County Commissioners setting policy and providing guidance to County Departments. Resolutions issued after 1995 can be viewed at the following hyperlink: [Miami-Dade County - Legislative Information - Advanced Search - Miami-Dade County Commission Legislation \(miamidade.gov\)](http://Miami-Dade County - Legislative Information - Advanced Search - Miami-Dade County Commission Legislation (miamidade.gov)) Earlier Resolution can be obtained through request to the Clerk of the Board Division, Stephen P. Clark Center, 111 NW 1st Street, Suite 17-202 Miami, Florida 33128

Right-of-Way: A term denoting land and property, and interests therein, owned or acquired by the Owner.

Runway: The area on the airport prepared for the landing and takeoff of aircraft.

Schedules: All schedules delivered under the Contract including time schedules and schedule of values.

Schedule of Values: A detailed cost breakdown of each Lump Sum Bid Item in the bid form, submitted by the Design-Builder within fifteen (15) days of the issuance of the Notice to Proceed and to be used as a basis to determine monthly progress payments and quantity adjustments within the constraints specified in the Contract Documents.

Shop Drawings: Documents furnished by the Design-Builder for approval by the Design Criteria Professional 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.



Site, Project Site, Work Site, Construction Site, Job Site: The location(s) at which the work under this Contract is to be accomplished, as shown in the Contract Documents.

Special Equipment or Machinery: Equipment or machinery such as power-driven rollers, tractors, backhoes, bulldozers, excavators, trucks (excluding "pickup" trucks), cranes, industrial railroad equipment, or any other such equipment approved by the Design Criteria Professional as necessary to complete the Project in an efficient and workmanlike manner. This equipment or machinery must be a requirement for the economic performance of the work to be accomplished by the Design-Builder or by a Subcontractor (of any tier). Special Equipment or Machinery shall not include small tools or pieces of equipment considered to be standard equipment included in the basic inventory of a General Contractor or a Subcontractor (of any tier).

Special Provisions: Article 14 of the Contract which includes specific contractual requirements not covered in the General Conditions that are specific to the Project.

Subcontractor: Any person or entity, other than the employees of 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, and inclusive of architects and engineers providing design services to the Design-Builder.

Substantial Completion: Substantial Completion of the Project is the date on which the Owner certifies Work 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 of Substantial Completion shall be issued to the Design-Builder by the Owner upon achievement of Substantial Completion. (See Article 8 Contract Time Paragraph D. Substantial Completion, Final Completion and Final Acceptance)

Surety: The bonding company or companies furnishing the bonds required of a Proposer and of the Design-Builder.

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 Proposers which may include geotechnical or other technical reports. The Technical Specifications are distinct from the DCPR.

Temporary Construction Easement Line: A boundary which describes additional areas which may be made temporarily available for construction operations.

Time Contingency: The maximum time specifically identified in the Contract Documents by which the Owner may extend the contract time to accomplish the work without a change order. Limitations on the use of the time contingency are set forth in the Contract Documents.

Total Cost Claim: The difference between actual cost of the entire project and the original bid cost, after various adjustments and modifications, is the amount of damage incurred by the Design-Builder.

Unit Prices: Unit prices shall include all labor, materials, tools, and equipment; all other direct and indirect costs necessary to complete the item of Work and to coordinate the unit price Work with adjacent work; and shall include all overhead and profit. Design-Builder shall accept compensation computed in accordance with the unit prices as full compensation for furnishing such Work.

Work: The design, engineering, construction and other services required by the Contract Documents, which includes all labor, materials, equipment, and services to be provided by the Design-Builder to fulfill the Design-Builder'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: A written order, authorized by the Design Criteria Professional or Owner, directing the Design-Builder to perform work under a specific Allowance Account or directing the Design-Builder 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 payment of Liquidated Indirect Costs if entitlement is established as required by these Contract Documents. No Work Order may increase the Contract Sum.

END OF ARTICLE



## 2. INTERPRETATION

- A. The intent of the Contract is to include all necessary items for the proper completion of the Work by the Design-Builder so the Owner may have a fully functioning facility or project and fully receive the benefits intended under the Contract. The Design-Builder shall perform, without additional compensation, such incidental, implied, or appurtenant work as necessary to complete the Work and fulfill the design intent, in accordance with the requirements set forth in the Contract Documents, so that it will meet the requirements for which the Project was intended, in a satisfactory and workmanlike manner.
- B. The Contract Documents and all referenced standards cited are essential parts of the Contract requirements. A requirement occurring in one is as binding as though occurring in all. The documents comprising the Contract Documents are complementary and indicate the construction and completion of the Work. Anything mentioned in the Contract Documents and not shown on the Contract Drawings or shown on the Contract Drawings and not mentioned in the Contract Documents, shall be of like effect as if shown or mentioned in both. The more stringent shall apply in the case of a conflict. The determination of the more stringent standard shall control and be binding on the Design-Builder, without limitation, and the Design-Builder's compliance with this determination shall not count as extra work.
- C. Site Inspections and Verification of Governing Dimensions: In executing the contract, the Design-Builder represents that the Design-Builder has, prior to bid, visited the site, become familiar with the conditions under which the Work is to be performed and correlated the Design-Builder's personal observations with the requirements of the Contract Documents or that he has chosen not to do so, in the event that a mandatory site visit is not specified in the Contract Documents. The Design-Builder accepts the responsibility for all errors in construction which could have been avoided by such examination and the opportunity to seek timely clarifications during the bidding process. The Design-Builder, before commencing work, shall verify all governing dimensions at the site, all conditions under which the work is to occur, including but not limited to site access, lay down and staging areas, the presence of known utilities and utility connections, and shall examine all adjoining work on which the Design-Builder's work is in any way dependent for its conformance with the intent of the Contract Documents and no disclaimer of responsibility for defective or non-conforming adjoining work will be considered unless notice of same has been filed by the Design-Builder, and agreed to in writing by the Owner through the Design Criteria Professional before the Design-Builder begins any part of the Work. No disclaimer for defective or non-conforming adjoining work that was clearly foreseeable to the Design-Builder during a site visit (mandatory or non-mandatory) will be considered by the Owner. The County does not warrant or guarantee the presence or absence of any particular site conditions, or the accuracy of any as-built information related to existing work in-place on the site.
- D. Errors, Inconsistencies and Omissions: 1) The Design-Builder shall carefully study and compare all drawings Contract Documents and other instructions; shall verify all figures on the Contract Drawings before laying out the Work; shall notify the Owner or Design Criteria Professional of all errors, inconsistencies, or omissions which he may discover; and obtain specific instructions in writing during the proposal process and prior to submitting the Design-Builder's proposal. The Design-Builder shall not take advantage of any apparent error or omission which may be found in the Contract Drawings or Contract Documents, and the Design Criteria Professional shall be entitled to make such corrections therein and interpretations thereof as the Design-Builder may deem necessary for the fulfillment of their intent. The Design-Builder shall be responsible for all errors in its design or its construction which could have been avoided by such examination and notification, and shall correct, at the Design-Builder's own expense, all work improperly priced, scheduled or constructed through failure to notify the Owner or Design Criteria Professional and to request specific instructions.
- 2)The Design-Builder shall be responsible for all errors and omissions which arise out of the design and engineering of the work by the Design-Builder, without limitation. The Design-Builder shall be solely responsible for all costs related to correction of any errors or omissions, including direct and

indirect cost, and inclusive of costs to redesign or re-engineer the work to correct such errors or omissions. The County's approval of any Design-Builder design or engineering shall not relieve the Design-Builder of its responsibility regarding errors and omissions.

- E. 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.
- F. References to Articles or Sections include sub-articles or subsections under the Article referenced.
- G. 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 Invitation to Bid except where otherwise expressly indicated. In case of a conflict between the Contract Documents and the referenced standard, the Contract Documents shall govern.
- H. Order of Precedence of Contract Documents: The Contract, RDBS, DCP, Specifications, Addenda, Design-Builder's proposal, and all referenced standards cited are essential parts of the Contract requirements. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work. In the event of any conflicts, ambiguities, or discrepancies among the Contract Documents, the precedence in resolving such conflicts, ambiguities, or discrepancies shall be as follows:
  - 1. The Florida Building Code and the Florida Fire Code shall govern over any contrary information or direction in the General Conditions, DCP, or other Contract Document.
  - 2. Special Provisions shall govern over General Conditions, the Design-Builder's Proposal, and Technical Specifications.
  - 3. General Conditions shall govern over the Design-Builder's proposal and the Technical Specifications.
  - 4. The RDBS shall govern over the Design-Builder's proposal.
  - 5. The Design-Builder's proposal does not govern over any of the documents and shall follow the Contract Requirements.
- I. The Design-Builder shall not take advantage of any apparent error, omission, discrepancy or ambiguity in the DCP or RDBS. If an error, omission or discrepancy or ambiguity is found by the Design-Builder in the DCP or RDBS, the Design-Builder shall refer the same to the Owner or Design Criteria Professional/Field Representative in a timely manner to allow sufficient time for an interpretation and decision by the Owner or Design Criteria Professional/Field Representative prior to any related work delay. The Owner or Design Criteria Professional/Field Representative's decision shall be final.
- J. With respect to any conflict, ambiguity, or discrepancy amongst the Contract Documents not otherwise addressed above, the Design-Builder shall be required to provide the alternative which provides the maximum benefit to the County, and all work associated with same shall not be considered as extra work. Explanations: Should it appear that the Work to be done or any of the matters relative thereto are not sufficiently detailed or explained in the Contract Documents, the Design-Builder shall apply to the Owner or Design Criteria Professional in a timely manner to allow sufficient time for such further written explanations as may be necessary and shall conform to the explanation provided as part of the Contract. The Owner or Design Criteria Professional's decision shall be final.
- K. 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 Contract.
- L. No acceptance, order, measurement, payment, or certificate of or by the Design Criteria Professional and/or the Owner or its employees or agents shall either estop the Owner from asserting any rights or operate as a waiver of any provision hereof or of any power or right herein reserved to the Owner or of any rights to damages herein provided.

- M. Wherever the terms, "as directed," "ordered," "permitted," "designated," "as approved," "approved equal," "or equal," "acceptable," and other words of similar meaning which authorize an exercise of judgment are used in the Contract Documents, such judgment shall be vested only in the Design Criteria Professional and/or the Owner and shall be final.
- N. The Design-Builder shall make available at the job site one copy of each referenced standard and/or Contract Documents for the Design-Builder's and the Field Representative's use during the time that work covered by the standards and/or Contract Documents is underway.
- O. The Contract Documents contemplate design and construction of a complete work and may have been prepared in divisions of various crafts, trades, and other categories of work. The Design-Builder is responsible for the performance of all work under the Contract regardless of any such divisions and shall ensure that all of the work is performed and completed. The organization of the Contract Documents into divisions, sections and articles and the arrangement of the drawings do not restrict or limit the Design-Builder into dividing the Work among subcontractors or in establishing the extent of the Work to be performed by any trade.
- P. No deviation from the approved Contract Documents shall be permitted without the prior written approval of the Owner, which approved deviation shall be documented by Change Order.
- Q. All Requests for Information by the Design-Builder per this section shall be in accordance with the Contract Documents. The Design-Builder shall promptly submit RFI's at the earliest practicable time, and delay caused by the Design-Builder in the submittal of the RFI shall not entitle the Design-Builder to any time extension or serve as the basis of a claim. The County shall have no less than ten days to respond to any RFI.
- R. Product and Reference Standards
1. When descriptive catalog designations including manufacturer's name, product brand name, or model number are referred to in the Contract Documents, such designations shall be considered as being those found in industry publications of current issue on the date of the first advertisement for bids.
  2. When standards of Standards Organization such as ASTM, AASHTO, AWS or ANSI, trade societies, or trade associations are referred in the Contract Documents by specific date of issue, these shall be considered a part of this Contract. When such references do not bear a date of issue, the current published edition on the date of the first advertisement for bids shall be considered as part of the Contract.
  3. Where in the Contract Documents an item is identified by a particular manufacturer's name, model or other code, only that particular specified manufacturer, or model or other code, as applicable, shall be permitted. Provided however, the Owner may only permit Design-Builder to use a product of like and equal or better quality and function if Design-Builder requests approval in writing from the Owner with sufficient evidence to allow Owner to confirm it is better or equal.
  4. Whenever a particular manufacturer's product is required, to the exclusion of all others, appropriate language is included in the Contract Documents.
- S. The design or construction documents prepared by the Design-Builder may not modify or waive any provision of the Contract Documents, and no County approval of such documents shall be deemed to affect any such modification or waiver. No modifications to substantive requirements of the Contract Documents shall be effective unless same is accomplished via execution of a formal written change order approved by the Parties and approved or ratified by the BCC. Notwithstanding, extra work may be paid for by Work Order up to the limits of the relevant Allowance Account.

END OF ARTICLE

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### 3. DESIGN CRITERIA PROFESSIONAL/FIELD REPRESENTATIVE

- A. The Design Criteria Professional shall respond to questions which may arise as to the quality and acceptability of materials furnished, work performed, and as to the manner of performance and rate of progress of the Work in accordance with the time frames prescribed in the Contract Documents. The Design Criteria Professional shall decide all questions which may arise as to the interpretation of the Contract Documents relating to the Work, and the fulfillment of the Contract on the part of the Design-Builder, and those decisions shall be binding on the Design-Builder.
- B. The Field Representative will observe the Design-Builder's work for compliance with the Contract Documents. Such observation shall extend to all, or any part of the work done and to the preparation, fabrication, or manufacture of the material to be used. The Field Representative shall decide all questions relating to the rights of different prime contractors on the Project or site. The Field Representative shall not act as a foreman or perform other duties for the Design-Builder, nor interfere with the management of the Work by the Design-Builder.
- C. The Design Criteria Professional/Field Representative will administer the Contract and the orders of the Owner are to be given through the Field Representative and/or Design Criteria Professional. The Design Criteria Professional/Field Representative shall determine the amount and quality of the several kinds of work performed and materials furnished which are to be paid for under the Contract.
- D. The Design Criteria Professional/Field Representative is not authorized to revoke, alter, or waive any requirement of the Contract.
- E. The Design Criteria Professional, Owner and Field Representative shall have free access to the Work and materials at all times to facilitate the performance of their duties.
- F. All materials and each part or detail of the Work shall be subject to observation by the Field Representative and/or the Design Criteria Professional.
- G. Subject to concurrence by the Owner, the Design Criteria Professional/Field Representative shall have the right to observe and reject any material or work performed which does not meet the requirements of the Contract Documents. When the Design Criteria Professional/Field Representative discovers any work in progress or completed that does not meet the requirements of the Contract Documents, the Design Criteria Professional/Field Representative shall reject that portion of the Work affected and shall confirm such rejection in writing, as soon as practical, detailing the reasons for the rejection. Work rejected by the Design Criteria Professional/Field Representative will not be paid for, nor shall any extra work associated to remove, remediate, or correct such non-conforming work. Any such observation and/or rejection shall not be construed as undertaking supervisory control of the Work or of means and methods employed by the Design-Builder or the Design-Builder's subcontractors and shall not relieve the Design-Builder of any of the Design-Builder's responsibilities or obligations under the Contract.
- H. The fact that the Design Criteria Professional/Field Representative has not made early discovery of materials furnished or work performed which does not meet the requirements of the Contract Documents, shall not bar the Design Criteria Professional/Field Representative from subsequently rejecting said materials or work.
- I. If either the Design Criteria Professional or the Field Representative requests it, the Design-Builder, at any time before acceptance of the Work, shall remove or uncover such portions of the finished Work as may be directed. After examination, the Design-Builder shall restore said portions of the Work to the standard required by the Contract Documents. Should the Work thus exposed or examined prove acceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be paid for as Extra Work. Should the work so exposed or examined prove unacceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be at no additional cost to the Owner.
- J. Any Work done or materials used which are not in compliance with the Contract Documents may be ordered removed and replaced at the Design-Builder's expense.

- K. Whenever the Design-Builder intends to build, assemble or perform any portions of the Work away from the site, the Design-Builder shall promptly notify the Design Criteria Professional/Field Representative of such intentions, including where and when such work is to be performed, before such work starts. The Design-Builder shall also make arrangements for access thereto by the Design Criteria Professional/Field Representative so that the aforementioned portions of the Work may be inspected as needed.
- L. The Design-Builder shall not request or attempt to require the Design Criteria Professional/Field Representative to undertake such supervisory control or to administer, supervise, inspect, assist, or act in any manner so as to relieve the Design-Builder from such responsibilities or obligations.
- M. Neither the Design Criteria Professional nor the Field Representative shall be responsible for any safety obligations imposed on the Design-Builder by applicable industry standards, licensing requirements, laws or regulatory requirements.

END OF ARTICLE





#### 4. OWNER RESPONSIBILITY

- A. Unless otherwise specified or excluded elsewhere in the Contract Documents, the records of borings, test excavations and other subsurface investigations, if any, are offered as information only and solely for the convenience of the Design-Builder. The Owner does not warrant or guarantee either that said records are complete or that the said records will disclose the actual subsurface conditions. The interpretation of the records and the conclusions drawn therefrom as to the actual existing subsurface conditions are the sole responsibility of the Design-Builder.
- B. Any estimates of quantities of work or materials, based on said borings, test excavations and other subsurface investigations are not warranted by the Owner to indicate the true quantities or distribution of quantities unless the Design-Builder is expressly directed to rely on such information to prepare and submit the Design-Builder's Bid.
- C. If the Design-Builder is notified in writing by the Owner to correct defective or nonconforming work, and the Design-Builder fails to promptly proceed with corrective action in a reasonable time, the Owner may, upon written notice, accomplish the redesign, repair, rework or replacement of nonconforming work by the most expeditious means available and back charge the Design-Builder for the cost incurred. The cost of back charge work shall include all reasonable costs associated with the corrective action.
- D. The Owner shall separately invoice or deduct from payments, otherwise due to the Design-Builder, the costs associated with back charges, as described in item C above. The Owner's right to back charge is in addition to any or all other rights and remedies provided in this Contract, or by law. The performance of back-charge work, on behalf of the Owner, shall not relieve the Design-Builder of any of its responsibilities under this Contract including but not limited to express or implied warranties, specified standards for quality, contractual liabilities and indemnifications, and the Contract Time.
- E. Inspectors, employed by the Owner, will be authorized to inspect all work and materials which are to become a part of the completed Project. Inspectors will have no authority to revoke, alter or waive any requirements of the Specifications or to make any changes in the Contract Documents. Each Inspector will be authorized to call the attention of the Design-Builder to any failure of the Work to conform to the Contract Documents and will have authority to suspend the Work affected until any question at issue can be referred to and decided by the Design Criteria Professional. The Inspector will have no authority to delay the Design-Builder by failure to inspect the Work and materials with reasonable promptness.
- F. The Owner and other agencies having jurisdiction over the Work hereunder shall be afforded free access to the site to perform such inspections and tests as may be required to determine conformance of the Work with the Contract Documents.
- G. Miami-Dade County enters into this Contract solely in its proprietary capacity. Nothing in this Contract is intended to bind or otherwise restrict the discretion of Miami-Dade County acting in its regulatory capacity, including but not limited to the regulatory acts of the departments of Regulatory and Economic Resources (RER), Transportation and Public Works (DT&PW), Miami-Dade Fire-Rescue (MDFR) and Water and Sewer (WASD), or their successors.

## H. OWNER PROVIDED ITEMS

1. The Owner may contract a Threshold Inspector to perform inspection services during construction of the Project pursuant to Florida Statutes, as may be warranted by the size and scope of the Project.
2. The Design-Builder shall schedule, coordinate delivery of, store, install, and otherwise incorporate into the Project any materials, equipment, or item(s) that may be donated to the Owner for the Project. Design-Builder shall maintain all responsibilities for the donated item(s) as if the item had been supplied by the Design-Builder.
3. If the Owner elects to pursue a direct purchase program, the Design-Builder shall aid the Owner in the procurement of tax-exempt materials and equipment pursuant to Article 14.F – County Purchases.
4. The Design-Builder shall choose vendors, determine quantities, schedule, coordinate delivery of, store, install, and otherwise handle and incorporate into the Project any materials, equipment, or item(s) that the Owner may elect to purchase directly for the Project. Design-Builder shall maintain all responsibilities for the owner-purchased item(s) as if the item had been supplied by the Design-Builder. Notwithstanding the foregoing, if legal action must be pursued against the supplier or vendor providing the owner-purchased item(s), the responsibility for such enforcement and all associated costs, including, without limitation, attorneys' fees and legal costs, shall rest completely with the Owner.
5. Savings achieved through all Owner's direct purchase program shall become part of the Project's Contingency Account, and the Design-Builder shall not be entitled to these funds unless authorized by Work Order or Change Order.

END OF ARTICLE



## 5. DESIGN-BUILDER

- A. If the Design-Builder hereunder is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.
- B. The Design-Builder shall hold valid current certificate(s) of competency for the type of work to be performed, in accordance with the qualifications requirements as set forth in Chapter 489 of the Florida Statutes and Chapter 10 of the Code of Miami- Dade County. The Design-Builder shall hold valid licenses for the design and engineering of the work as required by Chapter 471, Florida Statutes and Chapter 10 of the Code of Miami-Dade County.
- C. The Design-Builder shall maintain within Miami-Dade County, Florida, a duly authorized agent to accept service of legal process on its behalf and shall keep the Owner advised of such agent's name and address, during the duration of the Contract, and for three years after final payment or as long as Design-Builder has warranty obligations under these Contract Documents, whichever period terminates later.
- D. The Design-Builder shall be responsible for the complete performance for all of the Work under the Contract, including design and engineering of the Work in conformance with the DCP and all applicable codes, and for the methods, means, and equipment used in performing the Contract and for all materials, tools, apparatus and property of every description used in connection therewith and for the provision of all other goods, materials, or services reasonably understood as necessary for the completion of the Work, or which are ordinarily furnished by Design-Builders of similar experience on similar projects. The Design-Builder's obligations include, but are not limited to, providing all resources and professional services to perform the design and construction of the Project, such as planning, technical investigations, engineering, design, permitting, procurement of materials and equipment, construction, installation, testing and commissioning and Work Site restoration, together with providing all labor, materials, equipment and construction equipment, together with all project management, cost and schedule management, field supervision, quality control and assurance and safety and health activities to complete the Work in a timely, quality and efficient manner that meets the Contract requirements within the Project Schedule.
- E. Design-Builder shall be responsible for obtaining 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. No time extensions will be allowed for delays in obtaining the required permits unless revisions directly caused by the County, or its agents, are required to the Contract Drawings due to changes in codes, regulations and applicable contract standards during the Contract term. The Design-Builder agrees that permitting agencies shall be considered the sole interpreter of the applicable codes, regulations and permit requirements and the Design-Builder shall be bound and shall comply with all their decisions. The Design-Builder shall provide the County with copies of all approved permits as they are obtained by the Design-Builder and prior to starting Work governed by the permits.
- F. Design-Builder's Superintendent: The Design-Builder shall provide a superintendent at the site at all times who is competent in the type of work being performed to act as the Design-Builder's agent, and shall give that superintendent the full authority to receive instruction from the Field Representative or Design Criteria Professional or the Owner and to execute the order or directions of the Field Representative or Design Criteria Professional or the Owner, including the prompt supply of all materials, tools, equipment, labor, and incidentals that may be required. The Design-Builder shall furnish such superintendence regardless of the amount of the Work that is subcontracted, and the superintendent shall read, speak, write and understand English. The Design-Builder shall also maintain at least one other employee on the work site during Project working hours who speaks and understands English. This superintendent shall be responsible for keeping written daily logs of the work on the Project.

- G. The competency of the superintendent shall be demonstrated through licensure or certification in contracting, engineering, trade or experience as applicable to the Work being performed. Proof of licensure, certification or qualification of the superintendent must be provided to the Owner at the pre-construction conference and is subject to the approval of the Design Criteria Professional or Field Representative after Design-Builder receipt of said requirements. The Design-Builder shall replace the Superintendent only with written notice to the County five (5) days in advance of the proposed substitution, and only with a superintendent qualified to perform the Work as reasonably determined by the Field Representative.
- H. In the event that the Field Representative or Design Criteria Professional determines, through the course of the actual work progress, that the superintendent lacks the knowledge or expertise necessary to execute the Work in an efficient and competent manner, in keeping with all current codes and best practices, the Field Representative or Design Criteria Professional shall notify the Design-Builder in writing and the superintendent shall be replaced by the Design-Builder with a person acceptable to the Field Representative or Design Criteria Professional within seven (7) working days.
- I. The Design-Builder's failure to replace the superintendent in the time allotted shall be cause for the Owner to suspend work with such delays chargeable to the Design-Builder as Liquidated Damages as specified elsewhere in this contract.
- J. The Design-Builder shall maintain a daily accounting of the Design-Builder's daily manpower, by trade and position, and provide this information to the Field Representative on a weekly basis.
- K. The Design-Builder shall keep an electronic daily log, via web-based project management software, containing a record of weather, Subcontractor's work on the Project, number of workers, work accomplished, deliveries received, problems encountered, and other similar relevant data as the Field Representative may require. The Design-Builder shall make the log available to the Owner and Design Criteria Professional with real-time access to the project.
- L. A three (3) week look ahead shall be provided by the Design-Builder no less than two (2) working days prior to each construction progress meeting. The three (3) weeks look ahead shall have enough detailed information as to the type of work being performed, the trade performing the work, the duration of the work, the expected completion date, the scheduled manpower, and any potential conflicts on the work as foreseen. The three (3) weeks look ahead shall be reviewed during the meeting. The three (3) weeks look ahead shall include at minimum all activities scheduled to occur during that period of time as represented in the latest project update.
- M. DESIGN:
1. Design-Builder shall be responsible for designing and engineering the project in conformance with the DCP. Design-Builder may not alter or deviate from the Design Criteria Package except as expressly authorized in writing by the County.
  2. The Design-Builder may request and may receive authorization from County to deviate from the Design Criteria in order to improve overall project performance provided operational objectives are not impaired and negative cost/benefit factors are not incurred. Any such deviations are completely at County's discretion to grant, and written approval must be obtained in writing prior to proceeding. Such request shall be made in writing, shall expressly specify the criteria the Design-Builder seeks to modify, and shall specify the time and cost impact of such change. No approval of any deviation shall be effective unless presented to the County in this manner and approved in writing by the County via Change Order approved or ratified by the Board of County Commissioners.
  3. A Professional Architect and Engineer registered in the State of Florida shall direct all architectural and engineering services on behalf of Design-Builder. Design documents shall be signed and sealed by a Florida registered Architect and Florida registered Engineers as required by State Statutes.

4. Design-Builder shall provide and pay for all architecture, engineering, landscape architecture, geotechnical report, 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, subject to changes in the Work as described in Article 10.
5. The Design-Builder is responsible for the coordination of all design disciplines, trades, manufacturers, suppliers, consultants, trade permits, etc., for all elements and systems. The Project shall be designed and constructed in accordance with the Design Criteria Package, all applicable codes, and using the best quality materials and workmanship and industry standard efficient practices.
6. The Design-Builder will provide the County with a drawing identifying the limits of construction during the design phase of the Project, to be reviewed and approved by the County prior to construction start.
7. The Design-Builder shall provide all necessary coordination and review of the analysis to comply with Ordinance 94-73 – Value Analysis and Life Cycle Costing as part of its design. The Design-Builder shall incorporate all County-approved Value Analysis and Life Cycle Costing recommendations at the end of the Design Development Phase as part of its Scope of Work.
8. The Design-Builder shall provide complete, permit approved Construction Documents including Drawings and Specifications in compliance with the Design Criteria Package.
9. Unless otherwise required elsewhere in the Contract Documents, during the design phase the Design-Builder shall submit drawings and specifications to the County and the Design Criteria Professional (DCPR) to review for compliance with Design Criteria Package at the following design phase milestones:
  - a) 30% Construction Documents
  - b) 60% Construction Documents
  - c) 90% Construction Documents
  - d) 100% Construction Documents

The incorporation of review comments and revisions to the design made by the County and DCPR at the design reviews will not be the basis for Extra Work as long as the comments are determined by the County to be within the general Scope of Work.

The drawings shall be produced using software acceptable to the County and in compliance with MDAD BIM Standard Manual as specified in Exhibit 2 to this Contract. When a set of drawings/documents is referred to hereunder, it shall mean a bound set of all documents which are 24" X 36"; or smaller if approved by the County; and transfer of electronic files in Adobe PDF format.

If requested by the County, the Design-Builder shall present the design at meetings with the Community or other interested parties.

10. The 30% Construction Documents: The Design-Builder shall prepare for approval by the County and present in writing and at an oral presentation, if requested by the County the following: eight (8) copies of the 30% Construction Documents; an electronic file transfer or

flash drive containing the BIM drawings and an updated Project Schedule. The County and DCPR shall review the documents for compliance with Design Criteria Package.

- a) The 30% Construction Documents shall consist of drawings (site plans, floor plans, elevations, sections, etc.), outline specifications, and other documents that delineate and describe the character of the entire Project with respect to architectural design intent; thematic concept; civil, structural, mechanical and electrical systems; landscaping; construction materials and finishes and other items incidental thereto as may be appropriate and applicable. Design-Builder's staff from each of the major technical disciplines shall attend the oral presentation (if requested by the County), to explain the design concepts.
- b) The Project Schedule shall indicate the proposed completion date of each of the remaining phases of the Project. This task must also address the extent to which development actions affect current Port operations. Schedules must include reasonable allocations of time, including periods necessary for review, approval, permitting, construction and contingencies.

The County and DCPR shall review the 30% Construction Document submittal and return comments to the Design-Builder within fifteen (15) working days. The Design-Builder shall inform the County in writing within ten (10) working days how each comment will be addressed; and include the marked-up set in the following submittal.

11. The 60% Construction Documents: The Design-Builder shall, based on the approved Design Criteria Package, the Design Development Documents, and all comments received from the County and DCPR; prepare the Construction Documents setting forth in detail the requirements for the construction of the Project. The Design-Builder shall submit for approval by the County eight (8) copies of the 60% Construction Documents: an electronic file transfer or flash drive containing the BIM drawings, the Specifications, an updated Project Schedule and the color board. The County and DCPR shall review the documents for compliance with Design Criteria Package. The Design-Builder is responsible for complete coordination between the architectural and engineering disciplines and compliance of the Design and Construction Documents with the Design Criteria Package and all applicable Codes.
  - a) The 60% Construction Documents shall include a complete index of drawing sheets with all anticipated drawings necessary to fully define the construction and an estimate of the current percent of completion of each of the drawings.
  - b) The Design-Builder shall use CSI MasterFormat Standards, including the 49-Division and 3-Part Section format, developed and recommended by the Construction Specifications Institute (CSI) to develop the Specifications. This submittal shall include all sections of "Division 1" and all of the technical specification sections. These specifications shall be in final form, except as may be revised through the review process and shall be more than merely outline specifications as submitted during the 30% Construction Document Phase.
  - c) The updated Project Schedule shall indicate the proposed completion date of each of the remaining phases of the Project. This task must also address the extent to which development actions affect current MDAD operations. Schedules must include reasonable allocations of time, including periods necessary for review, approval, permitting, construction and contingencies.

- d) The Design-Builder shall submit a samples color board, which shall show complete color selections for all finish materials in a format and detail acceptable to the County.

The County and DCPR shall review the 60% Construction Document submittal and return comments to the Design-Builder within fifteen (15) working days. The Design-Builder shall inform the County in writing within ten (10) working days how each comment will be addressed; and include the marked-up set in the following submittal.

12. At approximately seventy-five percent (75%) completion of the Construction Documents, the Design/Builder shall submit a minimum of four (4) studies of proposed drawings of the Project indicating suggestions for angles of view and general composition of a rendering. Upon the County's selection of a perspective format, the Design/Builder shall submit three (3) 20" x 30" framed and glassed (in non-reflecting glazing), perspective renderings in color and three (3) 10" x 15" framed and glassed (in non-reflecting glazing) color photographic copies of the renderings and the electronic files of the renderings for County use.
13. The 90% Construction Documents: The Design-Builder shall, based on the approved Design Criteria Package, the 60% Construction Documents, and all comments received from the County and DCPR; prepare the 90% Construction Documents setting forth in detail the requirements for the construction of the Project. The Design-Builder shall submit for approval by the County eight (8) copies of the 90% Construction Documents: an file electronic transfer or flash drive containing the BIM drawings, the Specifications and an updated Project Schedule. The County and DCPR shall review the documents for compliance with Design Criteria Package. The Design-Builder is responsible for complete coordination between the architectural and engineering disciplines and compliance of the Design and Construction Documents with the Design Criteria Package and all applicable Codes.
- 1) The 90% Construction Documents shall fully define the construction.
  - 2) The Specifications shall follow CSI MasterFormat Standards, including the 49-Division and 3-Part Section format, developed and recommended by the Construction Specifications Institute (CSI) to develop the Specifications.
  - 3) The updated Project Schedule shall indicate the proposed completion. This task must also address the extent to which development actions affect current MDAD operations (whether revenue-generating or otherwise). Schedules must include reasonable allocations of time, including periods necessary for review, approval, permitting, construction and contingencies.

The County and DCPR shall review the 90% Construction Document submittal and return comments to the Design-Builder within fifteen (15) working days. The Design-Builder shall inform the County in writing within ten (10) working days how each comment will be addressed.

The Design-Builder may elect to submit plans to the permitting agencies for a dry-run review after the 90% review as a method of expediting the permitting process if the permitting agencies offer that service as part of the permitting process. Design-Builder is responsible for ascertaining if the dry-run process is available from the permitting agencies and for fully complying with all the permitting agencies requirements.

14. The 100% Construction Documents: The Design-Builder shall, based on the approved Design Criteria Package, the 90% Construction Documents, and all comments received from the County and DCPR; prepare the 100% Construction Documents setting forth in detail the requirements for the construction of the Project. The Design-Builder shall submit for approval by the County eight (8) copies of the 100% Construction Documents: an electronic file transfer or flash drive containing the BIM drawings, the Specifications and an updated Project Schedule. The County and DCPR shall review the documents for compliance with Design Criteria Package. The Design-Builder is responsible for complete coordination between the architectural and engineering disciplines and compliance of the Design and Construction Documents with the Design Criteria Package and all applicable Codes.
- a) The 100% Construction Documents shall fully define the construction.
  - b) The Specifications shall follow CSI MasterFormat Standards, including the 49-Division and 3-Part Section format, developed and recommended by the Construction Specifications Institute (CSI) to develop the Specifications.
  - c) The updated Project Schedule shall indicate the proposed completion. This task must also address the extent to which development actions affect current MDAD operations (whether revenue-generating or otherwise). Schedules must include reasonable allocations of time, including periods necessary for review, approval, permitting, construction and contingencies.

The County and DCPR shall review the 100% Construction Document submittal and return comments to the Design-Builder within fifteen (15) working days. The Design-Builder shall inform the County in writing within ten (10) working days how each comment will be addressed.

15. During the design/design review process, if the Project Schedule is not met through no fault of the County, and/or a required submittal is incomplete, the Design-Builder must submit an updated Project Schedule within seven (7) calendar days. Said Schedule must include a "Recovery Plan" component providing a detailed explanation for said deviation, and proposal for recovering lost time. When delays are County-caused, the Design-Builder shall so state. The County must approve all updated Project Schedules.
16. The Design-Builder shall make all required changes and resolve all questions presented by the County and DCPR and submit the revised 100% Construction Documents to the County. Upon final approval by the regulatory agencies and the issuance of all required permits, the Design-Builder shall furnish two (2) sets of all drawings, an electronic file transfer or flash drive containing the BIM drawings and Specifications to the County.

- N The County shall be entitled to no less than fifteen days in which to review and submit comments following any Design-Builder design submittal, inclusive of each resubmittal. For example, the County shall have 15 days to approve the Design-Builder's 30% design submittal; in the event that the County does not approve that submittal, but instead rejects it with comments, the County shall have an additional 15 days to review the Design-Builder's revised 30% submittal. County review periods shall count against the Contract Time.
- O. Permit Sets: After the Owner approves the final 100% Construction Document submittal, the Design/Builder shall prepare the necessary sets of documents required by the permitting agencies in



the format required by these agencies and submit the permit sets to these agencies for approval of the permits. The Design/Builder shall make all requested changes to the Construction Documents and resubmit the permit sets to the permitting agencies as many times as necessary to obtain all the necessary permits to perform the Work. The Design/Builder shall comply with all conditions and requirements of the permits as part of the Work.

END OF ARTICLE



## 6. SUBCONTRACTORS

- A. The Design-Builder will be permitted to subcontract portions of the Work to competent Subcontractors. Such Subcontractors shall hold valid current certificate(s) of competency for the type of work to be performed, in accordance with the qualifications requirements as set forth in Chapter 489 of the Florida Statutes and Chapter 10 of the Code of Miami- Dade County.
- B. Nothing contained herein shall create any contractual relationship between the Owner and any level of subcontractor, materialman or supplier.
- C. All work performed for the Design-Builder by a subcontractor shall be pursuant to an appropriate agreement between the Design-Builder and the subcontractor which shall contain provisions that:
  - 1. Preserve and protect the rights of the Owner and any of its authorized representatives under the Contract, including but not limited to, the Design Criteria Professional and Field Representative, with respect to the Work to be performed under the subcontract so that the subcontracting thereof will not prejudice such rights.
  - 2. Require that such Work be performed in accordance with the requirements of the Contract Documents including the Design-Builder's approved schedule.
  - 3. Require submission to the Design-Builder of applications for payment under each subcontract to which the Design-Builder is a part, in reasonable time to enable the Design-Builder to apply for payment in accordance with any and all payment provisions of the Contract Documents.
  - 4. Require that all claims for additional costs, extensions of time, damages for delays or otherwise with respect to subcontracted portions of the Work shall be submitted to the Design-Builder (via any subcontractor or Sub-subcontractor or Supplier where appropriate) in sufficient time so that the Contractor may comply in the manner provided in the Contract Documents for like claims by the Contractor upon the Owner.
  - 5. Require specific consent to all relevant provisions of the Contract Documents; and
  - 6. Incorporate all flow-down clauses specifically called for in the Contract, as directed.
- D. Work Performed by Equipment-Rental Agreement:
  - 1. The amount of work performed under equipment rental agreements shall not be considered subcontractor work. However, for work to be performed by equipment-rental agreement, the Design-Builder shall notify the Design Criteria Professional in writing of such intention before using the rented equipment and shall indicate whether the equipment is being rented on an operated or non-operated basis. The Design-Builder's written notice shall contain a listing and description of the equipment and a description of the particular work to be performed with such equipment. As an exception to the above requirements for a written notice to the Design Criteria Professional, such notice will not be required for equipment to be rented (without operators) from an equipment dealer or from a firm whose principal business is the renting or leasing of equipment.
  - 2. The operators of rented equipment, whether rented on an operated or a non-operated basis, will be subject to wage rate requirements applicable to the Project. If equipment is being rented without operators, the Design-Builder shall be required to carry the operators on the Design-Builder's own payroll. When equipment is rented on an operated basis, the Design-Builder, when required by the Contract or requested by the Design Criteria Professional, shall submit payrolls from the lessor with the names of the operators shown thereon.
- E. No work is to be performed at the Work site until the Design-Builder is in compliance with the Insurance Specifications, has furnished satisfactory evidence of required insurance to the Owner and obtained all required permits.
- F. Approval of Subcontractor:

1. Prior to entering into any subcontract for Work to be performed on the Project, the Design-Builder shall secure the approval of the Owner regarding the prospective subcontractor's qualifications, employment data and compliance with SBE program requirements. The forms used to provide the required information shall be the same as those included in the Forms for Bidding. The Owner will review the submittal from each subcontractor and will furnish written notification to the Design-Builder concerning approval of the award of the subcontract. If the Owner objects to the proposed award or fails to respond to the Design-Builder within five (5) business days of the complete submittal of the required information, the Design-Builder may furnish written notice of another subcontractor for consideration. The Owner may, at its discretion, waive or reduce subcontractor information submittal requirements as it deems appropriate.
2. In accordance with Miami-Dade County Code Sections 2-8.1 and 10-33.01, the Design-Builder shall not, without written consent of the Owner, either replace any subcontractor or permit any such subcontract to be assigned or transferred or allow that portion of the Work to be performed by anyone other than the approved subcontractor, except the Design-Builder may perform the work itself with qualified personnel upon written notice to the Owner in accordance with applicable law.

END OF ARTICLE



## 7. PROSECUTION OF THE WORK

### A. Workmanship and Unauthorized Work

1. Work under this Contract shall be performed in a skillful and workmanlike manner. Unless otherwise indicated in the Contract Documents, the Design-Builder shall be solely responsible design and engineering of the work in conformance with the DCP and all applicable codes, for means and methods of construction, and for the coordination of all trades through completion of the Work and without damage to the existing or newly installed components and surfaces. The Design Criteria Professional or Field Representative may, in writing, require the Design-Builder to remove from the work any employee the Design Criteria Professional or Field Representative determines incompetent, careless or otherwise objectionable. Such request shall be at no cost to the Owner.
2. Unauthorized Work: Work performed beyond the lines and grades shown on the Contract Drawings and approved Shop Drawings or established by the Owner, and Extra Work done without a Work Order or Change Order, will be unauthorized work and the Design-Builder will receive no compensation therefor. If required by the Owner, unauthorized work shall be remedied, removed or replaced by the Design-Builder at the Design-Builder's expense. Upon failure of the Design-Builder to remedy, remove or replace unauthorized work after written notice to Design-Builder, the Owner may at its discretion, remedy, remove or replace the unauthorized work and the Design-Builder shall bear the responsibility for any and all costs and for delays resulting from such work.
3. The entire Work and each part thereof, unless otherwise specified in the Contract Documents, shall be placed at the location, elevation, grade and gradient specified, and in proper alignment and adjustment. The Design-Builder shall provide all frames, forms, falsework, shoring, guides, anchors and temporary structures required to ensure these results.
4. No deviation from the approved Shop Drawings/approved plans/specifications/technical specifications shall be permitted without the prior written approval of the Design Criteria Professional and/or Owner, by Work Order or Change Order, which approved deviation(s) shall be documented to the extent required by the Contract Documents.
5. The Design-Builder shall, at all times, employ sufficient labor and equipment for prosecuting the work to full completion in the manner and time required by the Contract Documents. All workers shall have sufficient skill and experience to properly perform the work assigned to them. Workers engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the equipment required to perform the work satisfactorily.
6. All proposed equipment shall be of sufficient size and in such mechanical condition as to meet requirements of the Work, producing a satisfactory quality of work. Equipment used on any portion of the Work shall be such that no damage to previously completed work, adjacent property, or existing facilities will result from its use.
7. When the Contract Documents expressly specify the use of certain methods and equipment, such methods and equipment shall be used unless others are authorized in writing by the Design Criteria Professional by Work Order or Change Order. When the Contract Documents expressly specify the prohibition of certain methods and equipment, such methods and equipment shall not be used unless otherwise authorized in writing by the Design Criteria Professional by Work Order or Change Order. If the Design-Builder desires to use a method or type of equipment other than specified in the Contract, he may request permission from the Design Criteria Professional to do so. The request shall be in writing and shall include a full description of the methods and equipment proposed and of the reasons for desiring to make the change. If approval is given, it will be on the condition that the Design-Builder will be fully responsible for producing work in conformity with Contract requirements. If, after trial use of the substituted methods or equipment, the Design Criteria Professional determines that the

work produced does not meet Contract requirements, the Design-Builder shall discontinue the use of the substitute method or equipment and shall complete the remaining work with the specified methods and equipment. The Design-Builder shall remove any deficient work and replace it with work of specified quality or take such other corrective action as the Design Criteria Professional may direct at no additional cost to the Owner. No change will be made to the Contract Price or the Contract Time as a result of authorizing a change in methods or equipment under this article.

8. The Design-Builder shall give constant attention to the work to facilitate the progress thereof such that the work will be completed during contract time, and they shall cooperate with the Design Criteria Professional and its Field Representatives and with other Design-Builders in every way possible.
9. The Design-Builder warrants to the Owner that all materials and equipment furnished under this Contract will be new unless otherwise specified in the Contract Documents, and that the work will be of good quality, free from faults and defects in materials and workmanship for a period of one (1) year from the date of Substantial Completion, unless otherwise required under this Contract. Work not conforming to these standards may be considered defective. If required by the Design Criteria Professional, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
10. Design-Builders working in the Public Rights-of-Way shall be cognizant of and comply with Miami-Dade County Code of Ordinances Section 2-103.1 relating to restoration after construction of utilities or works in the public right of way; and Miami-Dade County Code of Ordinances Sections 21-221 through 228 relating to excavation and protection of underground utilities and requiring various Design-Builder activities; The Design-Builder shall make every effort to minimize construction impact to business in the area of the Project and as appropriate, the Department will recover any costs caused the County by Contract delays or other business impacting activities attributable to the Design-Builder. To this end the Design-Builder shall conduct its construction activities in a manner that will minimize these detrimental effects.
11. The Design-Builder shall at all times ensure that the work site is maintained in a clean and orderly fashion. As soon as the work in any one locality is completed, the accumulated rubbish or surplus materials thereat shall be promptly removed. The Design-Builder shall also restore all public and private property in a manner acceptable to the Engineer, to a condition equal to or better than pre-construction conditions. This shall apply to public and private property which has been displaced or damaged during the prosecution of the work, and the Design-Builder shall leave the site and vicinity unobstructed and in a neat and presentable condition. In the event of delay exceeding three (3) days after written notice is given to the Design-Builder by the Engineer to remove such rubbish or materials, or to restore displaced or damaged property, the Engineer may employ such labor and equipment as he may deem necessary for the purpose, and the cost of such work, together with the cost of supervision, shall be charged to the Design-Builder and shall be deducted from any money due the Design-Builder on the monthly or final estimate. No Contract shall be considered as having been completed until all rubbish and surplus materials have been removed and disposed of properly.
12. The Design Criteria Professional shall provide Design-Builder horizontal and vertical controls which shall be utilized as specified elsewhere herein to layout the work. The Florida Registered Land Surveyor hired by the Design-Builder shall verify all controls provided by the Engineer of Record and it shall be the responsibility of the Design-Builder to preserve same.
  - a. The Design-Builder shall retain the services of a Florida Registered Land Surveyor who, shall furnish and set stakes, establishing line and grade and shall solely be responsible for the layout of the work as well as the recording of all as-built dimensions and elevations. The Design-Builder shall furnish all additional stakes, templates, and other materials for marking and maintaining survey points and lines given and shall be responsible for their preservation. Should any of the horizontal and vertical control points

set by the Engineer of Record be destroyed or disturbed, they shall be reset by the Design-Builder's Florida Registered Land Surveyor, at the Design-Builder's expense. All control points previously set by the Engineer of Record shall be verified by the Design-Builder's surveyor.

- b. For pipeline Projects the Engineer of Record shall furnish the Design-Builder with horizontal and vertical control every 1,320 feet which shall be utilized as specified elsewhere herein to layout the work. If a pipeline Project is less than 1,320 feet, the Engineer of Record will provide the Design-Builder with two horizontal and vertical control points. At on-plant-site Projects, the Engineer of Record shall furnish the Design-Builder with three horizontal and vertical controls.
  - c. No direct payment shall be made for the cost to the Design-Builder of any of the work occasioned by delay in giving lines and grades, or making other necessary measurements, or by inspection.
13. Chapter 446 of the Florida Statutes, as amended, which is by reference incorporated herein, provides labor standards for ratios of apprentices or trainees to journeymen on State, County or municipal contracts. It shall be the responsibility of the Design-Builder, prior to the opening of bids, to inform themselves of the provisions of Chapter 446, Florida Statutes, as amended, which are, or may become, applicable to the Contract, and he shall abide by these provisions at no cost to the County. The Design-Builder is advised to direct all inquiries concerning Chapter 446, Florida Statutes, as amended to the Florida State Apprenticeship Advisory Council.

#### B. Material

1. Unless otherwise indicated in the Contract Documents, equipment, material and products incorporated in the Work covered by this Contract shall be new and of the grade specified for the purpose intended. Unless otherwise specifically indicated, reference to equipment, material, product, or patented process by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Design-Builder may, at the Design-Builder's option and, subject to the approval of the Design Criteria Professional, use any equipment, material, article, or process which is equivalent to that named, subject to the requirements of these Contract Documents or propose a substitute equipment, material, article or process as indicated below. Proposed alternative design, equipment, material, products, or patented processes shall be considered equivalent if the Design Criteria Professional determines that the proposed alternative is functionally equal to and/or sufficiently similar to that specified in the Contract Documents. The Design Criteria Professional may consider the Department's current maintenance history, requirement for spare parts, training of personnel and conformity to existing systems when reviewing alternatives.
2. Design-Builder shall design, engineer, and construct the project such that it may obtain LEED Silver Certification, if applicable. LEED Silver Certification means formal certification of the Project as meeting the requirements for the Leadership in Energy and Environmental Design Green Building Rating System for New Construction, developed and maintained by the U.S. Green Building Council ("LEED") "silver" rating for new construction under the LEED-NC Rating System. The Design-Builder shall comply with all requirements of the County's Sustainable Buildings Program, as set forth in Sections 9-71 through 9-75 of the County Code and Implementing Order 8-8.
3. The Design Criteria Professional shall be the sole judge of the quality, suitability and cost of the proposed alternative equipment, material, article or process. A proposed alternative shall be considered equivalent and/or functionally equal to that specified in the Contract Documents if, in the exercise of reasonable judgment, the Design Criteria Professional determines that the proposed alternative is at least equal in materials of construction, quality, durability, appearance, strength and design characteristics, will reliably perform at least equally well the

- function and achieve the results imposed by the design concept and has a proven record of performance and availability and will not impact project costs or schedule.
4. If the Design Criteria Professional determines that a proposed alternative does not qualify as equivalent or functionally equal, the alternative may be proposed for consideration as a substitute subject to the Design-Builder submitting sufficient information as provided below to allow the Design Criteria Professional to determine that the proposed alternative is essentially equivalent to or better than the specified item and is an acceptable substitute for that said specified item.
  5. The burden and cost of proving the quality, suitability and cost of an alternative shall be borne by the Design-Builder. All information required by the Design Criteria Professional in judging an alternative shall be supplied by the Design-Builder at the Design-Builder's expense. The Design Criteria Professional's costs in evaluating a proposed alternative, irrespective of its acceptance, will be reimbursed by the Design-Builder to the Owner. In the case of approved alternatives, the Design-Builder shall also reimburse the Owner for the Design Criteria Professional's costs to revise the Contract Documents.
  6. The Design-Builder certifies that, if approved and incorporated into the Work, there will be no increase in cost to the Owner or in Contract Time and the proposed alternative shall conform substantially to the detailed requirements of the item specified in the Contract Documents.
    - a. Where use of an alternative material involves redesign of or changes to other parts of the Work, the cost and the time required to affect such redesign or change will be considered in evaluating the suitability of the alternative material. All costs pertaining to redesign and changes in other parts of the Work, including remedial work to completed work, shall be at the Design-Builder's expense.
    - b. No action relating to the approval of alternative materials will be taken until the request for approval of the alternative materials is made in writing by the Design-Builder accompanied by complete data as to the quality, suitability and cost of the materials proposed. Such request shall be made at least 60 days before the early start date of the activity. Any delays in receiving approval shall be the responsibility of the Design-Builder.
    - c. The Design Criteria Professional will examine and review the proposed alternative with the Owner and return it, within twenty-one (21) calendar days from the date of its receipt at the Design Criteria Professional's office, to the Design-Builder noted with the final decision. If the final decision approves either an equal or a substitution, the approval must also contain the Owner's written approval. When requested by the Design Criteria Professional, the Design-Builder shall resubmit such Shop Drawings, descriptive data and samples as may be required. Time spent reviewing proposed alternative(s) by the Design Criteria Professional or the Owner shall not be grounds for time extension by the Design-Builder.
    - d. Where classification, rating, or other certification by a body such as, but not limited to, Underwriters' Laboratories Inc. (UL) or National Electrical Manufacturer's Association (NEMA) is a part of the specification for any material, proposals for use of alternative materials shall be accompanied by reports from the listed body, or equivalent independent testing laboratory, indicating compliance with Contract Documents requirements. Testing required proving equality of the material proposed shall be at the Design-Builder's expense.
    - e. Approval of an alternative material will be only for the characteristics and use named in such approval, and shall not change or modify any Contract requirement, or establish approval for the material to be used on any other Project for the Owner.

7. Source of Supply and Quality of Materials: The Design-Builder shall furnish all materials and products required to complete the Work except those designated to be furnished by the Owner.
    - a. Notwithstanding prior inspection and approval by the Design Criteria Professional, only materials conforming to the requirements of the Contract Documents shall be incorporated in the Work.
    - b. The materials shall be manufactured, handled and incorporated so as to ensure completed work in accordance with the Contract Documents.
  8. Defective Materials: Design-Builder-furnished materials not conforming to the requirements of the Contract Documents will be rejected, whether in place or not. Rejected material shall be removed immediately from the Work site. No rejected material, the defects of which have been subsequently corrected, shall be used in the Work. The Owner may cause the removal and replacement of rejected material and the cost thereof will be deducted from any monies due or to become due to the Design-Builder.
  9. Handling of Materials: Materials shall be transported, handled and stored by the Design-Builder in a manner which will ensure the preservation of their quality, appearance and fitness for the Work. Materials shall be stored in a manner to facilitate inspection.
  10. The Owner will have no responsibility to the Design-Builder concerning local material sources.
    - a. The Design-Builder shall make all necessary arrangements with the owners of material sources. The Design-Builder shall pay all costs in connection with making such arrangements, exploring, developing and using material sources, whether or not indicated, except such costs as the Owner expressly agrees in writing to assume.
  11. Disposal of Material Outside the Work Site: Unless otherwise specified in the Contract Documents, the Design-Builder shall make its own arrangements for properly disposing of waste and excess materials outside the Work Site and he shall pay all costs, therefore. Design-Builder shall comply with all local, state and federal requirements when disposing of waste and excess materials.
    - a. Prior to disposing of material outside the Work Site, the Design-Builder shall obtain written permission from the owner on whose property the disposal is to be made. The Design-Builder shall file with the Design Criteria Professional said permit, or a certified copy thereof, together with a written release from the property owner absolving the Owner from any and all responsibility in connection with the disposal of material on said property.
  12. Property Rights in Materials: The Design-Builder shall have no property right in materials after they have been attached or affixed to the Work or the soil, or after payment has been made by the Owner to the Design-Builder for materials delivered to the site of the Work, or stored subject to or under the control of the Owner, as provided in these Contract Documents. However, the Design-Builder shall be responsible for the security of the material on-site until Final Acceptance by the Owner.
- C. Methods of Sampling and Testing
1. Sampling and testing of all materials shall be as set forth in the Contract Documents. Except for quality control testing and any other testing that may be the direct responsibility of the Design-Builder as set forth in the Contract Documents, the testing of samples and materials will be made at the expense of the Owner by the project testing laboratory. The Design-Builder shall furnish the required samples without charge. Any and all fees for non-conforming materials or work shall be solely borne by the Design-Builder. The Design-Builder shall give sufficient notification to the Field Representative of the placing of orders for or receipt of materials to permit testing.



2. The Field Representative may inspect, at its source, any specified material or assembly to be used in the Work. Manufacturing plants may be inspected from time to time for the purpose of determining compliance with specified manufacturing methods or materials to be used in the Work and to obtain samples required for its acceptance of the material or assembly. Should the Field Representative conduct plant inspections, the following shall exist:
  - a. The Field Representative shall have the cooperation and assistance of the Design-Builder and the producer with whom he has contracted for materials.
  - b. The Field Representative shall have full entry at all reasonable times to such parts of the plant that concern the manufacture or production of materials being furnished.
  - c. If required by the Field Representative, the Design-Builder shall arrange for adequate office or working space that may be reasonably needed for conducting plant inspections. Office or working space should be conveniently located with respect to the plant.
3. It is understood and agreed that the Owner shall have the right to retest any material which has been tested and approved at the source of supply after it has been delivered to the site. The Field Representative shall have the right to reject only material which, when retested, does not meet the requirements of the Contract Documents. In such an event, the cost of re-testing shall be borne by the Design-Builder if it results in a rejected material.
4. All inspections and testing of materials, assemblies and equipment will be performed in Miami-Dade County. If the Design-Builder's material or manufacturing sources are such that inspections or tests cannot be made in Miami-Dade County, all traveling and lodging expenses in connections with such inspections and testing shall be borne by the Design-Builder.

#### D. Meetings

1. A pre-construction conference will be held prior to the issuance of the Notice to Proceed to discuss the Work to be performed under this Contract. The Design-Builder and its major subcontractors shall be required to attend this meeting. The Design-Builder will be advised of the time, date and location of the meeting.
2. The Design-Builder shall attend weekly construction coordination meetings at a time and place to be designated by the Design Criteria Professional. These meetings are intended to determine job progress, identify job problems, assist in solving and preventing job problems, and promote coordination with all entities involved in the Contract and with other Design-Builders. The Design-Builder shall cause subcontractors and suppliers to attend as the Design-Builder deems advisable, or as requested by the Design Criteria Professional. Unless otherwise provided for in these Contract Documents, the CIS or the Design Criteria Professional shall be responsible for generating and distributing meeting minutes for all such meetings.

#### E. Permits and Compliance with Laws

1. Unless otherwise provided for in these Contract Documents, the Design-Builder shall be responsible for obtaining 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. No time extensions will be allowed for delays in obtaining the required permits unless revisions directly caused by the Owner, or its agents are required to the Contract Drawings due to changes in codes, regulations and applicable contract standards during the contract term. See Special Provisions for additional permit requirements.
2. The Owner will pay or reimburse the Design-Builder for all building department and MDAD fees for the Project, including, without limitation, all permit fees. The Owner shall also pay or reimburse the Design-Builder for any utility connection fees. The Owner will not pay or reimburse the Design-Builder for any penalties relating to the Design-Builder's permits or fees as a result of the Design-Builder's failure to timely obtain all of its permits, inspections, and approvals.

3. The Design-Builder shall observe and comply with all applicable Federal, State, County and other laws, codes, ordinances, rules and regulations of the Federal, State and County governments, all authorities having jurisdiction, and any and all programs developed in compliance therewith, in any manner affecting the conduct of the Work.
4. Dewatering of excavations shall be performed in accordance with MDAD Civil Engineering Guidelines, the applicable provisions of the County's Department of Regulatory and Economic Resources (RER), Florida Department of Environmental Protection (DEP), U.S. Environmental Protection Agency (EPA) and the South Florida Water Management District (SFWMD) Dewatering Permits and/or any and all authorities having jurisdiction and any other requirements specified in the Contract Documents. The means and methods of dewatering shall be determined by the Design-Builder who shall bear the full cost of same as part of the Contract Price.
5. All construction activities shall be subject to the pollution prevention requirements established under the National Pollutant Discharge Elimination System (NPDES) program under the Clean Water Act regulating storm water discharge from construction sites.
6. Upon completion of all of the work contemplated under the Contract Documents, the Design-Builder shall obtain and deliver to the Field Representative such Certificate(s) of Occupancy or Certificate(s) of Completion as required by the Florida Building Code and/or authority having jurisdiction.
7. The Design-Builder shall be subject to and comply with all the provisions of Miami-Dade County Code of Ordinances Section 2-8.4.1, which provides that, whenever any individual or corporation or other entity attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement, the County shall, whenever practicable, terminate the Contract. The Design-Builder is further directed to Section 10-38 of the Miami-Dade County Code of Ordinances, which provides for the debarment of County contractors.

F. Coordination and Access

1. Other Contracts: The Owner may undertake or award other contracts for additional work, and the Design-Builder shall fully cooperate and coordinate with other Design-Builders and the Owner and carefully fit the Design-Builder's own Work to such additional work. The Design-Builder shall not perform any act which will interfere with the performance of work by any other contractor or by the Owner. The Design-Builder shall be responsible for obtaining all necessary scheduling details from other Design-Builders and these requests must be provided, in writing, to the Owner. The Design Criteria Professional shall have the authority to resolve conflicts related to coordination between Design-Builders.
2. In the event of interference between the work of the Design-Builder and other contractors working concurrently at the Site, the Field Representative will instruct the Design-Builder as to which work has priority in performance and such instructions shall be binding upon the Design-Builder.
3. Utility companies, railroads, MDAD tenants, airlines, and municipal agencies having facilities within the limits of the Work shall have access to their facilities at all times for inspection and repair.
4. Lands to be furnished by the County for construction operations, roads, or for other purposes, will be specifically shown on the drawings or provided for in the Specifications. Should the Design-Builder find it necessary to use any additional land for the construction operations or for other purposes during the construction of the work, they shall provide for the use of such lands at their own expense.
5. Rights-of-way for work to be done under the Contract will be provided by the County. Nothing herein contained, however, and nothing marked on the drawings, shall be interpreted as giving the Design-Builder exclusive occupancy of the territory provided. When two or more contracts

are being executed at one time on the same or adjacent land in such a manner that work on one contract may interfere with that on another, the Owner will decide which Design-Builder shall cease work, and which shall continue, or whether the work of both contracts shall progress at the same time, and in what manner. When the territory of one contract is a necessary or convenient means of access for the execution of another contract, the Owner may grant to the Design-Builder so desiring such privilege of access to the territory as the Owner shall deem to be appropriate, and no such decision shall be made the basis of any claim for delay or damage, except as provided in Article 8 herein.

G. Rights in Land and Improvements

The Design-Builder shall make no arrangements with any person to permit occupancy or use of any land, structure or building within the Work Site for any purpose whatsoever, either with or without compensation, in conflict with any agreement between the Owner and any property owner, former property owner or tenant of such land, structure or building. The Design-Builder shall not occupy County-owned property outside the Work Site without obtaining prior written approval from the County.

H. Interference With Existing Utilities

1. Attention of the Design-Builder is specifically directed to the need for careful control of all aspects of the Design-Builder's work to prevent damage to cables, ducts, water mains, sewers, fire mains, telephone cables, fuel lines, radar cables, and any other existing overhead or underground utilities and structures.
2. Before commencing work in any given area, the Design-Builder shall contact utility companies to identify any potential conflicts. Further, the Design-Builder shall also carefully review the DCP, survey and search the site for utility locations, and determine possible utility conflicts. All known above and underground utilities, including, but not limited to, electrical, telephone, communications, lighting cables, fuel lines, sewer, drainage and water pipes, and other existing structures are shown on the DCP for reference purposes only, but no guarantee is expressed or implied that the information is accurate. It shall be the sole responsibility of the Design-Builder to ascertain and/or verify the location of any and all such utilities or structures using magnetic and electronic detectors and by hand excavation or other appropriate measures before performing any work that could result in damage to such existing utilities or structures. The Design-Builder shall make a thorough search of the particular location for underground utilities or structures whether or not shown on the drawings, before excavation work is commenced in any particular location. To this end the Design-Builder shall provide and maintain throughout the term of the Contract, electronic and magnetic detecting devices capable of locating underground utilities or structures. The Design-Builder shall, after locating primary and critical existing utilities, mark their location with indelible material or other means satisfactory to the Field Representative and maintain above ground physical identification during the work.
3. In the event of damage to, or accidental disruption of utilities or other facilities as a result of the Design-Builder's operations, the Design-Builder shall take immediate steps to repair or replace all damage and to restore all services. Further, the Design-Builder shall engage any additional outside services which may be necessary to prosecute repairs on a continuous "around the clock" basis until services are restored. The Design-Builder shall also provide and operate any supplemental temporary services to maintain uninterrupted use of the facilities. All costs involved in making repairs and restoring disrupted service resulting from the Design-Builder's work shall be borne by the Design-Builder and the Design-Builder shall be fully responsible for any and all claims resulting from the damage.
4. The Design-Builder is hereby informed that there are installed on the Airport, and within the site, FAA NAVAIDS, including without limitations, FAA NAVAIDS such as ASR, IHF, and VHF receivers and transmitters, U.S. Weather Bureau Facilities, and electronic cables and controls relating to such NAVAIDS and facilities. Such NAVAIDS, Weather Bureau, and other facilities and electric cables are vital to the operation of the Airport and must be fully protected

during the entire project. Work under this Contract can be accomplished in the vicinity of these facilities and cables only at approved periods of time. Approval is subject to withdrawal at any time because of changes in the weather, emergency conditions, and for any other reason determined by the Field Representative. Any instructions to the Design-Builder to clear any given area, at any time, given by the Field Representative or by any authority designated by the Field Representative such as the Federal Aviation Administration by any means including radio, shall be immediately executed. Construction work will resume in the cleared area only when such instructions are issued by the Field Representative.

5. Power and control cables leading to and from any FAA NAVAIDS, Weather Bureau, or other facilities will be protected from any possible damage from the elements or due to any crossing of these facilities by equipment.
6. The Design-Builder is hereby notified that he shall be required to immediately repair, at the Design-Builder's own expense, with identical material by skilled workers, any underground cables serving FAA NAVAIDS, Weather Bureau and other existing FAA facilities which are damaged by the Design-Builder's workers, equipment or work, and that prior approval of the FAA must be obtained for materials, workers, time of day or night, method of repairs, and for any temporary or permanent repairs the Design-Builder proposes to make to any FAA NAVAIDS and facilities damaged by the Design-Builder.
7. Damaged FAA cables (controls, NAVAIDS and NOAA) shall be repaired in accordance with the requirements of FAA-SO-STD-71 Specifications "Installation and Splicing of Underground Cables". Prior approval of the Field Representative must be obtained for the materials, workers, time of day or night, and for the method of repairs for any temporary or permanent repairs the Design-Builder proposes to make to any Airport facilities, cables, or existing utilities damaged by the Design-Builder. The FAA Airways Facilities Sector Field Office (AFSFO) Manager shall have the discretion of determining who shall perform repairs of damaged cables.
8. NAVAIDS shall be removed from service when construction activities occur within any NAVAIDS critical area, when the runways are closed or when the runway threshold is displaced. If a NAVAID must be removed from service for more than eight hours or for any period of time for three consecutive days, a minimum of fifty (50) day advance notice is required for coordinating the extended facility shutdown with the FAA. Facility shutdown coordination shall be initiated by the Design-Builder with the Field Representative; the Owner and the Field Representative will coordinate the facility shutdown with the FAA AFSFO Manager responsible for this facility.

I. Protection of Existing Facilities, Vegetation, Structures, Utilities and Improvements

1. The Design-Builder shall preserve and protect existing vegetation such as trees, shrubs, and grass on or adjacent to the work site which are not indicated to be removed and which do not unreasonably interfere with the construction Work, and he shall replace in kind the vegetation, shrubs and grass damaged by the Design-Builder at the Design-Builder's own expense.
2. The Design-Builder shall protect from damage all utilities, foundations, walls or other parts of adjacent, abutting or overhead buildings, railroads, bridges, structures, surface and subsurface structures at or near the site of the Work and shall repair or restore any damage to such facilities, except utilities, resulting from failure to comply with the requirements of this Contract or the failure to exercise reasonable care in the performance of the Work. If, after receipt of written notification from the Owner, the Design-Builder fails to or refuses to repair any such damage promptly, the Owner may have the necessary Work performed and charge the cost thereof to the Design-Builder.
3. At points where the Design-Builder's operations are adjacent to utility facilities, damage to which might result in expense, loss, disruption of service or other undue inconvenience to the public or to the owners, Work shall not be commenced until all arrangements necessary for the

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

- a. Where public utilities or their appurtenances interfere with permanent construction, unless otherwise specified, work involved in permanently relocating or otherwise altering such public utilities and their appurtenances will not be a part of this Contract but will be done by utility owners at no cost to the Design-Builder. If the Design-Builder wishes to have utilities temporarily relocated, he shall make necessary arrangements with utility owners and reimburse them at the Design-Builder's own expense for cost of the Work. The Design-Builder shall keep the Design Criteria Professional advised of temporary relocation arrangements.
  - b. The Design-Builder shall not repair or attempt to repair utility damage but shall immediately contact the utility owner. The Design-Builder shall obtain the name, address and telephone number of each utility company that the work will affect and the person in such utility company to contact. He shall submit to the Design Criteria Professional said names, addresses and telephone numbers.
4. The Design-Builder shall comply with the latest version of the Florida Building Code or the Code under which the Contract Documents were approved, whichever is applicable at the time the Work is performed.
  5. In order to safeguard the owners and tenants of abutting property and at the same time prevent unjust or fraudulent claims against the Design-Builder the Government, State, the Owner and the Design Criteria Professional in respect thereto, the Design-Builder shall cause a detailed examination of abutting property to be made before construction is begun. The owner or tenant of each parcel or structure or its or their duly authorized representative will be invited to be present during the examination by a notice in writing delivered by the Design-Builder to a person in charge of the premises or structure, or by the mailing of the notice to the owner at the premises. The Design Criteria Professional will attend while the Design-Builder makes the detailed examination. A complete record including photographs of the existing conditions of each parcel or structure shall be made in triplicate, signed by the Design-Builder, Owner and the Design Criteria Professional and one copy will be delivered to the Owner, one to the Design Criteria Professional and one will be retained by the Design-Builder. At such time as the Design Criteria Professional may direct, or upon the filing of the verified statement by the owner, tenant, lessee, operator or occupant of the building structure, and in any event, upon the completion of any work that in the opinion on the Design Criteria Professional might affect the abutting property, the Design-Builder will make another detailed examination of such abutting property. A complete record of the then existing conditions of said property will be made in triplicate, signed by the Design-Builder and one copy will be delivered to the Owner, one to the Design Criteria Professional and one will be retained by the Design-Builder. In any action, which may be brought by any owner, tenant, lessee, operator or occupant of abutting property to recover under the provisions of this article or any paragraph hereof, the record of the existing conditions of each parcel will be prima facie evidence of the conditions thereof at the time of the making of the examination.
  6. The Design-Builder shall maintain access to fire hydrants and fire alarm boxes throughout the prosecution of the Work. Hydrants, alarm boxes and standpipe connections shall be kept clear and visible at all times unless approved otherwise. If visibility cannot be maintained, the Design-Builder shall provide clearly visible signs showing the location of the fire hydrant, fire alarm box or standpipe connection. The Design-Builder shall promptly notify the authority having jurisdiction of any impairment to any fire systems.

J. Damage to the Work and Responsibility for Materials

1. The Design-Builder shall be responsible for materials delivered and work performed until completion and Final Acceptance of the entire construction thereof, except those materials and

work which may have been accepted under the applicable sections of this article and shall take all necessary steps to protect the Work, from all causes, at its expense.

2. The Design-Builder shall bear the risk of injury, loss or damage to any and all parts of the Work for whatever cause, whether arising from the execution or from the non-execution of the Work, except as provided for in this article. The Design-Builder shall rebuild, repair or restore work and materials which have been damaged or destroyed from any cause before Completion and Acceptance of the Work and shall bear the expense thereof. The Design-Builder shall provide security including, but not limited to, security guards, temporary drainage systems and erection of temporary structures and temporary fencing as necessary to protect the Work and materials from damage.
3. The Design-Builder shall be responsible for materials not delivered to the site for which any progress payment has been made to the same extent as if the materials were so delivered.
4. The Design-Builder's responsibility under this Contract for protecting Design-Builder-furnished material shall be the same for Owner-furnished material upon the delivery of said material by the Owner to the site.
5. Relief from Maintenance and Responsibility: The Design-Builder may request, in writing, from the Owner, that the Owner relieve the Design-Builder of the duty of maintaining and protecting certain portions of the Work, as described in this paragraph, which have been completed in all respects in accordance with the requirements of the Contract. Such action by the Owner will relieve the Design-Builder of responsibility for injury or damage to said completed portions of the Work resulting from use by the Owner or the public for any cause, but not from injury or damage resulting from the Design-Builder's own operations or negligence. Portions of the Work for which the Design-Builder may be relieved of the duty of maintenance and protection, as provided in this paragraph, include the following:
  - a. Early possession by the Owner of any portion of the Work, in accordance with the Contract Documents.
  - b. This Paragraph 5 does not relieve the Design-Builder of responsibility for repairing or replacing defective work or materials in accordance with the Contract requirements.
6. Compliance with delivery schedules by the Department shall be excused when delays are caused by Force Majeure, and, if the delay causes the Design-Builder to exceed the Contract Time stipulated for the final completion of the Project, a compensable time extension to the Contract Time. In such case, an extension of the Contract Time will be allowed equal to the length of the delay and, if applicable, the Design-Builder shall be entitled to the resulting Indirect Liquidated Costs.

K. Emergencies

1. In an emergency affecting the safety of life, the Work, or adjacent property, the Design-Builder shall notify the Field Representative and the Design Criteria Professional as early as possible that an emergency exists. In the meantime, without special instruction from the Design Criteria Professional as to the manner of dealing with the emergency, the Design-Builder shall act at the Design-Builder's own discretion to prevent such threatened loss or injury. As emergency work proceeds, the Field Representative and the Design Criteria Professional may issue instructions, which the Design-Builder shall follow. The compensation to which the Design-Builder is entitled on account of emergency work, if any, shall be limited to emergencies not caused by actions or inactions of the Design-Builder determined in accordance with the Contract Documents, where applicable. Compensation for emergency work shall be paid as Extra Work, but only if the Design-Builder did not cause or contribute to the emergency by its actions or omissions.
2. For purposes of this article, an emergency is defined as an act or event that has already occurred, or may imminently occur, not caused by actions or inactions of the Design-Builder, which, if

no immediate action is taken may affect the safety of life, the work, or adjacent property. This article does not apply to steps taken by the Design-Builder to protect the Work, adjacent structures, utilities, existing vegetation, etc. under other sections of the Contract Documents. Furthermore, this article does not apply to preparations the Design-Builder may make prior to storms or hurricanes or Force Majeure.

L. Accident Prevention

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

M. Warranty of Work

1. The Design-Builder warrants the Work under the Contract to be free from faulty materials and workmanship for a period of not less than one (1) year from the date of Substantial Completion. This one-year period shall be covered by the Surety Performance Bond as specified in this Contract, except that in the case of defects or failure in a part of the work which the Owner takes possession of prior to Substantial Completion, such a period shall commence on the date the Owner takes possession. Upon receiving notification from the Owner or any public body, to whom the ownership of the Work has been transferred or who has agreed to maintain the Work, the Design-Builder shall immediately remedy, repair, or replace, without cost to the Owner or other notifying party and to the entire satisfaction of the notifying party, defects, damages, or imperfections due to faulty materials or workmanship appearing in said Work within said period of not less than one year. Remedial work shall carry the same one (1) year warranty as the original work starting with the date of acceptance of the replacement or repair. Payment to the Design-Builder will not relieve the Design-Builder of any obligation under the Contract.
2. Within the warranty period, the Design-Builder, at no additional expense to the Owner, shall also remedy damage to equipment, the site, or the buildings or the contents thereof, which is the result of any failure or defect in the Work, and restore any Work damaged in fulfilling the requirements of the Contract. Should the Design-Builder fail to commence to remedy any such failure or defect within ten (10) days after receipt of written notice thereof, the Owner will have the right to replace, repair, or otherwise remedy such failure or defect and deduct all costs from

the Design-Builder's pay request or Payment and Performance Bond if final payment has been made.

3. The Design-Builder will be liable for all latent defects in the Work through the expiration of the statute of repose set forth in Section 95.11(3)(c), Florida Statutes.
4. Any Subcontractors', manufacturers' and suppliers' warranties and guaranties, expressed or implied, with respect to any part of the Work and any material used therein, which extend beyond the one (1) year warranty period set forth herein, shall be obtained and shall be directly enforceable by the Owner against such subcontractors, manufacturers and suppliers without recourse against the Design-Builder.
5. The rights and remedies of the Owner provided in this article are in addition to and do not limit any rights and remedies afforded by the Contract or by law.
6. Nothing in the above intends or implies that this warranty shall apply to work that has been abused or neglected by the Owner, its agents or other public body, utility or railroad to which ownership has been transferred.

END OF ARTICLE





## 8. CONTRACT TIME

### A. Notice to Proceed (NTP)

The Owner shall issue the Notice to Proceed upon receipt of all bonds and insurance required by the Contract Documents. The time within which all of the Work is to be completed following the issuance of the Notice to Proceed shall be as stipulated in the Contract Summary of these Contract Documents. The Design-Builder is not authorized to perform work under the Contract until the effective date of the Notice to Proceed, upon which the Design-Builder shall commence work and shall diligently prosecute the Work to completion within the time limits specified. The Contract time commences on the effective date shown on the Notice to Proceed. Should the Design-Builder not provide the required bonds and insurance within thirty days of its date of execution by the County, this Contract may be immediately terminated by either the Owner. Such termination shall not entitle Design-Builder to payment from Owner for the value of a) work completed (if any); b) materials ordered or delivered; c) equipment ordered or delivered; or d) overhead or anticipated profits. Notice of such termination must be given to all appropriate persons in the manner provided in Article 11 below. Any work performed by the Design-Builder prior to the NTP date, including design work, shall be at the Design-Builder's own risk and shall not be considered as the basis for any claim resulting from this pre-NTP work.

### B. Schedules

1. The design and construction of this Project will be planned and recorded with a conventional Critical Path Method (CPM) Format using a Computerized Project Planner Format Primavera Project Planner as specified in Division 1 of the DCP which may contain further specific requirements for the form, content and date of submission of the baseline schedule and all schedule updates.
2. The DESIGN-BUILDER will develop a Mobilization and Engineering Schedule, comprising the activities to be performed in the first one hundred twenty (120) days of Work after the commencement date set forth in the Notice to Proceed (NTP), as indicated in the attached Exhibit "A", and submit for approval within 30 days of the commencement date set forth in the NTP, and then Design-Builder shall proceed in accordance with the approved Mobilization and Engineering Schedule. Subsequently, the Mobilization and Engineering Schedule shall be expanded by the Design-Builder to develop the Baseline Schedule, covering all details of the entire Project, including all milestone event dates, and will be submitted to the Owner for compliance review not later than ninety (90) days after the commencement date set forth in the NTP to allow sufficient time to establish the final Baseline Schedule, prior to the one hundred twenty (120) day period covered by the Mobilization and Engineering Schedule. Once approved, the Final Baseline Schedule shall become the schedule of record.
3. The Design-Builder shall prosecute the Work in accordance with the approved Baseline Schedule or most recently approved revision to the Baseline Schedule. In the event that progress along the critical path is delayed, the Design-Builder shall revise its planning to include additional forces, equipment, shifts or hours as necessary to meet the time or times of completion specified in this Contract at no additional cost to the Owner, except as otherwise specified herein. In addition, the Design-Builder shall revise its schedule to reflect these recovery actions and submit it to the Owner for review and approval it being understood that such approval will be as to the format and composition of the schedule and not the Design-Builder's means and methods. Additional costs resulting therefrom will be borne by the Design-Builder. Delayed progress is defined as:
  - a. A delay in the start or finish of any activity on the critical path (critical path is defined as the longest sequence of tasks in time from start to finish) of the approved Baseline Schedule or most recently approved revision to the Baseline Schedule; or

- b. A delay in the start or finish of any non-critical activity which consumes more than the available float shown on the approved Baseline Schedule or most recently approved revision to the Baseline Schedule, thereby making the activity critical and late; or
  - c. A projected completion date shown on a schedule update which is later than the contractual completion date; or
  - d. Any combination of the above.
4. Failure of the Design-Builder to comply with the requirements under this provision will be grounds for determination that the Design-Builder is not prosecuting the Work with such diligence as will ensure completion within the Contract Time. Upon such determination, the Owner may terminate the Design-Builder's right to proceed with the Work, or any separate part thereof, in accordance with the Contract Documents. If in the Design-Builder's estimation, the cause(s) of delay are beyond the Design-Builder's control, the Design-Builder shall adhere to the sections of the Contract Documents related to extensions of time, claims and other contractual relief, as appropriate.
5. The Design-Builder shall be responsible for scheduling and coordinating the Work of all crafts and trades, subconsultants, subcontractors, and suppliers, required to perform the Work and to complete the Work within the Contract Time. Any inefficiency or loss of productivity in the labor, materials, or special equipment of the Design-Builder or its subcontractors of any tier, from any cause, shall be the responsibility of the Design-Builder. No reimbursement of these or any other costs can be requested by or granted to the Design-Builder or any of its subcontractors of any tier for inefficiency or loss of productivity in labor, materials, or special equipment, except as specified in the paragraph in this article dealing with Liquidated Indirect Costs, for delays in the performance and completion of the Work directly caused by the Owner or its authorized representatives. Other than the exception described above, additional costs may only be paid to the Design-Builder as a result of additional Work added to the Contract scope of work.
6. Schedule shall utilize Primavera Project Planner Software, latest edition, and provide the following:
- a. The Near Term Schedule submittal (activities for first 90 days) shall be submitted prior to the NTP. The overall Baseline Schedule submittal (all activities required for the entire contract) shall be submitted within 45 calendar days after the commencement date set forth in the NTP.
  - b. Monthly Update Submittals. It may use the Near Term schedule to fulfill the scheduling requirements of the Contract for the initial monthly update. Starting at the second monthly update and continuing for the remainder of the Project, the overall Baseline Schedule shall be used to fulfill the scheduling requirements of the Contract.
  - c. Baseline Schedule Submittal. The overall Project Schedule shall be in the form of a time scaled precedence diagram and associated computer analysis and shall consist of detailed activities and their restraining relationships as required to complete the project from the commencement date set forth in the Notice to Proceed through completion of the Work and shall indicate the following:
    - 1. Beginning and end date duration in workdays for each activity.
    - 2. Beginning and end date and total duration in workdays for each Area or portion thereof.
    - 3. Significant milestones
    - 4. Identity of each trade, contractor, and subcontractor for each work activity.
    - 5. Specific location of each work activity per the Design Criteria Professionals phasing drawings or alternative location drawings

6. Sequence and interdependence of all activities required for complete performance of all items of work under the contract.
  7. All network restraints (restraining ties between activities which restrict the start or finish of another activity). The use of negative lags in the restrictions between activities of the Overall Project Schedule is expressly forbidden.
  8. Shop drawing submittals and reviews by the Design Criteria Professional.
  9. Fabrication and delivery activities for all equipment
  10. Dates for ordering long lead items (materials, equipment, or specialty shop fabricated work).
  11. Notice to tenant(s) prior to start of work in occupied or used tenant spaces.
  12. Workdays per week, and holidays
  13. The precedence diagram shall show the sequence and interdependence of all activities required for complete performance of all items of work under this contract, including shop drawing submittals and approvals and fabrication and delivery activities.
  14. Long-term construction activities shall be broken down into recognizable smaller activities so that no activity will be longer than 15 workdays.
  15. MDAD reserves the right to selectively limit the number of activities in the schedule.
  16. The schedule shall be sufficiently detailed to track the progress of each activity and the project, as a whole, on a daily basis. The activities shall be clearly described so that the work is readily identifiable. The progress of each activity is to be reasonable and based on the amount of labor, materials, and equipment involved. When added together, the dollar value of all activities shall equal the Contract amount less the Allowance Account(s).
7. As part of the monthly updating process, the Design-Builder shall prepare a design/construction progress report describing the progress during the report period, plans for the forthcoming report period, actions to correct any negative float predictions, and potential delays and problems and their estimated impact on performance and the overall Project completion date.
- a. Clearly describe all approved revisions to the accepted overall project schedule for that period.
  - b. Report actual progress by updating the mathematical analysis for the accepted overall project schedule.
  - c. Show tasks/activities, or portions of activities completed during the reporting period, and their actual value.
  - d. State the percentage of work actually completed as of the report date, and the progress along the critical path in terms of days ahead of or days behind the allowable dates.
  - e. Report progress along other paths with negative float if the work is behind schedule.
  - f. Include a narrative report that shows, but is not necessarily limited to:
    - g. Description of the problem areas, current and anticipated.
    - h. List of delaying factors and their impact.
    - i. Explanation of corrective actions taken or proposed.
    - j. Describe plans/actions for the next report period.

C. Extensions of Time and Classification of Types of Delays

1. Once a delay has been identified and it has been established through a scheduling analysis that a delay affects the date of Substantial Completion or the date of Final Completion, the delay must be classified to determine responsibility and to compute damages, if any. Before the Design-Builder can submit a request for a time extension, a claim or any request for additional compensation involving or related to time, the Design-Builder must classify the delay(s) in

accordance with the following classifications. These delay classifications shall be used by the Owner and the Design-Builder in resolving any time-related disputes. Delays fall into three basic categories: non-excusable, excusable, and compensable.

- a. Non-excusable delays are those delays to the critical path which were foreseeable at the time of contract award or delays caused by the Design-Builder due to the Design-Builder's fault or negligence or its own inefficiencies or problems, due to its inability to coordinate subcontractors and/or other flaws in its planning. In these types of delays, the Design-Builder is not entitled to extra time or compensation and the Owner may be allowed to assess Liquidated Damages.
  - b. Excusable delays are those delays to the critical path beyond the Design-Builder's control, such as extreme weather, Force Majeure, strikes and delays caused by third parties (i.e., not the Design-Builder or the Owner). Design-Builders are granted a time extension but no additional compensation for the extended time of performance for excusable delays.
  - c. Compensable delays are delays to the critical path caused by active interference or participation of the Owner or Owner's consultant. Examples of compensable delays are failure of the Owner to provide right of- -way, introducing late design changes, late review of shop drawings by the Owner or his Design Criteria Professional and failure of the Owner to coordinate the work of various prime Design-Builders. In the case of a compensable delay, the compensation for the extended period of performance may cover, Liquidated Indirect Costs as specified in the Contract Documents.
  - d. Concurrent delays involve two or more delays, at least one of which is not a compensable delay, to the critical path occurring at the same time, either of which had it occurred alone, would have affected the end date of the Project. In that event, the Design-Builder's sole remedy is a time extension and relief of Liquidated Damages with no compensation for extended cost for the concurrency delay period.
  - e. The compensability of concurrent delays depends on the types of delays involved. The following shall determine the effects of concurrent delays on time extensions and compensable costs:
    - 1) EXCUSABLE DELAY CONCURRENT WITH A NON-EXCUSABLE DELAY. For excusable delays concurrent with non-excusable delays, the Design-Builder is entitled to a time extension only. For example, it rains the day footings are to be excavated (excusable delay) but the excavation equipment was down for repairs (non-excusable delays).
    - 2) NON-EXCUSABLE DELAY CONCURRENT WITH A COMPENSABLE DELAY. For non-excusable delays concurrent with compensable delays, the Design-Builder is entitled to a time extension only. For example, if the Owner introduces a design change for a beam but the Design-Builder has failed to submit the shop drawings for said beam in a timely manner. This would be an example of a non-excusable delay (late shop drawings) concurrent with a compensable delay (Owner introducing design change).
    - 3) EXCUSABLE DELAY CONCURRENT WITH A COMPENSABLE DELAY. For excusable delays concurrent with compensable delays, the Design-Builder is entitled to a time extension only. For example, the Owner does not provide the necessary right-of-way to begin construction (compensable delay), but the Design-Builder's forces are on strike (excusable delay).
2. Time Extensions: The Design-Builder may be granted an extension of time and will not be assessed Liquidated Damages for any portion of the delay in completion of the Work, arising from Force Majeure events, and provided further that the Design-Builder has taken reasonable precautions to prevent further delays owing to such causes, and has given to the Design Criteria

Professional immediate verbal notification, with written confirmation within 48 hours of start, of the cause or causes of delay. Within thirty (30) calendar days after the end of the delay, the Design-Builder shall furnish the Design Criteria Professional with detailed information concerning the circumstances of the delay, the number of days actually delayed, the appropriate Contract Document references, and the measures taken to prevent or minimize the delay. All requests for extension of time shall be submitted in accordance with the Contract Documents. Failure to submit such information will be sufficient cause for denying the delay claims. Irrespective of entitlement. The Owner will ascertain the facts and the extent of the delay, and its findings thereon will be final and conclusive subject to the dispute provisions in the Contract Documents. The extensions of time granted for these reasons shall be considered excusable and shall not be the basis for any additional compensation.

- a. Weather more severe than the norm shall apply only as it affects particular portions of the work and operations of the contractor, as determined by the Design Criteria Professional. 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 latest version of the "Local Climatological Data, Annual Summary with Comparative Data, Miami, Florida"). For the calculation of delays due to rain, precipitation of 0.01 inches or more a day shall be considered to be a rainy day if the rain actually prevented the Design-Builder from performing work in activities indicated in the project critical path. The effects of weather less severe than the norm may be taken into account in granting time extensions at the Owner's sole discretion.
  - b. An extension of time will not be granted for a delay to the critical path caused by a shortage of materials, except Owner furnished- materials, unless the Design-Builder furnishes to the Design Criteria Professional documentary proof that he has diligently made every effort to obtain such materials from every known source within reasonable reach of the Work. The Design-Builder shall also submit proof, in the form of a CPM network analysis data, that the inability to obtain such materials when originally planned, did in fact cause a delay in Final Completion of the Work which could not be compensated for by revising the sequence of its operations. Only the physical shortage of material will be considered under these provisions as a cause for extension of time. No consideration will be given to any claim that material could not be obtained at a reasonable, practical, or economical cost, unless it is shown to the satisfaction of the Design Criteria Professional that such material could have been obtained only at exorbitant prices, entirely inconsistent with current rates taking into account the quantities involved and the usual practices in obtaining such quantities.
3. Delays Caused by the Owner: If the Design-Builder's performance of the Work along the critical path is delayed by any condition or action directly caused by the Owner, and which was not foreseeable by the Design-Builder at the time the Contract was entered into, the Design-Builder shall, provide notification in accordance with the Contract Documents, of any such delay and of the anticipated results thereof. The Design-Builder shall cooperate with the Owner and use its best efforts to minimize the impact on the schedule of any such delay. In instances where the Owner causes a delay which is responsible for extending the Contract beyond the completion date, the Design-Builder may claim Liquidated Indirect Costs as specified in the paragraph in this Article dealing with Liquidated Indirect Costs. These delays shall be considered compensable, except for the period in which these delays may be concurrent with Design-Builder-caused delays. If a delay on the part of the Owner is concurrent, that is, if it occurs at the same time as a Design-Builder-caused delay, the Owner-caused delay shall be considered an excusable delay for the portion of the Owner-caused delay which is concurrent with the Design-Builder-caused delay.

4. Delays Beyond Design-Builder's Control Not Caused by the Owner: If Design-Builder's performance of the Work along the critical path is delayed by any conditions beyond the control and without the fault or negligence of Design-Builder and not caused by the Owner, and which was not foreseeable by Design-Builder at the time this Contract was entered into, Design-Builder shall, provide immediate verbal notification with written notification in accordance with the Contract Documents of any such delay and of the anticipated results thereof. Within fourteen calendar days of the termination of any such delay, Design-Builder shall file a written notice with the Design Criteria Professional specifying the actual duration of the delay. If the Owner determines that the delay was beyond the control and without the fault or negligence of the Design-Builder and not foreseeable by the Design-Builder at the time this Contract was entered into, the Owner will determine the duration of the delay and may extend the time of performance of this Contract provided, however, that Design-Builder shall cooperate with the Owner and use its best efforts to minimize the impact on the schedule of any such delay. These delays shall be considered excusable, and the Design-Builder shall not be entitled to, and hereby expressly waives recovery of, any damages suffered by reason of the delays contemplated by this paragraph and extension of time shall constitute Design-Builder's sole remedy for such delays.
5. In addition to the delays in the Work specified in this section, delays in the Work directly caused by an act or omission by a lessee of the Owner or an owner of an adjoining property will not be considered an Owner-controlled delay. An owner of an adjoining property is a person, firm, corporation, partnership, lessee, or other organization who either owns or occupies, or both, structures or parcels or both, immediately adjacent to the Work Site. Extension of time for those delays will be considered excusable and shall be treated as specified in this Article, provided that:
  - a. The Design-Builder has, in accordance with this article, given to the Design Criteria Professional immediate verbal justification, with written confirmation within 48 hours of the delay; and
  - b. The Design-Builder establishes, to the satisfaction of the Design Criteria Professional, that:
    - 1) The delay was caused directly by an act or omission by the owner of the adjoining property; and
    - 2) The Design-Builder has taken reasonable precautions and has made substantial effort to minimize the delay.
6. A Change Order will be furnished to the Design-Builder within a reasonable period of time, after approval by the BCC, of a request for extension of time, specifying the number of days allowed, if any, and the new dates for completion of the Work or specified portions of the Work. All requests for time extension shall be in accordance with the Contract Documents. With the exception of time extensions covered under the time contingency allowance in the contract, only the BCC shall grant final written approval of all Change Orders, including additional money or extensions of time. All change orders shall be in full accord with the Contract Documents.
7. For the proper format to be used in submitting requests or claims for time extensions, refer to Section 11 of the Contract Documents.
8. For the avoidance of doubt, the provisions of this Section shall apply wherever this Contract provides a right for the Design-Builder to make a claim for delay, and each such claim shall be analyzed pursuant and resolved pursuant to the provisions of this Section.

D. Substantial Completion, Final Completion and Final Acceptance

1. The following items must be satisfied before Substantial Completion, as defined in the Contract Documents, will be approved:

- a. All Work must be completed to the satisfaction of the appropriate permitting agencies having jurisdiction over the Work. The Design-Builder must furnish the Owner with a "Certificate of Occupancy" or a "Certificate of Completion," as applicable, from the permitting agency unless circumstances arise outside the contract scope that prohibits such certificates from being issued (i.e., utility connections).
  - b. All operational systems which may include but not be limited to electrical systems, security systems, irrigation systems and fire systems, must be completed in accordance with the Contract Documents, tested and approved.
  - c. All plumbing, heating, ventilation, and air conditioning systems must be completed, tested and approved. Whenever the scope of work includes a facility or building, an HVAC test and balance report must be submitted and approved as a condition precedent to Substantial Completion.
  - d. The punch list may not be so extensive or of a nature that the Design-Builder's completion will significantly interfere with the Owner's beneficial use of the facility.
2. When the Design-Builder believes that all the Work or designated portion thereof required by the Contract is substantially completed, the Design-Builder shall submit to the Field Representative and the Design Criteria Professional a request for Substantial Completion inspection. The Design-Builder, the Field Representative, the Design Criteria Professional, sub-consultants, and the Owner shall meet at the Project site for the purpose of making a combined inspection of the Work. During this inspection, any item of work remaining to be done or Work to be corrected prior to Final Completion shall be noted on a Punch List. If the Field Representative and/or the Design Criteria Professional and the Owner indicate on this inspection report that the Work is substantially complete, a Certificate of Substantial Completion will be issued to the Design-Builder. The Certificate of Substantial Completion shall establish the date of Substantial Completion and shall have attached the Punch List reflecting any items to be completed or corrected, but which do not prevent beneficial use and occupancy, and shall state the date by which the Punch List is to be completed. The completion time for the Punch List shall not be greater than 180 days from the date of issuance of the Certificate of Substantial Completion.
  3. If any of the conditions listed in this Article are not met and the Work has not been completed, or the Design-Builder determines that the final Punch List cannot be completed within one hundred eighty (180) days, a Certificate of Substantial Completion shall not be issued. The Design-Builder shall continue work, reducing the number of items on the Punch List that were not met. Additional inspections shall be scheduled as necessary until Substantial Completion is declared. However, costs incurred by the Owner for any inspections beyond a second inspection will be charged back to the Design-Builder.
  4. In the event the Design-Builder fails to achieve Substantial Completion within the period specified in the Contract for completion, the Design-Builder shall be liable for Liquidated Damages and the Owner has, as its option, the right to, after 10 calendar day-notice to the Design-Builder, have the work performed by others and back charge the Design-Builder for all Direct and Indirect Costs related to performing this work. In the event that the Owner chooses to have the work completed by others, there shall not be any further non-excusable delays charged to the Design-Builder beyond the 10 days following notice to the Design-Builder. However, the Design-Builder shall not be relieved of any non-excusable delays incurred through the date of termination. The Punch List and the Contract shall remain open until all the Work is complete and accepted. The current retainage will be used to offset any Liquidated Damages and any back charges, after which, any surplus retainage will be released to the Design-Builder. If the retainage is insufficient to cover the Liquidated Damages and any back charge, the Owner will bill the Design-Builder for the balance and the Design-Builder shall promptly remit to the Owner an amount equal to the billing.

5. Final Completion: When the Owner or Design Criteria Professional considers all Work, including the Work indicated on the Punch List, to be complete, the Design-Builder shall submit written certification that:
  - a. Work has been inspected for the compliance with the Contract Documents.
  - b. Work has been completed in accordance with the Contract Documents, and that deficiencies listed within the Certificate of Substantial Completion and its attachments have been corrected.
  - c. Work is completed and ready for Final Inspection.
6. Should the Owner and/or Design Criteria Professional inspection find that Work is incomplete, he will promptly notify the Design-Builder in writing listing all observed deficiencies. The Design-Builder shall be responsible for Liquidated Damages as a result of delay caused by the Design-Builder's failure to complete the Punch List items within the time allowed for Final Completion.
7. The Design-Builder shall remedy deficiencies and send a second certification. Another inspection will be made that shall constitute the final inspection. Provided that work has been satisfactorily completed, the Design Criteria Professional will notify the Design-Builder in writing of Final Acceptance as of the date of this final inspection.
8. Prior to Final Acceptance, the Design-Builder shall deliver to the Field Representative complete Project Record drawings, all approved Shop Drawings, maintenance manuals, pamphlets, charts, parts lists and specified spare parts, operating instructions and other necessary documents required for all installed materials, equipment, or machinery, all applicable warranties and guarantees, and the appropriate Certificate of Occupancy.
9. Upon notification of Final Acceptance to the Design-Builder, the Design Criteria Professional will request and consider closeout submittals from the Design-Builder including but not limited to the final Design-Builder's Affidavit and Release of All Claims.
10. The Design-Builder, without prejudice to the terms of the Contract, shall be liable to the Owner for latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the Owner's rights under any warranty or guaranty, except for and excluding any consequential damages arising therefrom.
11. Re-Inspection Fees: Should the status of completion of the Work require re-inspection of the Work by the Owner and the Design Criteria Professional due to failure of the Work to comply with the Design-Builder's representations regarding the completion of the Work, the Owner will deduct from the final payment to the Design-Builder, fees and costs associated with re-inspection services in addition to scheduled Liquidated Damages.

E. Use and Possession

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

F. Liquidated Damages and Liquidated Indirect Costs

1. The Parties to the Contract agree that time, in the completion of the Work, is of the essence. The Owner and the Design-Builder recognize and agree that the precise amount of actual damages for delay in the performance and completion of the Work is impossible to determine



as of the date of execution of the Contract and that proof of the precise amount will be difficult. Therefore, the Design-Builder shall be assessed Liquidated Damages on a daily basis for each Day that individual milestones, both interim and cumulative as specified in the Contract Documents, are not timely achieved or that Contract Time is exceeded due to a non-excusable delay. These Liquidated Damages shall be assessed, not as a penalty, but as compensation to the Owner for expenses which are difficult to quantify with any certainty and which were incurred by the Owner due to the delay. The amount of Liquidated Damages assessed shall be an amount, as stipulated in the Contract Summary of this Contract, per day for each calendar day beyond the contractual completion date, as specified in the Contract.

2. The Owner and the Design-Builder recognize and agree that the precise amount of the Design-Builder's Indirect Costs for delay in the performance and completion of the Work is impossible to determine as of the date of execution of the Contract, and that proof of the precise amount will be difficult. Therefore, Liquidated Indirect Costs recoverable by the Design-Builder, shall be assessed on a daily basis for each Day the Contract Time is delayed due to compensable delay. These Liquidated Indirect Costs shall be paid to the Design-Builder in full satisfaction of all costs and damages caused by compensable excusable delays, except for Direct Costs. There shall be no Liquidated Indirect Costs payable for time directly related to Extra Work for which a Change Order has been issued.
3. The amount of Liquidated Indirect Costs recoverable shall be \$8,900 per day for each day the Contract is delayed due to compensable excusable delay.
4. In the event the Design-Builder fails to perform any other covenant or condition (other than time-related) of this Contract relating to the Work, the Design-Builder shall become liable to the Owner for any actual damages which the Owner may sustain as a result of such failure on the part of the Design-Builder. The Owner reserves the right to retain these amounts from monies due the Design-Builder.
5. Nothing in this Article shall be construed as limiting the right of the Owner to terminate the Contract and/or to require the Surety to complete said Project and/or to claim damages for the failure of the Design-Builder to abide by each and every one of the terms of this Contract as set forth and provided for in the Contract Documents.

Consequential Damages: This mutual waiver is applicable, without limitation, to all consequential damages due to either Party's termination. Nothing contained in this Section shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents. Notwithstanding anything whatsoever contained in this Agreement to the contrary, the Parties expressly agree that no Party to this Agreement shall be liable to any other Party or Parties to this Agreement for any special, or exemplary damages of any kind whatsoever, whether arising in contract, warranty, tort (including but not limited to negligence), strict liability, or otherwise, including without limitation losses of use, profits, business reputation and financing.

END OF ARTICLE

## 9. PROGRESS PAYMENTS

### A. Payments

1. The Design-Builder shall receive and accept compensation provided for in the Contract as full payment for furnishing all materials, for performing all work under the Contract in a complete and acceptable manner, and for all risk, loss, damage, or expense of whatever character arising out of the nature of the work or the prosecution thereof.
2. The Owner will make progress payments monthly as the work proceeds. Unless the Special Provisions provide for the payment to be determined by using a cost-loaded CPM, the Design-Builder shall, within 15 days after the issuance of the Notice-to-Proceed, furnish a Schedule of Values for review and approval by the Owner consisting of a detailed cost breakdown of each Lump Sum Bid Item in the bid form in such detail as the Design Criteria Professional shall request, showing the amount included therein for each principal category of the work, to provide the basis for determining the amount of progress payments. The Schedule of Values shall clearly indicate the amount to be paid by the Design-Builder to each individual Section. Unit price bid items shall be paid for in accordance with the Bid Form. No partial payment will be processed without a current approved Baseline Schedule (covering an interim period or the entire Work as indicated in the Contract Documents), approved schedule updates to these Baseline Schedules and an approved Schedule of Values all in accordance with the Contract Documents.
3. Retainage shall be administered as per Chapter 255 of the Florida Statutes. In making such progress payments, five percent (5%) of the monthly progress payment amount shall be retained from each progress payment made to the Design-Builder until completion of the work has been established.
4. Material and work covered by progress payments shall become the sole property of the Owner. This provision shall not be construed as relieving the Design-Builder from the sole responsibility for material and work upon which payments have been made, the restoration of damaged work or as waiving the right of the Owner to require the fulfillment of the terms of the Contract.
5. Progress payments will be made in accordance with the Miami-Dade County Code, Florida Statute, s. 218.70 Florida Prompt Payment Act, and Florida Statute, s. 218.735.
  - a. The Design-Builder's attention is directed to Florida Statute, s. 218.735, revising provisions regarding timely payment, revising deadlines for the payment of contractors, subcontractors, sub-subcontractors, materialmen and suppliers. The Design-Builder shall remit payment due to subcontractors within 10 days after the contractors' receipt of payment. The subcontractor shall remit payment due to sub-subcontractors and suppliers within seven (7) days after the subcontractors' receipt of payment. Dispute resolution is provided within the Statute.
  - b. The Design-Builder's attention is further directed to Miami Dade County Code Section 2-8.1.4, Section 2-8.1.1.1.1 and Section 2-8.1.1.1.2, providing for prompt 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 Design-Builder to issue prompt payments, and have the same dispute resolution procedures as the County, for all small business subcontractors. 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.

6. No progress payments will knowingly be made for work not in accordance with this Contract, but payment of a requisition shall not constitute acceptance of non-conforming work or otherwise constitute a waiver of any of the Owner's rights under the Contract.
7. Applications for progress payments shall be in the format as prescribed by the Owner. These applications shall be supported by evidence, which is required by this article. Each application for payment shall clearly indicate the amount to be paid to the Design-Builder. The Design-Builder shall certify that the work for which payment is requested has been done and that the materials listed are stored where indicated. Those items on the progress payment application that, in accordance with the applicable sections of the Contract Documents, compensate for Force Account Work, for materials not yet incorporated in the work, or for work under change orders negotiated on a cost-reimbursable basis will, under procedures of the Owner, be subject to the Owner's audit review of the Design-Builder's records supporting the payment application. Audits will be performed so as not to interfere with timely processing of applications for payment. If audit indicates the Design-Builder has been overpaid under a previous payment application, that overpayment will be credited against current progress payment applications. For a period of five years from Final Acceptance of the Contract, the Design-Builder shall maintain and make available for audit inspection and copying by the Owner, State and the Government and their authorized representatives, all records subject to audit review.
8. The Design Criteria Professional shall review Project Record Documents with applications for payment and shall certify that Project Record Documents are being maintained. The Contract shall submit approved updated project schedule with application for payment.
9. The Owner, at its discretion, may authorize payment for materials not yet incorporated into the Work, whether or not delivered to the Work Site. The value of materials on hand but not incorporated into the Work will be determined by the Field Representative, based on actual invoice costs to the Design-Builder, and such value will be included in a monthly application for payment only if the materials have been properly stored on the Site, provided that such materials meet the requirements of the Contract Documents, and are delivered to acceptable locations on Site or in bonded warehouses that are acceptable to the Owner. Such delivered costs of stored or stockpiled materials may be included in the next application for payment after the following conditions are met:
  - a. The material has been stored and stockpiled in a manner acceptable to the Field Representative at or on the Work site or in a secure storage facility within Miami-Dade County or other location as approved by the Design Criteria Professional. If such materials are stored outside Miami-Dade County, the Design-Builder shall accept responsibility for and pay all personal and property taxes that may be levied against the Owner by any state or subdivision thereof on account of such storage of such material. The Owner will permit the Design-Builder, at the Design-Builder's own expense, to contest the validity of any such tax levied against the Owner and in the event of any judgment or decree of a court against the Owner, the Design-Builder agrees to pay same.
  - b. The Design-Builder has furnished the Field Representative with acceptable evidence of the quantity and quality of such stored or stockpiled materials.
  - c. The Design-Builder has furnished the Field Representative with satisfactory evidence that the materials and transportation costs have been paid including but not limited to certified bills of sale for such materials and insurance certificates or other instruments, in writing, and in a form as required by the Owner. The Design Criteria Professional may allow only such portion of the amount represented by these bills as, in his opinion, is consistent with the reasonable cost of such materials.
  - d. The Design-Builder has furnished the Owner legal title (free of debts, claims, liens, mortgages, taxes or encumbrances of any kind) to the material so stored and stockpiled and subject only to the Owner's payment for the materials as reflected in the application

for payment. All such materials so accepted shall become the property of the Owner. The Design-Builder at its own expense shall mark such material as the property of the Owner and shall take such other steps, if any, the Owner may require or regard as necessary to vest title in the Owner to such material.

- e. The Design-Builder has furnished the Owner evidence that the material so stored or stockpiled is insured against loss by damage to or disappearance of such materials at any time prior to use in the work. The cost of the material included in an application for payment which may subsequently become lost, damaged or unsatisfactory shall be deducted from succeeding applications for payment irrespective of the cause and whether or not due to the negligence, carelessness or fault of the Owner.
  - f. It is understood and agreed that the transfer of title and the Owner's payment for such stored or stockpiled materials shall in no way relieve the Design-Builder of its responsibility for furnishing and placing such materials in accordance with the requirements of the Contract Documents and does not waive Owner's right to reject defective material when it is delivered to the Site until such material is delivered to the Site and satisfactorily incorporated into the work.
  - g. In no case will the amount in an application for payment for material on hand exceed the Contract Price for such material, the Contract Price for the Contract item in which the material is intended to be used or the value for such material established in the approved Schedule of Values. Payment for material furnished and delivered as indicated above will be based on 100 percent of the cost to the Design-Builder and retention will be withheld as specified in the Contract Documents. In any event, partial payments for materials on hand will not exceed 70 percent of the item's Bid Price, including taxes and shipping, or the agreed amount within the Schedule of Values.
  - h. No partial payment will be made for stored or stockpiled living or perishable plant materials.
  - i. The Design-Builder shall bear all costs associated with the partial payment of stored or stockpiled materials in accordance with the provisions of this Article.
  - j. Materials may be subject to being purchased by the Owner directly under the County's "Direct Material Purchase Program" and installed by the Design-Builder, as applicable, in accordance with the Special Provisions.
10. Payment of the Contract lump sum price for General Requirements, if applicable, will be made in the following manner:
- a. The General Requirements Lump Sum amount, excluding cost for bonds and insurance, shall be paid in proportion to the total percent of completion of the Work.
  - b. The amount of the Design-Builder's Bond cost as set forth in the approved Schedule of Values shall be invoiced in full by the Design-Builder in the first payment application following the delivery of the bond to the Owner, and the Owner shall pay the total amount of the Bond cost to the Design-Builder as part of the monthly payment of such payment application. The Owner reserves its right to withhold payment for General Requirements, in whole or in part, at the Owner's sole discretion, in accordance with Paragraph 11 below.
11. If any claim is filed against the Project for labor, materials, supplies or equipment which the Owner has determined to have been incorporated on the site and the Design-Builder has not paid for, the Owner will have the right to retain from payments otherwise due the Design-Builder, in addition to other amounts properly withheld under this Article or under other provisions of the Contract, an amount equal to such amounts claimed.
12. In addition to the provisions of this Article and other relevant sections of the Contract Documents, payment may also be withheld proportionately for the following reasons:

- a. Reasonable doubt that the Work can be completed for the unpaid balance of the Contract Sum,
  - b. Reasonable indication that the Work will not be completed within the Contract Time,
  - c. Damage to another Design-Builder,
  - d. Unsatisfactory prosecution of the Work by the Design-Builder,
  - e. Failure of the Design-Builder, or its subcontractors, to pay wage rates, when applicable as required by the Contract.
  - f. In the event the Surety on the Performance and Payment Bond provided by the Design-Builder becomes insolvent, or is placed in the hands of a receiver, or has its right to do business in the State of Florida suspended or revoked as provided by law. In this case, payment will continue when the Design-Builder provides a good and sufficient Bond(s) as required by the Contract Documents, in lieu of the Bond(s) so executed by such Surety.
  - g. If any work or material is discovered which, in the opinion of either the Design Criteria Professional or the Field Representative, is defective, or should a reasonable doubt arise on the part of either the Design Criteria Professional or the Field Representative as to the integrity of any part of the work completed previous to the final acceptance and payment. In this case, there will be deducted from the first application for payment subsequent to the discovery of such work, an amount equal in value to the defective or questioned work, and this work will not be included in any subsequent applications for payment until the defects have been remedied or the causes for doubt removed.
13. The Contactor shall submit with each monthly invoice, or as otherwise directed by the County, certified payroll forms for all the Design-Builder's employees on the job, as well as for all subcontractors regardless of tier in accordance with applicable Responsible Wages and Benefits in accordance with Miami-Dade County Code Section 2-11.16. Failure to provide this information will cause the Contracting Officer, Field Representative, and/or Design Criteria Professional to return the invoice to the Design-Builder until such time as the Design-Builder properly submits the required information.
  14. Failure to comply with the insurance requirements listed in the Contract Documents may result in the Owner's withholding or delaying payment to the Design-Builder.
  15. In accordance with Miami-Dade County Implementing Order 3-9, Accounts Receivable Adjustments, if money is owed by the Design-Builder to the County, whether under this Contract or for any other purpose, the County reserves the right to retain such amount from payment due by County to the Design-Builder under this Contract. Such retained amount shall be applied to the amount owed by the Design-Builder to the County. The Design-Builder shall have no further claim to such retained amounts which shall be deemed full accord and satisfaction of the amount due by the County to the Design-Builder for the applicable payment due herein.

B. Taxes

1. Except as may be otherwise provided for in the Contract Documents, the price or prices bid for the Work shall include full compensation for all federal, state, local and foreign taxes, fees and duties that the Design-Builder is or may be required to pay and the Design-Builder shall be responsible for the payment thereof during the prosecution of the Work.
2. The Design-Builder's attention is directed to the fact that materials and supplies necessary for the completion of this Contract are subject to the Florida Sales and Use Tax, in accordance with Section 212.08, Florida Statutes, as amended. The Design-Builder shall not collect taxes upon making delivery to the Owner.

3. The Owner, at its sole discretion, upon request of the Design-Builder and where appropriate, may furnish to the Design-Builder appropriate evidence to establish exemption from any taxes, fees or duties which may be applicable to the agreement and from which the Owner is exempt.

C. Payments to Subcontractors and Suppliers

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

D. Contract Prices - Bid Form

Payment for the various Bid Items listed in the Bid Form shall constitute full compensation for furnishing plant, labor, equipment, appliances and materials and for performing operations required to complete the Work in conformity with the Contract Documents. All costs for work shown or indicated by the Contract Documents, although not specifically provided for by a Bid Item in the Bid Form, shall be included in the most appropriate Bid Item price for the items listed. Except for the relief provided by the applicable section of the Contract Documents governing Differing Site Conditions, the Design-Builder will not be entitled to additional compensation for providing an activity or material necessary for the completion of the Work in accordance with the Contract even though the activity or material is not included in a specific Bid Item or indicated in the Contract Documents.

E. Final Payment

1. After the Work has been accepted by the Owner, subject to the provisions of the Contract Documents, a final payment will be made as follows:
  - a. Prior to Final Acceptance of the Work, the Design-Builder shall prepare and submit a proposed final application for payment to the Design Criteria Professional showing the proposed total amount due the Design-Builder, segregated as to Bid Item quantities, force account work, and other bases for payments; deductions made or to be made for prior payment; amounts to be retained; any claims the Design-Builder intends to file at that time or a statement that no claims will be filed; and any unsettled claims, stating amounts. Prior applications and payments shall be subject to correction in the proposed final application for payment. Claims filed with the final application for payment must be otherwise timely under these General Conditions.
  - b. The Owner will review the Design-Builder's proposed final application for payment and necessary changes, or corrections will be forwarded to the Design-Builder. Within 10

- days thereafter, the Design-Builder shall submit a final application for payment incorporating changes or corrections made by the Design Criteria Professional together with additional claims resulting therefrom. Upon approval by the Owner, the corrected proposed final application for payment will become the approved final application for payment.
- c. If the Design-Builder files no claims with the final application for payment and no claims remain unsettled within 30 days after final inspection of the Work by the Design Criteria Professional and the Owner, and agreements are reached on all questions regarding the final application for payment, the Owner, in exchange for an executed release of all claims and properly executed close-out documents specified in Paragraph 3 below, will pay the entire sum found due on the approved final application for payment.
  - d. Upon final determination of any and all claims, the Owner, in exchange for properly executed close-out documents specified in Paragraph 3 below, will pay the entire sum found due on the approved final application for payment, including the amount, if any, allowed on claims.
  - e. The release from the Design-Builder will be from any claims arising from the Work under the Contract. If the Design-Builder's claim to amounts payable under the Contract has been authorized by the Owner for assignment pursuant to the relevant sections of the Contract Documents, a release may be required from the assignee.
  - f. Final payment will be made within 30 days after approval of the final notice and resolution of Design-Builder's claims, or 30 days after Final Acceptance of the Work by the Owner, whichever is later. If a final application for payment has not been approved within 30 days after final inspection of the Work, the Owner shall make payment of sums not in dispute without prejudice to the rights of either the Owner or the Design-Builder in connection with any disputed items.
  - g. Prior to payment of a claim settlement, the claim may be audited by the Owner and may be subject to approval by the funding agencies.
  - h. Final payment made in accordance with this article will be conclusive and binding against both parties to the Contract on all questions relating to the amount of work done and the compensation paid therefore.
2. With the final application for payment, the Design-Builder shall return and submit final conditional releases of lien from the Design-Builder, from each subcontractor of record and from other subcontractors or material suppliers who may have notified the Owner that they were furnishing labor or materials for this Project. In addition, the Design-Builder shall execute and return to the Owner the close-out documents required in the Contract. Within fifteen (15) days of receipt of final payment from the Owner, the Design-Builder shall return and submit final unconditional releases of lien from the Design-Builder, from each subcontractor of record, and from other sub-subcontractors or material suppliers who may have notified the Owner that they were furnishing labor or materials for this Project. The final unconditional releases of lien from the Design-Builder and its subcontractors and suppliers shall be final, originals, notarized and executed on the form provided by the Owner and included in the Contract Documents, all in accordance with all applicable Florida Statutes. In the event that all of the above releases cannot be furnished, the Design-Builder may, at the Owner's sole discretion after the Design-Builder demonstrates justifiable reasons, submit a Consent of Surety to Final Payment in a form acceptable to the Owner, recognizing lack of such releases of claim. Furthermore, the Design-Builder and the Surety shall agree in writing, in a form acceptable to the Owner, to indemnify, defend and hold harmless the Owner from any claims of subcontractors and suppliers who refuse to execute final releases.
  3. The making of final payment shall constitute a waiver of all claims by the Owner except those arising from:

- a. Faulty or defective Work appearing after Final Completion.
  - b. Failure of the Work to comply with the requirements of the Contract Documents, discovered after Final Completion.
  - c. The performance of audits to seek reimbursement of any overpayments discovered as a result of an audit as provided in the Contract Documents.
  - d. The enforcement of those provisions of the Contract Documents which specifically provide that they survive the completion of the Work.
  - e. The enforcement of the terms of the Payment and Performance Bonds against the Surety.
  - f. Terms of all warranties/guarantees required by the Contract Documents.
4. The acceptance of final payment shall constitute a waiver of all claims by the Design-Builder.

END OF ARTICLE



## 10. CHANGES

### A. Changes

1. The Owner reserves the right to, at any time, without notice to the sureties and without invalidating the Contract, by written notice or order designated as a Change Notice or Change Order, make any change in the Work within the general scope of the Contract including but not limited to changes:
  - a. In the Contract Documents.
  - b. In the method or manner of performance of the Work.
  - c. In Owner-furnished facilities, equipment, materials, services, or site or.
  - d. Directing acceleration in performance of the Work.
2. In the event the Owner exercises its right to change, delete or add work under the Contract, such work will be ordered and paid for as provided for in the Contract Documents.
3. Changes in the work may be initiated by the issuance of a Change Notice by the Design Criteria Professional. The Design-Builder shall submit a proposal to the Design Criteria Professional and the Owner for their review, in accordance with the Contract Documents, within fifteen (15) calendar days after receipt of a Change Notice. The Design-Builder shall maintain this proposal, for acceptance by the Owner, for a minimum of sixty (60) calendar days after submittal. The cost or credit to the Owner for any change in the Work shall be determined in accordance with the provisions of the Contract Documents. The Design-Builder shall not be compensated for effort expended in preparing and submitting price quotes.
4. In the event the Design-Builder fails to provide the full cost and time estimate for the change work or refuses to execute a full accord Change Order, the Owner will, at its sole discretion, 1) determine the total cost and time impacts of the change and compensate the Design-Builder and/or extend the Contract Time, if applicable, through a unilateral Change Order signed only by the Owner; or 2) direct the Design-Builder to proceed with the Work under the Force Account provisions of this article. Failure of the Design-Builder to submit its total and final estimated cost and time impact within thirty (30) calendar Days of the conclusion of the impacting event, shall constitute a waiver by the Design-Builder to claim additional costs or time beyond that which has been determined by the Owner. Any disputes arising out of an Owner determination shall be resolved in accordance with the dispute's provisions in the Contract Documents. Pending the Owner's final decision, the Design-Builder shall proceed diligently with the performance of the Work under the Contract.
5. Changes in the work covered by Unit Prices, as stated in the Contract Documents shall be all inclusive. These prices will include all Direct and Indirect Costs and means and methods of execution. To be compensable, units must be measured daily by the Design-Builder and approved in writing by the Owner or the Owner's authorized representative.
6. For Indirect Costs for Extra Work or deleted work approved by the Owner, the Design/Builder shall be allowed a percentage mark-up as set forth in Paragraph G. 2 on Force Account below.
7. Increases to the Contract Price shall be authorized by a Change Order executed by the Design-Builder, the Design-Builder's Surety and the Owner Decreases to the Contract Price shall be by Change Order or Work Order as determined by the Owner and shall also be subject to BCC approval when the decrease results from a reduction in the scope of the Work.
8. A cost of bonds for Change Orders that impact the Contract price shall be established by the Design-Builder's actual reimbursement costs, as approved by the Owner, based on the original Contract Amount and the original amount reimbursed to the Design-Builder for bonds at the commencement of the Work. This cost of bonds shall be added to all credit amounts allowed by the Owner. For Change Orders paid under the Allowance Account, no additional bond cost

will be allowed unless the Allowance Account is not included in the original Contract Amount. In this case, additional bond costs for these Change Orders will be considered.

9. Any claim for payment of Extra Work that is not covered by a Change Order or Work Order will be rejected by the Owner.

B. Allowance Accounts

1. The Owner may elect to have the Design-Builder perform Extra/additional Work related to the Project or may desire to provide the Design-Builder additional compensation for Work as may be allowed pursuant to Section 11, below. To the extent the applicable Allowance Account contains sufficient funding, payment shall be made from the line item(s) entitled "Allowance Account(s)."
  - a. The Allowance Account (Contingency) can be used to reimburse the Design-Builder for 1) valid claims presented pursuant to Article 11, below; 2) extra/additional work as desired and directed by the Owner.
  - b. Other Allowance Account(s) (Dedicated) may be used as specified in the Contract Documents to fund specific items of work at the sole discretion of the Owner. These dedicated allowance accounts shall be used only for the purposes approved pursuant to a written Work Order issued by the Owner or the Owner's authorized representative.
2. At such time as work is to be performed under the Allowance Account(s), if any, the work shall be incorporated into the Schedule and the Schedule of Values and shall in all respects be integrated into the construction as a part of the Contract as awarded.
3. The Work Order for the required work will be issued by the Owner or Design Criteria Professional upon receipt from the Design-Builder of a satisfactory proposal for performance of the work, and the acceptance thereof by the Design Criteria Professional and the Owner. If the Design-Builder and the Owner are unable to agree upon an amount of compensation or if the nature of the work is such that a Unit Price or Lump Sum price is not economically practical or if the change work is deemed essential to the Project and actual conditions require work to be swiftly conducted to avoid or minimize delays, the Work Order may be issued to perform the Work on a Force Account basis. In the event that an equitable adjustment for the said change work cannot be arrived at, either by mutual agreement or under the dispute provisions of the Contract Documents, the compensation hereunder will be the total compensation for this work.
4. No Work Orders shall be issued against an Allowance Account if such Work Orders in the aggregate exceed the authorized amount of that Allowance Account, provided, however, that such excess may be authorized by appropriate Change Order.
5. The unexpended amounts under the Allowance Accounts shall remain with the Owner and the Design-Builder shall have no claim to the same.

C. Deletion or Addition of Work

1. In the event the Owner exercises its right to delete any portion(s) of the work contemplated herein, such deletion will be ordered, and the Contract Total Amount and Time may be adjusted as provided for in these Contract Documents by Change Order or by Work Order, as appropriate. The Design-Builder shall be reimbursed for any actual reasonable expenses incurred prior to the notice of deletion of work as a result of preparing to perform the Work deleted. In the event of a dispute between Owner and Design-Builder as to the adjustment to the amount of time, the dispute shall be handled in accordance with these General Conditions.
2. Deleted Work - Lump Sum Bid Item(s): The Design-Builder shall credit the Owner for the reasonable value of the deleted work determined from the approved Schedule of Values, subject to approval by the Design Criteria Professional. If the reasonable value of the deleted work cannot be readily ascertained from the Schedule of Values submitted in accordance with these General Conditions, or if requested by the Design Criteria Professional, the Design-Builder

shall supply all data required by the Design Criteria Professional, including the actual agreements executed by the Design-Builder with the subcontractors and suppliers affected by the deleted work, to substantiate the amount of the credit to be given the Owner. The Design-Builder shall also submit for the Owner's approval a revised schedule of values reflecting the work remaining under the Contract following the deletion.

3. No payment(s) shall be made to the Design-Builder by the Owner for loss of anticipated profit(s) from any deleted work.
4. In the event the Owner exercises its right to add to any portion of the work contemplated herein, such addition will be ordered, and the Contract Total Price and Contract Time will be adjusted as provided for in these Contract Documents, by Change Order or by Work Order as appropriate. In the event of a dispute between Owner and Design-Builder as to the adjustment to the Price or the Time, the dispute shall be handled in accordance with the Contract Documents.

D. Increased or Decreased Quantities (Unit Prices)

1. This section applies to Owner-initiated additions or deletions from the Work and to the unit prices contained within this Contract and controls payments or credits for variations between estimated and actual quantities required to complete the Work, even though the additions or deletions may be distinct or separate structures or activities and regardless of the fact that the addition or deletion is a result of field adjustments, site conditions, a design change or any other cause. Increases or decreases will be determined by comparing the actual quantity required to the Design Criteria Professional's estimated quantity in the Bid Form.
2. If the actual quantity of Bid Item varies from the Design Criteria Professional's quantity estimate by 25 percent or less, payment for the Bid Item will be made at the Contract unit price. If the actual quantity varies from the Bid quantity by more than 25 percent, the compensation payable to the Design-Builder will be the subject of review by the Design-Builder and the Design Criteria Professional and a Contract adjustment will be made by means of a Change Order in accordance with the Contract Documents to credit the Owner with any reduction in unit prices or to compensate the Design-Builder for any increase in unit price resulting from variations between estimated and actual quantities. The unit price to be re-negotiated shall be only for that quantity above 125 percent or below 75 percent of the original bid quantities.
3. The Design-Builder shall submit to the Design Criteria Professional all data required to substantiate the amount of compensation requested, therefore. In no event shall the Design-Builder be entitled to compensation greater than the aggregate amount of all the Unit Prices times the original bid quantities of Work reflected in the Bid Form.
4. No compensation will be made in any case for loss of anticipatory profits, loss of bonding capacity or consequential damages.

E. Extra Work

1. Except as otherwise expressly provided above, all additional work ordered, work changed, or work deleted shall be authorized by Work Order(s) or Change Order(s). All changed or added work so authorized shall be performed by the Design-Builder at the time and in the manner specified. The Change Order shall include, as a minimum:
  - a. Scope of work to be added, deleted or modified.
  - b. Cost of work to be added, deleted or modified.
  - c. The Contract time extension or reduction in contract time in the case of deleted work required to perform the work to be added, deleted or modified.
  - d. Full release of claims associated with the Contract through the date of the Change Order, or a reservation of claims identified as to each claim reserved, the scope of the work, the

maximum cost of the reserved work, and the maximum number of days of Contract Time requested, shall be specified.

The Work Order shall include, at a minimum:

- a. Scope of work to be added, deleted or modified.
  - b. Cost of work to be added, deleted or modified.
  - c. The Contract Time extension required to perform the work to be added, deleted or modified.
  - d. Full release of claims associated with the Work Order work, or a reservation of claims identified as to each claim reserved, the scope of the work, the maximum cost of the work, and the maximum number of days of Contract Time requested, shall be specified.
2. If Work is ordered, changed, or deleted which is not covered by Unit Prices, then, the Owner and the Design-Builder shall negotiate an equitable adjustment to the Contract Price for the Direct Costs for the performance of such work in accordance with this article. Indirect Costs for Work ordered, changed or deleted may be reimbursed for Excusable and Compensable Delay as defined in these Contract Documents.
- a. In order to reimburse the Design-Builder for additional Direct Costs, either by Work Order, Change Order or any other means, the Design-Builder must have additional work added to the Contract Scope of Work. The additional cost of idle or inefficient labor, from any cause, or the additional cost of labor made idle or inefficient from any cause, will not be considered a reimbursable additional Direct Cost. Special equipment or machinery, which is made idle or inefficient by the Work ordered, changed or deleted, may be reimbursable if approved by the Design Criteria Professional as an unavoidable cost to the Design-Builder, caused by the Owner.
  - b. Costs of special equipment or machinery, not already mobilized on the site, approved by the Design Criteria Professional, shall be calculated using the current issue of the Associated Equipment Distributors (AED) Manual plus any required mobilization. The selection of which of the AED rates (daily, weekly, monthly) to be used to calculate these costs shall be as follows:
    - 1) Between one (1) day and seven (7) days, use the daily rate.
    - 2) Between seven (7) days and 30 days, use the weekly rate.
    - 3) Greater than 30 days, use the monthly rate.
    - 4) For less than one (1) day hourly rates, use the daily rate divided by eight (8).
    - 5) For overtime hourly rates use the daily rate divided by eight (8), the weekly rate divided by 40, or the monthly rate divided by 176 as appropriate.
    - 6) Costs for Special Equipment and Machinery already mobilized on the site, shall not exceed the monthly rate stated in the AED Manual, divided by 176, per hour that the Special Equipment and Machinery is in use on the work plus any required re-mobilization.
    - 7) The cost calculation shall not combine rates within the range of a time extension. It shall use decimals of the time extension rate that the extension falls under. For example, the cost calculation for a piece of Special Equipment with an approved delay of 45 days shall be one and one-half (1.5) months times the monthly rate, not one (1) month at the monthly rate, plus two (2) weeks at the weekly rate, plus one (1) day at the daily rate.
    - 8) Rental for special equipment and machinery, not already mobilized to the site, shall be an amount equal to the appropriate daily, weekly, or monthly rental rate for such equipment, in accordance with the current issue of Associated Equipment Distributors'

(AED) "Compilation of Nationally Averaged Rental Rates and Model Specifications for Construction Equipment" (notwithstanding the caveats contained therein that such rental rates are not for use by government agencies) for each and every rental period (in weeks, days, or months as applicable) that the special equipment or machinery is in use on the work plus any required mobilization. Payment for special equipment and machinery already mobilized to the site shall not exceed the monthly rate stated in the AED standards divided by 176 to establish a per hour rate that the special equipment and machinery is in use on the Work, plus any required re-mobilization.

9) For indirect costs, the Design-Builder shall be allowed a percentage mark-up as set forth in Paragraph G. 2 below.

F. Differing Site Conditions

1. The Design-Builder shall immediately, and before such conditions are disturbed, notify the Design Criteria Professional in writing of 1) subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents, or 2) unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.
2. The Design Criteria Professional will promptly investigate the conditions, and if such conditions materially differ and cause an increase or decrease in the Design-Builder's cost of, or the time required for, performance of any part of the work under the Contract, a Contract change may be made, and the Contract modified in writing in accordance with the Contract Documents.
3. No claim of the Design-Builder under this article will be allowed unless the Design-Builder has given the notice required in the Contract Documents.
4. No claim by the Design-Builder for a Contract change hereunder will be allowed if asserted after final payment under this Contract.
5. If the Owner is not given written notice prior to the conditions being disturbed, the Design-Builder will be deemed to have waived his right to assert a claim for additional time and compensation arising out of such changed conditions.

G. Notwithstanding the preceding, the Design-Builder shall design the Work such it may be constructed for the contract price inclusive of all means and methods as may be necessary to accommodate the site conditions. Design-Builder shall conduct all investigations a prudent engineer would conduct to ascertain the actual conditions on the site during the design phase such that the design reflects, to the maximum extent possible, the actual site conditions. If such investigations reveal, during the design phase, that, 1) due to actual site conditions, subsurface, or latent physical conditions at the site differing materially from those indicated in the Contract Documents, or 2) unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract, the Project cannot be completed for the Contract Price, the Design-Builder shall immediately inform the Owner of same. Design-Builder shall be liable for all costs associated with site conditions which could or should have been discovered by a reasonable engineer during the design process, or with reasonable investigations of the site.

1. If the Owner and the Design-Builder cannot reach agreement on an equitable adjustment to the Contract Price for any work as prescribed above, then the Extra Work will be performed on a Force Account basis as directed by the Design Criteria Professional and paid for as specified below.
2. The following percentages will be allowed as mark-ups over Direct Costs for all negotiated adjustments to the Contract Amount or for work performed on either a negotiated lump sum basis or a Force Account basis:

- a. Extra Work Performed directly by Design-Builder's Own Forces: The Design-Builder may add up to a maximum fifteen percent (15%) mark-up on the actual Direct Cost of the Extra Work, subject to review and approval by the MDAD Project Manager, as direct compensation for Overhead. A 10% mark-up will be added to all negotiated credit amounts for deleted work not performed to cover Overhead.
  - b. Extra Work Performed by a Subcontractor or any Sub-tier Subcontractor: The Subcontractor may add up to a maximum fifteen percent (15%) mark-up on the actual Direct Cost of the Extra Work as direct compensation for Overhead. The Design-Builder may add a five percent (5%) mark-up on the Subcontractor's actual Direct Cost as Design-Builder's Overhead. A 10% additional credit will be added to all Subcontractor negotiated credit amounts for deleted work not performed to cover quality control, supervision, coordination, overhead, small tools and incidentals.
3. In the event Extra Work is performed on a Force Account basis, then the Design-Builder and the subcontractor(s), as appropriate, shall maintain itemized daily records of costs, quantities, labor and the use of authorized Special Equipment or Machinery. Copies of such records, maintained as follows, shall be furnished to the Owner or Owner's authorized representative daily for approval, subject to audit.
- a. Comparison of Record: The Design-Builder, including its subcontractor(s) of any tier performing the work, and the Owner or their duly authorized representatives shall compare records of the cost of force account work at the end of each day. Agreement shall be indicated by signature of the Design-Builder, the subcontractor performing the work, and the Owner or their duly authorized representatives.
  - b. Statement: No payment will be made for work performed on a force account basis until the Design-Builder has furnished the Owner or their duly authorized representatives with duplicate itemized statements of the cost of such force account work detailed as follows:
    - 1) Name, classification, date, daily hours, total hours, rate and extension for each laborer, tradesman, and foreman.
    - 2) Designation, dates, daily hours, total hours, rental rate, and extension of each unit of special machinery and equipment.
    - 3) Quantities of materials, prices, and extensions.
    - 4) Transportation of materials.The statements shall be accompanied and supported by a receipted invoice of all materials used and transportation charges. However, if materials used on the force account work are not specifically purchased for such work but are taken from the Design-Builder's stock, then in lieu of the invoices the Design-Builder shall furnish an affidavit certifying that such materials were taken from its stock, that the quantity claimed was actually used, and that the price and transportation claimed represent the actual cost to the Design-Builder.
  - c. Authorization of Special Equipment and Machinery: No compensation for special equipment or machinery shall be made without written authorization from the Design Criteria Professional. The Design Criteria Professional shall review and evaluate any special equipment or machinery proposed by the Design-Builder for use on a force account basis. As part of its evaluation, the Design Criteria Professional shall determine whether any of the special equipment or machinery being proposed by the Design-Builder will be concurrently used on the Project, including approved changes, or on other force account work on the Project. If the Design Criteria Professional determines that such a concurrent use of special equipment or machinery is being proposed by the Design-Builder, prior to the authorization of such special equipment or machinery, the Design Criteria Professional and thereto Design-Builder shall establish a straight-line

prorated billing mechanism based on the actual percentage of time that the equipment or machinery is required to be used on the force account work(s). Special equipment or machinery which is approved for use by the Design Criteria Professional shall be reviewed and accounted for on a daily basis as provided in the Comparison of Record and Statement paragraphs of this section of the Contract.

- d. Inefficiency in the Prosecution of the Work: If in the Owner's or Design Criteria Professional's opinion, the Design-Builder or any of its subcontractors, in performing Force Account Work, is not making efficient use of labor, materials or equipment or is proceeding in a manner which makes Force Account Work unnecessarily more expensive to the Owner, the Owner or Design Criteria Professional may, in whole or part, direct the Design-Builder in the deployment of labor, material and equipment. By way of illustration, inefficiency may arise in the following ways, including but not limited to 1) the timing of the Work, 2) the use of unnecessary labor or equipment, 3) the use of a higher percentage of journeymen than in non-force account Work, 4) the failure to procure materials at lowest price, or 5) using materials of quality higher than necessary.

#### H. Design-Builder Proposals - General

The Design-Builder may at any time submit to the Design Criteria Professional for its review proposed modifications to the Contract Documents, including but not limited to, changes in the Contract Time and/or Contract Amount, supported by a cost/price proposal. Upon acceptance of the proposed modifications by the Owner, a Work Order or Change Order will be issued. Denial of a proposed modification will neither provide the Design-Builder with any basis for claim for damages nor release the Design-Builder from contractual responsibilities. A Contract change in the form of a Contract price reduction will be made if the change results in a reduction of the cost of performance and the Design-Builder will not be entitled to share in said savings unless the proposal is made in accordance with Paragraph I of this article. Except as provided in Paragraph I below, the Design-Builder will not be compensated for any direct, incidental or collateral benefits or savings the Owner receives as a result of the proposal.

#### I. Value Engineering Change Proposals

1. The Design-Builder may submit to the Design Criteria Professional one or more cost reduction proposals for changing the Contract requirements. The proposals shall be based upon a sound study made by the Design-Builder indicating that the proposal:
  - a. Will result in a net reduction in the total Contract Price.
  - b. Will not impair any essential function or characteristic of the Work such as safety, service life, reliability, economy of operation, ease of maintenance and necessary standardized features.
  - c. Will not require an unacceptable extension of the Contract completion time; and
  - d. Will require a change in the Contract Documents and such change is not already under consideration by the Owner.
    - 1) The Owner may accept in whole or in part any proposal submitted pursuant to the previous paragraph on Value Engineering Change Proposals by issuing a Change Order which will identify the proposal on which it is based. The Change Order will provide for a Contract change in the Contract price and will revise any other affected provisions of the Contract Documents. The equitable adjustment in the Contract price will be established by determining the net savings resulting from the accepted change. The net savings resulting from the change will be shared between the Design-Builder and the Owner on the basis of 50 percent for the Design-Builder and 50 percent for the Owner and will be limited to one Value

Engineering Change Proposal per Change Order. Net savings will be determined by deducting from the proposal's estimated gross savings 1) the Design-Builder's costs of developing and implementing the proposal (including any amount attributable to a subcontractor) and 2) the estimated amount of increased costs to the Owner resulting from the change, such as evaluation, implementation, inspection, related items, and Owner -furnished material. Estimated gross savings will include Design-Builder's labor, material, equipment, overhead, profit and bond. The Contract price will be reduced by the sum of the Owner's costs and share of the net savings. For the purposes of this article, the applicable provisions of the Contract Documents shall be used to determine the equitable adjustment to the Contract price.

- 2) The Owner will not be liable for delay in acting upon, or for failure to act upon, any proposal submitted pursuant to of this article. The decision of the Owner as to the acceptance or rejection of any such proposal under the Contract will be final. The submission of a proposal by the Design-Builder will not in itself affect the rights or obligations of either party under the Contract.
  - 3) The Design-Builder shall have the right to withdraw part or all of any proposal he may make under Paragraph 2 of this article at any time prior to acceptance by the Owner. Such withdrawal shall be made in writing to the Design Criteria Professional. Each such proposal shall remain valid for a period of 60 days from the date submitted. If the Design-Builder wishes to withdraw the proposal prior to the expiration of the 60-day period he will be liable for the cost incurred by the Owner in reviewing the proposal.
  - 4) The Design-Builder shall specifically identify any proposals under subsection I of this Article with the heading "Value Engineering Change Proposal," or the proposal will be considered as made under Subsection A of this Article 10 with the heading "Changes".
2. The Design-Builder, in connection with each proposal for a Contract Change Notice under this article, shall furnish the following information:
- a. A description of the difference between the existing Contract requirement and the proposed change, and the comparative advantages and disadvantages of each, justification when a function or characteristic of an item is being altered, and the effect of the change on the performance of the end item.
  - b. An analysis and itemization of the requirements of the Contract which must be changed if the Value Engineering Change Proposal is accepted and a recommendation as to how to make each such change (e.g., a suggested specification revision).
  - c. A separate detailed cost estimate for both the existing Contract requirement and the proposed change to provide an estimate of the reduction in costs, if any, that will result from acceptance of the Value Engineering Change Proposal taking into account the costs of development and implementation by the Design-Builder.
  - d. A prediction of any effects the proposed change would have on collateral costs to the Owner such as government-furnished property costs, costs of related items, and costs of maintenance and operation.
  - e. A statement of the time by which a Contract modification accepting the Value Engineering Change Proposal must be issued so as to obtain the maximum cost reduction, noting any effect on the Contract completion time or delivery schedule; and
  - f. Identification of any previous submission of the Value Engineering Change Proposal to the Owner, including the dates submitted, the numbers of the contracts involved, and the previous actions by the Owner.



3. The Design-Builder waives any and all claims relating to any delay that may arise out of a Value Engineering Change Proposal.

## J. SUBSTITUTIONS

### REQUEST FOR SUBSTITUTIONS

- 1) No substitution requests will be accepted after the proposal has been accepted.
- 2) Acceptance on another project, by the Owner, of a product other than that specified for this project does not constitute evidence of its equality with the product specified, nor its suitability for this project.
- 3) For convenience in designation in the Contract Documents, certain materials, articles, or equipment may be designated by a brand or a trade name or the name of the manufacturer, together with catalog designation or other identifying information. When Contract Documents specifically disallow substitution, the specified product shall be provided. Alternative material, article, or equipment which is of equal quality and of the required characteristics for the purpose intended may be proposed ONLY DURING THE PROPOSAL SUBMITTAL PERIOD.
- 4) When the Contract Documents specify the use of certain methods and equipment, such methods and equipment shall be used unless others are authorized in writing by the Design Criteria Professional. If the Design-Builder desires to use a method or type of equipment other than specified in the Contract, he may request permission ONLY DURING THE PROPOSAL SUBMITTAL PERIOD from the Design Criteria Professional to do so. The request shall be in writing and shall include a full description of the methods and equipment proposed and of the reasons for desiring to make the change. If approval is given, it will be on the condition that the Design-Builder will be fully responsible for producing work in conformity with Contract requirements. If, after trial use of the substituted methods or equipment, the Design Criteria Professional determines that the work produced does not meet Contract requirements, the Design-Builder shall discontinue the use of the substitute method or equipment and shall complete the remaining work with the specified methods and equipment. The Design-Builder shall remove any deficient work and replace it with work of specified quality or take such other corrective action as the Design Criteria Professional may direct at no additional cost to the Owner. No change will be made to the Contract price(s) nor in Contract Time as a result of authorizing a change in methods or equipment under this Article.
- 5) During proposal period, no request for substitution will be considered unless accompanied by complete information and descriptive data necessary to determine the quality of the proposed materials, articles or equipment. Samples shall be provided when requested by the Design Criteria Professional. The burden of proof as to the comparative quality or suitability of the proposed materials, articles or equipment shall be upon the Design-Builder. The Design Criteria Professional's and the Owner's decision in such matters shall be final. In the event that the Design Criteria Professional rejects the use of such substitute materials, articles or equipment, then one of the particular products designated by brand name shall be provided.
- 6) If any mechanical, electrical, structural, or other changes are required for the proper installation and fit of alternative materials, articles, or equipment, or because of deviations from the Contract Documents, such changes shall be shown in the substitution request and such changes shall be made without additional cost to the Owner.

END OF ARTICLE

## 11. CLAIMS AND DISPUTES

### A. Notice of Claims

1. The Design-Builder shall not be entitled to additional time, compensation, or other relief for any act or failure to act by the Owner, Design Criteria Professional, the Owner's Separate Design-Builders; the happening of any other event or occurrence; or any other cause or circumstances of whatever nature arising out of or relating to the Contract, including the breach thereof, unless he shall have submitted to the Design Criteria Professional, with a copy to the Owner, a written Notice of Claim followed by a written Claim as required in this Article B, below.

The Design-Builder shall provide immediate verbal notification with written Notice of the Claim within two (2) days of the date when Design-Builder knew or should have known with the exercise of reasonable diligence of the basis for the Notice of Claim. The written Notice of Claim shall set forth the factual basis for the Notice of Claim and the Design-Builder's estimate of the probable impact on the cost or time of performance caused by the events giving rise to the Notice of Claim. The Notice of Claim shall state in bold type and all caps, NOTICE OF CLAIM on the cover. The Design-Builder's failure to strictly comply with the notice of Claim requirements shall be deemed a waiver and release of all rights in connection with the Claim.

2. It is the intention of this article, that differences between the parties arising under and by virtue of the Contract shall be brought to the attention of the Design Criteria Professional and Owner at the within 2 days of any potential claim in order that additional costs, time, or other issues arising out of events for which the Notice of Claim was provided may be avoided, mitigated, settled, or otherwise resolved quickly and with no or minimal impact to the Contract Sum and Contract Time.
3. The notice requirements of this Article are in addition to and not in lieu of those required in other articles of these Contract Documents. However, to the extent of any conflict, inconsistency, or ambiguity with regard to the notice requirements of this article and the notice requirements in any other articles of these Contract Documents, the notice requirement imposing a greater duty or obligation upon Design-Builder shall take precedence and govern
4. The Design-Builder must maintain a cost accounting system as a condition precedent for recovery on any Claim against the Owner. The cost accounting system shall segregate the costs of the work under the Contract (non-Claims-related) from Claims-related and other Design-Builder costs through the use of a job cost ledger and be otherwise in compliance with general accounting principles.
5. If the Owner decides, in its sole discretion, to pay or approved additional time all or part of a Claim for which notice was not timely made, the Owner does not waive the right to enforce the notice requirements in connection with any other Claim or the part of Claim for which the Owner did not elect to pay or approved additional time.

### B. Claim Submission Requirements

1. Claims filed by the Design-Builder shall be filed in full accordance with this Article no later than 14 calendar days date when Design-Builder knew or should have known with the exercise of reasonable diligence of the basis for the Claim. The Claim shall be addressed to the Design Criteria Professional, with a copy to the Owner, and shall state **CLAIM** bold type and all caps on the cover page. The Claim shall include, without limitation, the detailed factual and contractual basis for the Claim, all documents supporting any additional costs, time, or other relief sought, and all other documents required in other paragraphs of this Article 11.B. In the case of continuing or on-going events upon which a Claim is based, the Design-Builder shall be allowed to periodically amend its Claim to more accurately reflect the impact of said Claim. Except as provided in Article 11.A.6, above, no Claims for additional compensation, time, or

for any other relief under the Contract shall be recognized, processed, or treated in any manner unless the same is submitted in strict accordance with this Article 11.B. Failure to present and process any Claim in accordance with this Article shall be conclusively deemed a waiver, abandonment, and/or relinquishment of any such Claim, it being expressly understood and agreed that the timely presentation of Claims, in sufficient detail to allow proper investigation and prompt resolution thereof, is essential to the administration of this Contract. The Design-Builder shall not present to the Owner any claims brought by any subcontractor, subconsultant, or materialman unless the Design-Builder has independently analyzed such claim and has concluded that the claim is meritorious and valid pursuant to this Section. The Design-Builder shall not present to the Owner any claim from a subconsultant, subcontractor, or material if the Design-Builder has concluded is not meritorious or valid pursuant to Section.

2. The Owner, the Design Criteria Professional, and others as designated by the Owner will review and evaluate the Design-Builder's Claim. The Design-Builder shall furnish, when requested by the Owner, the Design Criteria Professional, and others as designed by the Owner, such further information and details as may be required to determine the facts or contentions involved in the Claim. The costs and expenses, including but not limited to legal fees and expenses, incurred by the Design-Builder for Claim preparation, Change Order negotiations related to the Claim, shall not be reimbursable under this Contract or otherwise.
3. The cost of any work performed by the Design-Builder prior to receipt of a written Notice-to-Proceed (NTP) from the Owner shall not be the basis for a Claim of any kind from the Design-Builder nor otherwise recoverable by Design-Builder against Owner, all such costs being expressly waived by the Design-Builder.
4. The Design-Builder's Claim shall segregate all costs associated with each individual cost component including but not limited to labor, equipment, material, subcontractor and supplier costs, and all other costs related to the Claim. If the Design-Builder has multiple Claims, the Design-Builder shall segregate each Claim individually including the respective costs and other documents associated with each Claim. Failure to segregate Claims and their respective costs and other document shall be sufficient grounds for the Owner's rejection of the Claim. "Total Cost" Claims and "Modified Total Cost" Claims shall not be allowable, and the Design-Builder expressly waives the right to seek recovery on any Claim by either of these methods
5. Each Claim must be certified by the Design-Builder as required by the Miami-Dade Code, False Claims Act (see Code Section 21-255, et seq.), and accompanied by all materials required by Miami-Dade County Code Section 21-257. A "certified claim" shall be made under oath by a person duly authorized by the claimant, and shall contain a statement that:
  - a. The claim is made in good faith.
  - b. The claim's supporting data is accurate and complete to the best of the person's knowledge and belief.
  - c. The amount of the claim accurately reflects the amount that the claimant believes is due from the Owner; and
  - d. The certifying person is duly authorized by the claimant to certify the claim.
6. In order to substantiate time-related Claims (delays, disruptions, impacts, etc.), the Design-Builder shall submit in electronic format, the following information:
  - a. Copy of Design-Builder's Notice of Claim in accordance with this Article. Failure to include the Notice of Claim is sufficient grounds to deny the Claim.
  - b. The approved, as-planned Schedule in accordance with the applicable section of the Contract Documents its original, native electronic format, if the Claim is related to the Contract Time.

- c. The as-built Schedule reflecting changes to the approved schedule up to the time of the impact in question in its original, native electronic format, if the Claim is related to the Contract Time.
- d. The basis for the duration of the start and finish dates of each impact activity and the reason for choosing the successor and predecessor events affected in the schedule shall be explained. Also, the basis for the duration of any lead/lags inserted into the schedule and the duration in related activity duration shall be explained.
- e. A marked-up as-built Schedule indicating the causes responsible for changes between the as-planned and as-built schedule and establishing the required cause and effect relationships.
- f. After indicating specific time related changes on the as-built schedule, the documentation must be segregated into separate packages with each package documenting a specific duration change identified previously. This documentation package shall include Change Orders, Change Notices, Work Orders, written directions, meeting minutes, etc., related to the change in duration.
- g. Any loss of efficiency, acceleration, disruption and loss of productivity Claims shall be compensated as part of the Liquidated Indirect Costs paid for compensable, excusable delays and mark-up on Direct Cost of changes as allowed by the Contract. The claimed delay shall not result from a cause specified in the Contract Documents as a non-excusable delay.
- h. The Design-Builder assumes all risk for the following items, none of which shall be the subject of any Claim, and none of which shall be compensated for except as they may have been included in the compensation described under Liquidated Indirect Costs: (1) home office expenses or any Direct Costs incurred allocated from the headquarters or other non-project office of the Design-Builder; (2) loss of anticipated profits on this or any other project, (3) loss of bonding capacity or capability; (4) losses due to other projects not bid upon; (5) loss of business opportunities; (6) loss of productivity on this or any other project; (7) loss of interest income on funds not paid; (8) costs to prepare, negotiate, or prosecute Claims; (9) costs spent to achieve compliance with applicable laws and ordinances (excepting only sales taxes paid shall be reimbursable expense subject to the provisions of the Contract Documents), and (10) any other consequential damage.
- i. All non-time-related Claim items for additional compensation for Direct Costs shall be properly, and full documented and supported with copies of invoices, time sheets, rental agreements, crew sheets and the like.
- j. Cost information shall be submitted in sufficient detail to allow for review. The basis for the budgeted or actual costs shall include, without limitation, man-hours by trade, labor rates, material and equipment costs, etc. These costs shall be broken down by pay item and Construction Specification Institute (CSI) MasterFormat Division.
- k. The documentation for budgeted cost shall, as a minimum, include:
  - 1) Copies of all the Design-Builder's bid documents, bid quotes, faxed quotes, etc.
  - 2) Copies of all executed subcontracts.
  - 3) Other related budget documents as requested by the Design Criteria Professional.
- l. The documentation for actual cost shall, as a minimum, include:

- 1) Time Sheets.
  - 2) Materials invoices
  - 3) Equipment invoices
  - 4) Subcontractors' payments
  - 5) Other related documents as required by the Design Criteria Professional.
- m. The Design-Builder shall make all its books, employees, work sites and records available to the Owner, the Design Criteria Professional, and/or the Owner other designees or representatives for inspection and audit upon written request.
- n. The Design-Builder shall not be entitled to any additional costs or other relief from the Owner for loss of anticipated profit(s) from any deleted work or any other work not performed.
7. As indicated above, the Owner, Design Criteria Professional, and other Owner designees shall be allowed full and complete access to all personnel, documents, work sites, and other information requested to investigate any Claim. Within sixty (60) days after a Claim has been received and the Design-Builder has submitted all additional information as may be requested by the Owner, Design Criteria Professional, or the Owner's other designees, the Claim shall either be rejected with an explanation as to why it was rejected or acknowledged in whole or in part. Once the Claim is acknowledged, the parties shall attempt to negotiate a satisfactory settlement of the Claim, which settlement shall be included in a subsequent Work Order or Change Order. If the parties fail to reach an agreement on a recognized Claim, the Owner may, at its sole discretion, approve a change for the undisputed portion of any cost, time, or other relief sought.
8. Failure of the Design-Builder to make a specific reservation of rights regarding any such disputed amounts in the body of the Change Order which contains any additional costs, time, or other relief with regard to the Claim shall be construed as a waiver, abandonment, and/or relinquishment of all rights for additional costs, time, or other relief arising out of or relating to Claim(s) for which relief is provided in said Change Order. The specific reservation of rights by Design-Builder shall include, without limitation, the total amount and time so reserved. However, once the Design-Builder has properly reserved rights in a Change Order with regard to any Claim, no further reservations of rights shall be required, and the Design-Builder shall not be required to repeat the reservation in any subsequent change order. Prior reservation of rights may however be limited or waived, but not expanded, by express reference, in subsequent change orders. Notwithstanding the aforementioned, at the time of final payment under the Contract, the Design-Builder shall specify all Claims, or portions thereof, which have been denied and all Claims for which rights have been reserved in accordance with this section. Failure to so specify any particular Claim at the time of final payment shall be constructed as a waiver, abandonment, and/or relinquishment of each such Claim.

C. Disputes

1. The following provisions shall govern disputes under this Contract unless the Special Provisions to this Contract contain the requirement for the use of an alternate dispute resolution method. For example, for large projects of great complexity, a Dispute Review Board (DRB) may be employed by the Owner to settle disputes in lieu of the Department Director or Office of the Mayor (OOM) designee as specified below. In this case, the DRB alternative shall be specified by the individual department in the Special Provisions and, if utilized, shall supersede this dispute provision.
  - a. In the event the Design-Builder and Owner are unable to resolve their differences concerning any determination made by the Design Criteria Professional (referred to in this Section as a "Dispute"), either the Design-Builder 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. For contracts with a value of \$5 million or less, all Disputes under this Contract shall be decided by the Department Director or his designee. For contracts valued at more than \$5 million, Disputes shall be decided by a designee appointed by the OOM. Decisions rendered by the Department Director or OOM designee shall not be binding but shall be admissible in a court of competent jurisdiction.
  - c. As soon as practicable, the Department Director or OOM designee shall adopt a schedule for the Design-Builder 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 OOM designee shall afford each party an opportunity to present a maximum of one hour of argument. The Department Director or OOM 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 OOM 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 OOM 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 OOM 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 OOM 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 OOM 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 OOM 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 all of which shall be a criterion in determining the sufficiency and validity of a claim.
  - f. The Department Director or OOM 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 OOM 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 OOM 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 OOM 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 Design-Builder shall proceed diligently with the performance of the Contract and in accordance with the Design Criteria Professional's interpretation. Any presentation or request by the Design-Builder under this article will be subject to the same requirements for Submittal of Claims in this article.

#### D. Terminations

##### 1. Termination for Convenience

- a. The Owner may at its option and discretion terminate the Contract, in whole or, from time to time in part, at any time without any default on the part of the Design-Builder by issuing a written Notice of Termination to the Design-Builder and its Surety, specifying the extent to which performance of work under the Contract is terminated and the date upon which such termination becomes effective, at least 10 days prior to the effective date of such termination.
- b. In the event of Termination for Convenience, the Owner shall pay the Design-Builder for all labor performed, all materials and equipment furnished by the Design-Builder and its subcontractors, materialmen and suppliers and manufacturers of equipment less all partial payments made on account prior to the date of cancellation as determined by the Field Representative and approved by the Design Criteria Professional. The Design-Builder will be paid for:
  - 1) The value of all work completed under the Contract, based upon the approved Schedule of Values and/or Unit Prices,
  - 2) The value of all materials and equipment delivered to but not incorporated into the Work and properly stored on the site,
  - 3) The value of all bonafide irrevocable orders for materials and equipment not delivered to the construction site as of the date of cancellation. Such materials and equipment must be delivered to the Owner to a site or location designated by the Department prior to release of payment for such materials and equipment.
  - 4) The values calculated under 1, 2, 3 above shall be as determined by the Field Representative and approved by the Design Criteria Professional.
- c. In the event of termination under this article, the Design-Builder shall not be entitled to any anticipated profits for any work not performed due to such termination.
- d. In the event of termination under this article, the Owner does not waive or void any credits otherwise due the Owner at the time of termination, including Liquidated Damages, and back charges for defective or deficient work.

- e. Upon termination as indicated above, the Field Representative shall prepare a certificate for Final Payment to the Design-Builder.
2. Termination for Default of Design-Builder
- a. The Contract may be terminated in whole or, from time to time in part, by the Owner for failure of the Design-Builder to comply with any requirements of the Contract Documents including but not limited to:
    - 1) Failure to perform the work or failure to provide sufficient workers, equipment or materials to assure completion of work in accordance with the terms of the Contract, and the approved Schedule, or
    - 2) Failure to provide the Schedule for the Project by the date due, or
    - 3) Failure to provide adequate shop drawings by the dates indicated in the approved Schedule for the Project, or
    - 4) Failure to replace the superintendent in the time allotted, if required, or
    - 5) Performing the work unsuitably or neglecting or refusing to remove materials or to perform anew such work as may be rejected as unacceptable and unsuitable, after written directions from the Field Representative, or
    - 6) Violating the terms of the Contract or performing work in bad faith, or
    - 7) Discontinuing the prosecution of the work, or
    - 8) Failure to resume work which has been discontinued within a reasonable time after notice to do so, or
    - 9) Abandonment of the Contract, or
    - 10) Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency, or failure to maintain a qualifier, or
    - 11) Allowing any final judgment to stand against the Design-Builder unsatisfied for a period of ten (10) days, or
    - 12) Making an assignment for the benefit of creditors, or
    - 13) For any other cause whatsoever, fails to carry out the work in an acceptable manner or to comply with any other Contract requirement.
  - b. Before the Contract is terminated, the Design-Builder and its Surety will be notified in writing by the Design Criteria Professional or the Field Representative of the conditions which make termination of the Contract imminent (Notice to Cure). The Contract will be terminated by the Owner ten (10) days after said notice has been given to the Design-Builder and its Surety unless a satisfactory effort acceptable to the Owner has been made by the Design-Builder or its Surety to correct the conditions. If the Design-Builder fails to satisfactorily correct the conditions giving rise to the termination, the Owner may declare the Contract breached and send a written Notice of Termination to the Design-Builder and its Surety.
  - c. The Owner reserves the right, in lieu of termination as set forth in this article, to withhold any payments of money which may be due or become due to the Design-Builder until the said default(s) have been remedied. In the event of Termination for Default, the Owner also reserves the right, in cases where the damages calculated by the Owner are expected to exceed the amount the Owner anticipated recovering from the Surety, to withhold amounts for work already performed.



- d. In the event the Owner exercises its right to terminate the Contract for default of the Design-Builder as set forth herein, the Owner shall have the option of finishing the work, through any means available to the Owner, or having the Surety complete the Contract in accordance with its terms and conditions. In case that the Owner decides to have the Surety take over the remaining performance of the Work, the time or delay between Notice of Default and start of work by the Surety is a non-excusable delay. If the Surety fails to act promptly, but no longer than thirty (30) calendar days after the Owner notifies the Surety of the Owner's decision to have the Surety complete the work, or after such takeover fails to prosecute the Work in an expeditious manner, the Owner may exercise any of its other options including completing the Work by whatever means and method it deems advisable. No claims for loss of anticipated profits or for any other reason in connection with the termination of the Contract shall be considered.
  - e. Payments for the various Bid Items listed in the Bid Form will constitute full compensation for all expenses incurred in consequence of discontinuance of all or any portion of the Work except as provided in this section of the Contract Documents. In no event will compensation be made for anticipatory profits or consequential damages as a result of a discontinuance of all or any portion of the Work.
  - f. The Design-Builder shall immediately upon receipt communicate any Notice of Termination for Default issued by the Owner to the affected subcontractors and suppliers at any tier.
  - g. If, after Notice of Termination of the Design-Builder's right to proceed under the provisions of this article, it is determined for any reason that the Design-Builder was not in default under the provisions of this article, or that the Design-Builder was entitled to an extension of time under the Contract Documents, the rights and obligations of the parties shall be the same as if the Notice of Termination had been issued pursuant to the section of this article dealing with Termination for Convenience.
3. Termination for National Emergencies
- a. The Owner shall terminate the Contract or portion thereof by written notice when the Design-Builder is prevented from proceeding with the construction Contract as a direct result of an Executive Order of the President of the United States with respect to the prosecution of war or in the interest of national defense.
  - b. When the Contract, or any portion thereof, is terminated before completion of all items of work in the Contract, payment will be made for the actual number of units or items of work completed at the Contract price or as mutually agreed for items of work partially completed or not started. No claims or loss of anticipated profits or for any other reason in connection with the termination of the Contract shall be considered.
4. Implementation of Termination
- a. If the Owner cancels or terminates the Contract or any portion thereof, the Design-Builder shall stop all work on the date and to the extent specified in the Notice of Termination and shall:
    - 1) Cancel all orders and Subcontracts, to the extent that they relate to the performance of the work terminated and which may be terminated without costs.
    - 2) Cancel and settle other orders and Subcontracts, except as may be necessary for completion of such portion of the Work not terminated,

where the cost of settlement will be less than costs which would be incurred were such orders and subcontracts to be completed, subject to prior approval of the Field Representative.

- 3) Settle outstanding liabilities and claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Owner, to the extent it may require, which approval or ratification shall be final for the purposes of this Article.
- 4) Transfer title and deliver to the Owner, in the manner, at the time, and to the extent, if any, directed by it, in accordance with directions of the Field Representative, all fabricated or un-fabricated parts, all materials, supplies, work in progress, completed work, facilities, equipment, machinery or tools acquired by the Design-Builder in connection with the performance of the work and for which the Design-Builder has been or is to be paid;
- 5) Assign to the Owner in the manner, at the times and to the extent directed by it, all of the right, title, and interest of the Design-Builder under the orders and subcontracts so terminated, in which case the Owner will have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
- 6) Deliver to the Field Representative Project Record Documents, complete as of the date of cancellation or termination, plans, Shop Drawings, sketches, permits, certificates, warranties, guarantees, specifications, three (3) complete sets of maintenance manuals, pamphlets, charts, parts lists, spare parts (if any), operating instructions required for all installed or finished equipment or machinery, and all other data accumulated by the Design-Builder for use in the performance of the work.
- 7) Perform all work as may be necessary to preserve the work then in progress and to protect materials, plant and equipment on the site or in transit thereto. The Design-Builder shall also take such action as may be necessary, or as the Design Criteria Professional may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Design-Builder and in which the Owner has or may acquire an interest.
- 8) Complete performance of each part of the work not terminated by the Notice of Termination.
- 9) Use its best efforts to sell, in the manner, at the time, to the extent, and at the price or prices directed or authorized by the Owner, property of the types referred to above; provided, however, that the Design-Builder a) shall not be required to extend credit to any purchaser, and b) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Owner; provided, further, that the proceeds of any such transfer or disposition will be applied in reduction of any payments to be made by the Owner to the Design-Builder under this Contract or will otherwise be credited to the price or cost of the work covered by this Contract or paid in such other manner as the Owner may direct;
- 10) Termination of the Contract or a portion thereof shall neither relieve the Design-Builder of its responsibilities for the completed work nor shall it

relieve its Surety of its obligation for and concerning any just claim arising out of the work performed.

- 11) In arriving at the amount due the Design-Builder under this article, there will be deducted, (1) any claim which the Owner may have against the Design-Builder in connection with this Contract and (2) the agreed price for, or the proceeds of sale of materials, supplies or other items acquired by the Design-Builder or sold, pursuant to the provisions of this article, and not otherwise recovered by or credited to the Owner.

5. Suspension of Work

- a. The Owner reserves the right to temporarily suspend execution of the whole or any part of the Work without compensation to the Design-Builder.
- b. In case the Design-Builder is actually and necessarily delayed by any act or omission on the part of the Owner, as determined by the Owner in writing, the time for completion of the Work shall be extended by the amount of the time of such delay as determined by the Owner, and an allowance may be made for actual direct costs, if any, which may have been borne by the Design-Builder. Such requests for additional time and/or compensation must be made in accordance with the applicable sections of the Contract Documents.
- c. Only the actual delay necessarily resulting from the causes specified in this Article, shall be grounds for extension of time. In case the Design-Builder is delayed at any time or for any period by two or more of the causes specified in this Article, the Design-Builder shall not be entitled to a separate extension for each one of the causes but only one period of extension will be granted for the delay.
- d. In case the Design-Builder is actually and necessarily delayed in the performance of the Work from one or more of the causes specified in this Article, the extension of time to be granted to the Design-Builder shall be only for such portion of the Work so delayed. The Design-Builder shall not be entitled by reason of such delay to an extension of time for the completion of the remainder of the Work. If the Design-Builder shall be so delayed as to a portion of the Work, he shall nevertheless proceed continuously and diligently with the prosecution of the remainder of the Work. No demand by the Design-Builder that the Owner determine and certify any matter of extension of time for the completion of the Work or any part thereof will be of any effect whatsoever unless the demand be made in writing at least 30 days before the completion date of the Work or any part thereof for which Liquidated Damages are established when meeting those dates is claimed to have been delayed by a suspension under this Article. Owner's determination as to any matter of extension of time for completion of the Work or any part thereof shall be binding and conclusive upon the Design-Builder.
- e. Permitting the Design-Builder to finish the Work or any part thereof after the time fixed for completion or after the date to which the time for completion may have been extended or the making of payments to the Design-Builder after any such periods shall not operate as a waiver on the part of the Owner of any rights under this contract.
- f. The Design-Builder shall insert in each subcontract a provision that the subcontractor shall comply immediately with a written order of the Owner to the Design-Builder to suspend the Work, and that they shall further insert the same provision in each subcontract of any tier.

END OF ARTICLE

## 12. MISCELLANEOUS PROVISIONS

### A. Third-Party Beneficiary

No contractual relationship will be recognized under the Contract other than the contractual relationship between the Owner and the Design-Builder. There shall be no third-party beneficiary to this Contract.

### B. Venue

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

### C. Governing Laws

1. The Design-Builder shall, during the term of this Contract and in the prosecution of the Work, be governed by the statutes, regulatory orders, ordinances and procedures of the United States of America, the State of Florida, and Miami-Dade County including, but not limited to, the Florida Building Code.
2. The Design-Builder(s) shall comply with all applicable laws including, but not limited to, the Small Business Enterprise (SBE) programs (including, without limitation, SBE-Construction, SBE-Architectural and Engineering, and SBE-Goods, SBE-Services); Responsible Wages and Benefits program; Community Workforce Program; Residents First Training and Employment programs as set forth in Sections 10-33.02, 2-10.4.01, 2-8.1.1.1.2, 2-8.1.1.1.1, 2-11.16, 2-1701, and 2-11.17 of the Code; the Sustainable Buildings Program; Chapter 119 of the Florida Statutes regarding public records laws; the State of Florida and the County's Prompt Payment laws as set forth in Sections 2-8.1.4 and 10-33.02 of the County's ordinances; the County's Inspector General requirements as set forth herein; the County's Art in Public Places requirements as set forth herein; and provide the requisite bonding in accordance with Section 255.05 of the Florida Statutes, as well as the insurance requirements set forth in this Agreement. Specifically, the Design-Builder and its subcontractors shall comply with Miami-Dade County Resolution Nos. R-1386-09 and R-138-10 governing the treatment of CSBE firms.
3. In addition, the Design-Builder agrees to abide by all federal, state, and local procedures, as may be amended from time to time, regarding how documents that the Design-Builder has access to, are handled, copied, and distributed, particularly documents that contain sensitive security information.

### D. Successors and Assigns

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

E. Written Notice

1. Written notice to the Design-Builder shall be deemed to have been duly served if delivered in person to the individual or member of the firm or to any officer of the corporation for whom it was intended or if delivered at or sent by registered or certified mail to the last business address known to those who give the notice.
2. Written notice to the Owner shall be deemed to have been duly served if delivered in person, delivered at or sent by registered or certified mail or by a nationally recognized overnight courier (e.g., FedEx) to the individual identified in the Special Provisions.

F. Indemnification

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

G. Audit Rights

1. Access to Records
  - a. The Design-Builder shall, during the term of this Contract and for a period of five years thereafter, allow the Owner and its duly authorized representatives to inspect all payroll records, invoices for materials, books of account, job cost ledgers, Project correspondence and Project-related files and all relevant records pertinent to the Contract.
  - b. The Owner retains the right to audit accounts and access all files, correspondence and documents in reference to all work performed under this Contract. The Owner shall be provided full access upon request to all documents, including those in possession of subcontractors or suppliers during the work and for a period of five years after the completion of the Work. In case of any litigation regarding this

Project, such rights shall extend until final settlement of such litigation. Failure to allow the Owner access shall be deemed a waiver of Design-Builder's claims.

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

## 2. Inspector General

- a. According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General (IG) which may, on a random basis, perform audits, inspections, and reviews of all, on any County/Trust contracts, throughout the duration of said contracts. This random audit is separate and distinct from any other audit by the County. To pay for the functions of the Office of the Inspector General, any and all payments to be made to the Design-Builder under this contract will be assessed one quarter (1/4) of one (1) percent of the total amount of the payment, to be deducted from each progress payment as the same becomes due unless this Contract is federally or state funded where federal or state law or regulations preclude such a charge or where such a charge is otherwise precluded by Special Condition. The Design-Builder shall, in stating its agreed prices, be mindful of this assessment which will not be separately identified, calculated or adjusted in the proposal or Bid Form.
- b. The Miami-Dade Office of the Inspector General is authorized to investigate County affairs and empowered to review past, present and proposed County and Public Health Trust programs, accounts, records, contracts and transactions. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of witnesses and monitor existing Projects and programs. Monitoring of an existing Project or program may include a report concerning whether the Project is on time, within budget and in conformance with the Contract Documents and applicable law. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process including but not limited to Project design, bid specifications, (bid/proposal) submittals, activities of the (Design-Builder/ Vendor/ Consultant), its officers, agents and employees, lobbyists, County and Public Health Trust staff and elected officials to ensure compliance with the Contract Documents and to detect fraud and corruption.
- c. Upon 10 days written notice to the Design-Builder, the Design-Builder shall make all requested records and documents available to the Inspector General for inspection and copying. The Inspector General is empowered to retain the services of independent private sector inspectors general to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process including but not limited to Project design, bid specifications, (bid/proposal) submittals, activities of the (Design-Builder/ Vendor/ Consultant), its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with the Contract Documents and to detect fraud and corruption.
- d. The Inspector General shall have the right to inspect and copy all documents and records in the (Design-Builder/Vendor/Consultant's) possession, custody or control which in the Inspector General's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements from and with successful subcontractors and suppliers, all Project-related correspondence, memoranda, instructions, financial documents, construction documents, (bid/proposal) and

contract documents, back-change documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records and supporting documentation for the aforesaid documents and records.

- e. The Design-Builder shall make available at its office at all reasonable times the records, materials, and other evidence regarding the acquisition (bid preparation) and performance of this contract, for examination, audit, or reproduction, until three (3) years after final payment under this contract or for any longer period required by statute or by other clauses of this contract. In addition:
  - 1) If this contract is completely or partially terminated, the Design-Builder shall make available records relating to the work terminated until three (3) years after any resulting final termination settlement; and
  - 2) The Design-Builder shall make available records relating to appeals or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.
- f. The provisions in this section shall apply to the (Design-Builder/Vendor/Consultant), its officers, agents, employees, subcontractors and suppliers. The (Design-Builder/Vendor/Consultant) shall incorporate the provisions in this section in all subcontracts and all other agreements executed by the (Design-Builder/Vendor/Consultant) in connection with the performance of this contract.
- g. Nothing in this section shall impair any independent right to the Owner to conduct audits or investigative activities. The provisions of this section are neither intended nor shall they be construed to impose any liability on the Owner by the (Design-Builder/Vendor/Consultant) or third parties.

H. 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.

I. Payment and Performance Bond

- 1. A single instrument Payment and Performance Bond, satisfactory to the Owner, for twice the penal sum (no less than 100 percent of the total maximum Contract Price for payment-related issues and 100 percent of the total maximum Contract Price for performance-related issues), shall be required of the Design-Builder.
  - a. The bond shall be written through surety insurers authorized to do business in the State of Florida as Surety, with the following qualifications as to management and financial strength according to the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey:

Bond (Total Contract) Amount	Best's Rating
\$500,001 to \$1,500,000	B V
\$1,500,001 to \$2,500,000	A VI

\$2,500,001 to \$5,000,000	A VII
\$5,000,000 to \$10,000,000	A VIII
Over \$10,000,000	A IX

2. On Contract amounts of \$500,000 or less, the Bond provisions of Section 287.0935, Florida Statutes shall be in effect and surety companies not otherwise qualifying with this paragraph may optionally qualify by:
  - a. Providing evidence that the surety has twice the minimum surplus and capital required by the Florida Insurance Code at the time the Invitation to Bid is issued.
  - b. Certifying that the surety is otherwise in compliance with the Florida Insurance Code, and
  - c. Providing a copy of the currently valid Certificate of Authority issued by the United States Department of Treasury under 31 U.S.C. 9304-9308.

Surety insurers shall be listed in the latest Circular 570 of the U.S. Department of the Treasury entitled "Surety Companies Acceptable on Federal Bonds," published annually. The Bond amount shall not exceed the underwriting limitations as shown in this circular.

3. For Contracts in excess of \$500,000 the provisions of the Contract Documents will be adhered to, plus the surety insurer must have been listed on the U.S. Treasury list for at least three consecutive years, or currently hold a valid Certificate of Authority of at least 1.5 million dollars and listed on the Treasury list.
4. Payment and Performance Bonds guaranteed through U.S. Government Small Business Administration or Design-Builders Training and Development Inc. will also be acceptable.
5. The attorney-in-fact or other officer who signs a Payment and Performance Bond for a surety company must file with such Bond a certified copy of his/her power of attorney authorizing him/her to do so.
6. The cost of the Bonds shall be included in the Bid.
7. The required Bond shall be written by or through and shall be countersigned by, a licensed Florida agent of the surety insurer, pursuant to Section 624.425 of the Florida Statutes.
8. The Bond shall be delivered to the Contracting Officer in accordance with the instructions within the Notice of Award.
9. In the event the Surety on the Payment and Performance Bond given by the Design-Builder becomes insolvent, or is placed in the hands of a receiver, or has its right to do business in its State of domicile or the State of Florida suspended or revoked as provided by law, the Owner shall withhold all payments under the provisions of these Contract Documents until the Design-Builder has given a good and sufficient Bond in lieu of Bond executed by such Surety.
10. Cancellation of any bond, or non-payment by the Design-Builder of any premium for any Bond required by this Contract, shall constitute a breach of this Contract. In addition to any other legal remedies, the Owner at its sole option may terminate this Contract or pay such premiums and deduct the costs thereof from any amounts that are or may be due to the Design-Builder.

J. Insurance

The Design-Builder shall maintain the insurance set forth in the Special Provisions throughout the performance of this Contract until the Work has been completed by the Design-Builder and accepted by the Owner.

K. Conflict of Interest



1. The Design-Builder or its employees shall not enter into any Contract involving services or property with a person or business prohibited from transacting such business with Miami-Dade County pursuant to Section 2-11.1 of the Code of Miami-Dade County, Florida, known as the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance.
2. In the event the Design-Builder, or any of its officers, partners, principals or employees are convicted of a crime arising out of, or in connection with, the work to be done or payment to be made under this Contract, this Contract, in whole or any part thereof may, at the discretion of the Owner, be terminated without prejudice to any other rights and remedies of the Owner under the law.
3. In accordance with the Code of Miami-Dade County, no officer or employee of Miami-Dade County during his/her tenure or for two years thereafter shall have any interest, direct or indirect, in this Contract or the proceeds thereof.

L. Rights in Designs/Shop Drawings

1. Designs, Blackline drawings, schematics, and Shop Drawings submitted to the Design Criteria Professional or Owner by the Design-Builder, pursuant to the Work, may be duplicated by the Owner and the Owner may use and disclose, in any manner and for any purpose Shop Drawings delivered under this Contract. The Owner will, at the time of final payment, have full ownership of such documents, and the County may make full use of such documents without limitation to Design-Builder, without limitation.
2. This paragraph shall be included in all subcontracts hereunder at all tiers.

M. Patent and Copyright

1. If the Design-Builder is required or desires to use any design, device, material, or process covered by letters of patent or copyright, he shall provide for such use by suitable legal agreement with the patentee or owner. The Design-Builder and the surety shall indemnify and save harmless the Owner, the Field Representative, and the Design Criteria Professional from any and all claims for infringement by reason of the use of any such patented design, device, material or process, or any trademark or copyright, and shall indemnify the Owner for any costs, expenses, and damages which it may be obliged to pay by reason of an infringement, at any time during the prosecution or after the completion of the work.
2. The Design-Builder shall warrant that the materials, equipment or devices used on or incorporated in the Work shall be delivered free of any rightful claim of any third party for infringement of any United States patent or copyright. The Design-Builder shall defend, or may settle, at the Design-Builder's expense, any suit or proceeding against the Owner or the Design Criteria Professionals far as based on a claimed patent or copyright infringement which would result in a breach of this warranty, and the Design-Builder shall pay all damages and costs awarded therein against the Owner or the Design Criteria Professional due to such breach. The Design-Builder shall report to the Design Criteria Professional, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Contract of which the Design-Builder has knowledge. In the event of any claim or suit against the Owner on account of any alleged patent or copyright infringement arising out of the performance of this Contract or out of the use of any supplies furnished or work or services performed hereunder, the Design-Builder shall furnish to the Owner when requested, all evidence and information in possession of the Design-Builder pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Design-Builder.
3. The Design-Builder shall bear all costs arising from the use of patented materials, equipment, devices or processes used on or incorporated in the Work. In such case materials, equipment, devices or processes are held to constitute an infringement and their use enjoined, the Design-Builder, at its expense shall:

- a. Secure for the Owner the right to continue using said materials, equipment, devices or processes by suspension of the injunction or by procuring a license or licenses; or
  - b. Replace such materials, equipment, devices or processes with non-infringing materials, equipment, devices or processes; or
  - c. Modify them so that they become non-infringing or remove the enjoined materials, equipment, devices or processes and refund the sum paid therefore without prejudice to any other rights of the Owner.
4. The preceding paragraph shall not apply to any materials, equipment or devices, specified by the Owner or the Design Criteria Professional or manufactured to the design of the Owner or the Design Criteria Professional or in accordance with the details contained in the Contract Documents; and as to any such materials, equipment or devices the Design-Builder assumes no liability whatsoever for patent or copyright infringement and the Owner will hold the Design-Builder harmless against any infringement claims arising therefrom.
  5. Patent rights to patentable invention, item or ideas of every kind or nature arising out of the Work, as well as information, designs, specifications, know-how, data and findings shall be made available to the Government for public use, unless the Owner shall, in specific cases where it is legally permissible, determine that it is in the public interest that it not be made available.
  6. The sense of this article shall be included in all subcontracts. The foregoing states the entire liability of the Design-Builder for patent or copy infringement by use of said materials, equipment or devices.

N. Historical, Scientific and Archaeological Discoveries

All articles of historical, scientific or archaeological interest uncovered by the Design-Builder during progress of the Work shall be preserved and reported immediately to the Design Criteria Professional. Further operations of the Design-Builder with respect to the find, including disposition of the articles, will be decided by the Owner.

O. Use of Owner's Name in Design-Builder Advertising or Public Relations

The Owner reserves the right to review and approve Owner-related copy prior to publication. The Design-Builder shall not allow Owner-related copy to be published in Design-Builder's advertisement or public relations programs until submitting the Owner-related copy and receiving prior approval from the Owner. The Design-Builder shall agree that published information on the Owner or the Owner's program shall be factual and in no way imply that the Owner endorses the Design-Builder's firm, service or product. The Design-Builder shall insert the substance of this provision, including this sentence, in each subcontract and supply Contract or purchase order.

P. Accounts Receivable Adjustments

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

Q. Residents First Training and Employment Program

Except where state or federal laws or regulations mandate to the contrary, all contractors and subcontractors of any tier performing on a County Construction Contract shall satisfy the requirements of this Article. In accordance with Section 2-11.17 of the Code of Miami-Dade County and Implementing Order No. 3-61, which are available online at [www.miamidade.gov/smallbusiness/business-development-legislation.asp](http://www.miamidade.gov/smallbusiness/business-development-legislation.asp), all contractors and

subcontractors of any tier on (i) construction contracts valued in excess of \$1,000,000 for the construction, demolition, alteration and/or repair of public buildings, or public works; or (ii) contracts or leases valued in excess of \$1,000,000 for privately funded construction, demolition, alteration or repair of buildings, or improvements on County-owned land, shall comply, if applicable, with the following:

1. Design-Builder must:
  - a. Submit a completed Responsible Contractor Affidavit (Form RTFE 1), along with the Bid Submittal Package. RTFE 1 shall verify the following:
    - 1) Prior to working on the project, all persons employed by the contractor on the project to perform construction have completed the OSHA 10-hour safety training course; and
    - 2) Design-Builder will make its best reasonable efforts to have 51 percent of all construction labor hours performed by Miami-Dade County residents. County residents employed in furtherance of the goal set forth in the County's Community Workforce Program (CWP) shall be counted towards the 51 percent goal.
  - b. In the event that form RTFE 1 is not submitted along with the bid package, the County will provide a notice that the Proposer has 48 hours from the time of notification to submit the form or their bid or proposal will be deemed nonresponsive and disqualified.
2. Prior to the issuance of a Notice to Proceed, contractors must also submit the following:
  - a. A Construction Workforce Plan (Form RFTE 2) and supporting documentation.
  - b. A list of all subcontractors to be used on the project.
  - c. A Responsible Subcontractor Affidavit (Form RFTE 1) for each subcontractor; and
  - d. A list of all employees currently employed by the contractor.
3. Submit OSHA Safety Training Affidavit (Form RFTE 3) with all certified payrolls.
4. Submit a Workforce Performance Report (Form RFTE 4) within 30 business days of completion of the Project.
5. Any lessee shall include requirements of Section 2-11.7 of the Code of Miami-Dade County and Implementing Order No. 3-61, including the right of the County to access the Design-Builder's and subcontractors' records to verify compliance, in any contract, subcontract, or sublease. Lessee shall be responsible to the County for payment of compliance monitoring costs and any penalties found due.

R. Employ Miami-Dade Program

In order to promote Employ Miami-Dade Program, pursuant to Administrative Order 3-63, and except where federal or state laws or regulations mandate to the contrary, all County construction contracts shall include notification to the Design-Builder regarding the use of the Employ Miami-Dade Register, the minimum number of participants on the contract, and details regarding the County's evaluation of the Design-Builder's efforts to promote this legislation by using participants on the contract, which will be used as part of the responsibility review for consideration on new County contract awards. The provision of this legislation shall apply to County contracts valued in excess of \$1,000,000 for the construction, demolition, or alteration/repair of public buildings or public works projects, funded completely or partially by Miami-Dade County.

S. Public Records and Contracts for Services Performed on Behalf of Miami-Dade County

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 Work; (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, F.S. to the contractor's duty to provide public records relating to this contract, contact the custodian of public records via phone at (305) 375-5773, or via email at [isd-vss@miamidade.gov](mailto:isd-vss@miamidade.gov). Offices are located at 111 NW 1st Street, Suite 1300, Miami, FL 33128.**

END OF ARTICLE



### 13. APPLICABLE LEGISLATION

Design-Builder and subcontractors are required to abide by all applicable federal, state, and local laws and ordinances, as they may be amended from time to time. Applicable local laws and ordinances include, but are not limited to, the following, as may be amended from time to time:

A. Ordinances:

<https://www.miamidade.gov/clerk/cob-ordinances-resolutions.page>

B. Resolutions

<http://www.miamidade.gov/govaction/searchleg.asp>

- R-1049-93 - Affirmative Action Plan Furtherance and Compliance
- R-385-95 - Policy prohibiting contracts with firms violating the American with Disabilities Act (ADA) and other laws prohibiting discrimination on the basis of disability ADA requirements, are a condition of award, as amended by Resolution R-182-00
- R-531-00 - Prohibition of contracting with individuals and entities while in arrears with the County
- R-894-05 - Independent Private Sector Inspector General (IPSIG) Services
- R-183-00 - Family Leave Requirements
- R-185-00 - Domestic Violence Leave
- R-1386-09 - Community Small Business Development Program; directing County Mayor to include additional subcontractor provisions in all future contracts, where applicable unless waived by the Board of County Commissioners
- R-138-10 - Resolution requiring that construction contracts include language mandating that the scope of work of SBEs be separately stated and accounted for in schedule of values.
- R-63-14 - Contractor Due Diligence

C. Administrative Orders

<http://www.miamidade.gov/ao/home.asp?Process=completelist>

- 3-20 - Independent Private Sector Inspector General (IPSIG) Services
- 3-37 - Community Workforce Program (CWP)
- 3-39 - Standard Process for Construction of Capital Improvements, Acquisition of Professional Services, Construction Contracting, Change Orders and Reporting
- 10-10 - Duties and Responsibilities of County Departments for Compliance with the Americans with Disabilities Act (ADA)

D. Implementing Orders

<http://www.miamidade.gov/ao/home.asp?Process=completelist>

- 3-9 - Accounts Receivables Adjustments
- 3-21 - Bid Protest Procedure
- 3-22 - Small Business Enterprise (SBE) Program for the Purchase of Construction Services
- 3-34 - Formation and Performance of Selection Committees
- 3-41 - Small Business Enterprise (SBE) Program for the Purchase of Goods and Services
- 3-61 - Residents First Training and Employment Program

E. Code of Miami-Dade County:

- [https://library.municode.com/fl/miami\\_-\\_dade\\_county/codes/code\\_of\\_ordinances](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances)Section 2-1 Rule 5.09 Statement of consideration of impact of sea level rise.
- Section 2-1076 - Office of the Inspector General
- Section 2-8.1 - Contracts and Purchases
- Sections 2-8.1.1 Bids from related parties and bid collusion for the purchase of goods and services, leases, permits, concessions and management agreements.
- Section 2-8.1(d) Disclosure required of contractors and entities transacting business with Miami-Dade County.
- Section 2-8.1(f) Listing of subcontractors required
- Section 2-8.2.7 Economic Stimulus Ordinance
- Section 2-8.4 - Protest Procedures
- Section 2-8.5 - Local Preference
- Section 2-8.5.1 - Local Certified Veteran Business Enterprise
- Section 2-8.8 - Fair Subcontracting PracticesSection 2-8.8(4) Reporting of subcontracting policies procedures and payments
- Section 2.11.1 - Conflict of Interest and Code of Ethics
- Section 2-11.1 (i)-(r) Financial Disclosure
- Section 2-1076 Office of the Inspector General
- Section 9-71 through 9-75 Sustainable Building Program
- Section 10-34 - Listing of Subcontractors Required
- Section 11A-38 through 11A-52 Discrimination
- Section 21-255 through 21-266 False Claims Ordinance

END OF ARTICLE



## APPENDIX A

### SPECIAL PROVISIONS

#### A. Trust Agreement

1. **Incorporation of Trust Agreement by Reference:** Notwithstanding any of the terms, provisions and conditions of this Agreement, it is understood and agreed by the parties hereto that, to the extent of any inconsistency with or ambiguity relating to the terms and conditions of this Agreement, and the level of rents, fees or charges required hereunder and their periodic modification or adjustment as may be required by the provisions of the Trust Agreement dated as of the 15th day of December, 2002 as by and among the County and the JP Morgan Chase Bank as Trustee and Wachovia Bank, National Association as Co-trustee (“the Trust Agreement”), shall prevail and govern at all times during the Term of this Agreement. Copies of the Trust Agreement are available for inspection in the offices of the Department during normal working hours.
2. **Adjustment of Terms and Conditions:** If, at any time during the Term of this Agreement, a Federal agency or court of competent jurisdiction shall determine that any of the terms and conditions of this Agreement, including the rentals, fees and charges required to be paid hereunder to the County by the Lessee or by other Lessees under other Agreements of the County for the lease or use of facilities used for similar purposes, are unjustly discriminatory, the County shall have the right to modify such terms and conditions and to increase or otherwise adjust the rentals, fees and charges required to be paid under this Agreement in such a manner as the County shall determine is necessary and reasonable so that the rentals, fees and charges payable by the Lessee and others shall not thereafter be unjustly discriminatory to any user of like facilities and shall not result in any violation of the Trust Agreement or in any deficiency in revenues necessary to comply with the covenants of the Trust Agreement. In the event the County has modified the terms and conditions of this Agreement, including any adjustment of the rentals, fees and charges required to be paid to the County pursuant to this provision, this Agreement shall be amended to incorporate such modification of the terms and conditions including the adjustment of rentals, fees and charges upon the issuance of written notice from the Department to the Lessee.

#### B. U.S. SOCCER FEDERATION 2026 WORLD CUP

The terms of this Contract are subordinate to the terms of the Airport Agreement submitted by Miami-Dade County to the United States Soccer Federation on February 21, 2018, pursuant to Board of County Commissioners’ Resolution No. R-187-18. In carrying out its obligations under this Contract, the Design-Builder shall not take or omit any action which is inconsistent with, or in derogation of, the County’s obligations under the Airport Agreement. Where the Design-Builder’s rights or obligations under this Contract are in conflict with the County’s obligations under the Airport Agreement, and upon notice by the County to the Design-Builder, the terms of this Contract shall be deemed conformed to the County’s obligations under the Airport Agreement. Where such conformance would cause a material change in this Contract, Design-Builder shall have the right, upon written notice to the County within five (5) days of receipt of notice of such a conflict, to terminate this Contract for convenience; in such termination, the Design-Builder shall have no cause of action for money damages of any kind, including but not limited to direct damages, unamortized costs or debt, stored or ordered materials, indirect damages, lost profits, loss of opportunity, loss of goodwill, or otherwise. In the event that the Design-Builder does not elect to terminate this Agreement within the time specified herein, this Contract shall be deemed to have been amended via consent of the parties to conform its terms to the requirements of the Airport Agreement, but only to the extent needed to avoid conflict with same.

**NOTE: The Agreement between Miami-Dade County and the U.S. Soccer Federation is available at:**  
<http://www.miamidade.gov/govaction/legistarfiles/MinMatters/Y2018/180129min.pdf>

**C. Federal Aviation Administration (FAA) SPECIAL PROVISIONS – AVIATION CONTRACT**

1. Compliance with Nondiscrimination Requirements. During the performance of this Contract, the Design-Builder, for itself, its assignees, and successors in interest (hereinafter referred to as the “Design-Builder”) agrees as follows:
  - Compliance with Regulations: The Design-Builder (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Contract.
  - Non-discrimination: The Design-Builder, with regard to the work performed by it during the Contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Design-Builder will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
  - Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Design-Builder for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor supplier will be notified by the Design-Builder of the Design-Builder’s obligations under this Contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
  - Information and Reports: The Design-Builder will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a Design-Builder is in the exclusive possession of another who fails or refuses to furnish the information, the Design-Builder will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
  - Sanctions for Noncompliance: In the event of a Design-Builder’s noncompliance with the Nondiscrimination provisions of this Contract, the sponsor will impose such Contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
    - a. Withholding payments to the Design-Builder under the Contract until the Design-Builder complies; and/or
    - b. Cancelling, terminating, or suspending a Contract, in whole or in part.



- Incorporation of Provisions: The Design-Builder will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, Required Contact Provisions Issued on January 29, 2016, Page 19 AIP Grants and Obligated Sponsors Airports (ARP) unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Design-Builder will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Design-Builder becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Design-Builder may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Design-Builder may request the United States to enter into the litigation to protect the interests of the United States.
  
- During the performance of this Contract, the Design-Builder, for itself, its assignees, and successors in interest (hereinafter referred to as the “Design-Builder”) agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:
  - a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin).
  - b. 49 CFR part 21 (Non-discrimination in Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964).
  - c. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects).
  - d. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27.
  - e. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age).
  - f. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
  - g. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and Design-Builders, whether such programs or activities are Federally funded or not).
  - h. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain

testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38.

- i. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123 (prohibits discrimination on the basis of race, color, national origin, and sex).
  - j. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
  - k. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100).
  - l. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).
2. All Contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.
  3. The Design-Builder has full responsibility to monitor compliance to the referenced statute or regulation. The Design-Builder consultant must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division

All Contracts and subcontracts that result from this agreement incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Design-Builder must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Design-Builder retains full responsibility to monitor its compliance and their subcontractor’s compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Design-Builder must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

#### **D. AIRFIELD OPERATIONS AREA (AOA) SECURITY**

1. Design-Builder acknowledges and accepts full responsibility for compliance with all applicable laws, rules and regulations including those of the Transportation Security Administration (TSA), Department of Homeland Security (DHS), Federal Aviation Administration (FAA), Customs and Border Protection (CBP) and MDAD as set forth from time to time relating to Design-Builder’s activities at the Miami International Airport (MIA).
2. In order to maintain high levels of security at MIA, Design-Builder must obtain MDAD photo identification badges for all Design-Builder employees working in the Secured/AOA/Security Identification Display Area (SIDA)/Sterile Areas or any other restricted areas of the Airport.

MDAD issues two types of identification badges: photo identification badges and non-photo passes. All employees, except temporary workers (working less than two weeks), will be required to obtain photo identification badges and will be subject to Federal Bureau of Investigation (FBI) fingerprint-based Criminal History Records Check (CHRC). Temporary workers (working less than two weeks) will be issued non-photo passes. At no time will an employee bearing a non-photo identification badge be authorized in a secured MIA location without being escorted by an MDAD authorized Escort Authority that has been issued a badge with an escort seal by the MDAD ID Section. No other individuals are allowed to escort under any circumstances.

3. The Design-Builder shall be responsible for requesting MDAD to issue identification badges to all employees who Design-Builder requests be authorized access to the Secured/AOA/SIDA/Sterile Areas or any other restricted areas of the Airport and shall be further responsible for the immediate reporting of all lost or stolen ID badges and the immediate return of the ID badges of all personnel transferred from Airport assignment or terminated from the employ of the Design-Builder or upon final acceptance of the Work or termination of this Contract. Design-Builder will be responsible for fees associated with lost and unaccounted for badges or passes as well as the fee(s) for fingerprinting and ID issuance.
4. All employees of the Design-Builder, Subcontractors, or trade contractors who must work within MDAD Secured/AOA/SIDA/Sterile Areas or any other restricted areas at Miami International Airport shall be supplied with MDAD identification badges as specified above, which must be worn at all times while within the referenced areas. Badges shall be worn on outer garments above the waist so as to be clearly visible in order to distinguish, on sight, employees assigned to a particular contractor. MDAD issues the non-photo passes on a daily basis, not to exceed two weeks. In order to obtain a non-photo, pass the Design-Builder must submit a 48 Hour Advance Notification form with required information to the MDAD Security Division, ID Section for all temporary workers requiring access to the MDAD Secured/AOA/SIDA/Sterile Areas or other restricted areas of the airport. Non-photo passes will not be issued to temporary workers who have failed a criminal history records check, are in possession of an expired work permit and/or have an expired MDAD ID badge. Each employee must complete the SIDA training program conducted by MDAD and comply with all other TSA, DHS, CBP, FAA or MDAD requirements as specified by the MDAD at the time of application for the ID badge before an ID badge is issued. MDAD Security and Safety ID Section regularly provides SIDA Training.
5. Design-Builder Ramp Permits will be issued to the Design-Builder authorizing vehicle entrance to the Airfield Operations Area (AOA) through specified Miami-Dade Aviation Department guard gates for the term of any Project. These permits will be issued only for those vehicles (including vehicles belonging to the Subcontractor) that must have access to the site during the performance of the Work. These permits will be only issued to company owned vehicles or to company leased vehicles (leased from a commercial leasing company). AOA decals, passes, or permits to operate within the Secured/AOA/SIDA will not be issued to privately owned or privately leased vehicles. All vehicles operating within the Secured/AOA/SIDA must have conspicuous company identification signs (minimum of three (3) inch lettering) displayed on both sides of the vehicle.
6. All vehicles operating within the Secured/AOA/SIDA must be provided with the Automobile Liability Insurance required elsewhere in these General Conditions. Proof of such insurance shall be provided to MDAD Airside Operations Division upon request.
7. Vehicles delivering materials to the site will be given temporary passes at the appropriate guard gate. Such vehicles shall not be permitted to operate within the Secured/AOA/SIDA without MDAD escort to be provided by MDAD's Operations Division. To obtain an escort, the

Design-Builder shall notify MDAD Airside Operations Division in writing twenty-four (24) hours in advance of such need. These passes shall be surrendered upon leaving the Secured/AOA/SIDA. All vehicles shall be marked with company name to ensure positive identification at all times while in the Secured/AOASIDA.

8. Only Design-Builder management level staff, supervisors and foremen with pictured MDAD I.D. badges shall be allowed to operate a motor vehicle on the Secured/AOA/SIDA without MDAD escort except when operating a vehicle that requires a specialized license to operate (CDL). Such vehicles must be under MDAD Airside Operations escort when moving on the AOA unless said vehicle is operating in an approved Maintenance of Traffic (MOT). The Design-Builder shall require such employee to have a current, valid, appropriate Florida driver's license and to attend and successfully complete the AOA Driver Training Course conducted periodically by the Department. The privilege of a person to operate a motor vehicle on the Secured/AOA/SIDA may be withdrawn by the Department because of violation of AOA driving rules or loss of Florida driver's license.
9. The Design-Builder agrees that its personnel, vehicles, cargo, goods, and other personal property are subject to being searched when attempting to enter, leave or while on the Secured/AOA/SIDA/Sterile Areas or other restricted areas of the airport. It is further agreed that the MDAD has the right to prohibit an individual, agent, or employee of the Design-Builder or Subcontractor from entering the Secured/AOA/SIDA/Sterile Areas or other restricted areas, based upon facts which would lead a person of reasonable prudence to believe that such individual might be inclined to engage in theft, cargo tampering, aircraft sabotage, or other unlawful activities, including repeated failure to comply with TSA, DHS,, FAA, CBP and MDAD SIDA/access control policies, rules and regulations. Any person denied access to the Secured/AOA/SIDA/Sterile areas or other restricted areas of the airport or whose prior authorization has been revoked or suspended on such grounds shall be entitled to a review hearing before the Director or his/her authorized designee within a reasonable time. Prior to such hearing, the person denied access to the Secured/AOA/SIDA/Sterile Areas or other restricted areas of the airport shall be advised, in writing, of the reasons for such denial.
10. The Design-Builder acknowledges and understands that these provisions are for the protection of all users of the Secured/AOA/SIDA/Sterile Areas and are intended to reduce the incidence of terrorism, thefts, cargo tampering, aircraft sabotage, and other unlawful activities at the Airport and to maximize compliance with TSA, DHS, CBP, FAA, and MDAD access control policies and procedures.
11. The Design-Builder understands and agrees that vehicle and equipment shall not be parked/stored on the Secured/AOA/SIDA in areas not designated or authorized by MDAD nor in any manner contrary to any posted regulatory signs, traffic control devices, or pavement markings.
12. The Design-Builder understands and agrees that all persons entering and working in or around arriving international aircraft and facilities used by the various Federal Inspection Services agencies may be subject to the consent and approval of such agencies. Persons not approved or consented to by the Federal Inspection Services agencies shall not be employed by the Design-Builder in areas under the jurisdiction or control of such agencies. Persons not approved or consented to by the Federal Inspection Services agencies who enter such areas are subject to fines, which shall be borne entirely by the persons and/or the Design-Builder.
13. Prior to Substantial Completion or Beneficial Occupancy of any facility that will permit access to the Secured/AOA/SIDA/Sterile Areas via doors or gates, the Design-Builder shall either (a) keep all such doors and/or gates locked at all times or (b) position a security guard or designated employee to monitor any door and/or gate that must remain open. Keys to such doors and gates

shall be limited and issued only to company employees with a current MDAD picture ID. Door/gate keys shall be numbered and stamped "Do Not Duplicate." The Design-Builder shall keep a log of all keys issued and to whom. The log is subject to audit by the Owner. Employees must have their assigned key in their possession at the time of audit. Failure to comply with these requirements can result in monetary fines, loss of access to the Secured/AOA/SIDA/Sterile Areas, and/or termination of this Contract.

14. Notwithstanding, the specific provisions of this Article, the Owner shall have the right to add to, amend, or delete any portion hereof in order to meet reasonable security requirements of MDAD or of the TSA/DHS/CBP/FAA.
15. The Design-Builder shall ensure that all employees so required participate in such safety, security, and other training and instructional programs, as MDAD or appropriate Federal agencies may from time to time require.
16. Design-Builder agrees that it will include in all contracts and subcontracts with its MIA Subcontractors, service providers, and suppliers an obligation by such parties to comply with all security requirements applicable to their operations at the Airport. Design-Builder agrees that in addition to all remedies, penalties, and sanctions that may be imposed by TSA, DHS, CBP, FAA or the MDAD upon Design-Builder's Subcontractors, suppliers, and their individual employees for a violation of applicable security provisions, Design-Builder shall be responsible to the Owner for all such violations and shall indemnify and hold the Owner harmless for all costs, fines and penalties arising therefrom, such costs to include reasonable attorneys' fees.
17. In addition to the foregoing, the Design-Builder shall be required to comply with the U.S. Customs and Border Protection (CBP) requirements for obtaining CBP seals for those Design-Builder employees that will be involved within the CBP/FIS environment at MIA. The Vendor shall be responsible for all related fees for required bonding, fingerprinting and background investigations of Design-Builder personnel.
18. The employee(s) of the Design-Builder shall be considered to be at all times its employee(s), and not an employee(s) or agent(s) of the County or any of its departments. The Design-Builder shall provide employee(s) competent and physically capable of performing the Work as required. The County may require the Design-Builder to remove any employee it deems unacceptable.

#### **E. MAINTENANCE OF AIRPORT OPERATIONS**

1. The Design-Builder shall control its operations and the operations of its Subcontractors and suppliers so as not to compromise the airport's security, interfere with airport operations or with aircraft, vehicular or pedestrian traffic, except as may be provided for in the Contract Documents.
2. The Contract is explicitly intended to provide for the maximum degree of safety to aircraft, the general public, airport personnel, equipment and associated facilities, and to the Design-Builder's personnel and equipment and suppliers, etc., but shall also provide for the minimum interference to the free and unobstructed movement of vehicles and/or personnel engaged in the day-to-day operation of the Airport and the general public. To this end the Design-Builder, its Subcontractors and suppliers shall observe all Airport rules and regulations, all other operational limitations which may be imposed from time to time by the MDAD, and shall provide whatever markings, lighting and/or various types of barricades, or other measures which are required to properly identify Design-Builder personnel, equipment, vehicles, storage areas and any Design-Builder's work areas or conditions which may be hazardous to the

uninterrupted operation of aircraft, airport equipment, including but not limited to maintenance vehicles and fire rescue vehicles, other vehicles, or personnel or vehicles from any source operating on the Airport. In order to provide the maximum degree of safety on airports during construction, the Design-Builder shall comply with the provisions of FAA Advisory Circular AC 150/5370-2.

3. The Design-Builder shall protect, and shall not interfere with, the operation of visual and electronic signals (including power supplies thereto) used in the guidance of aircraft while operating to, from, and within the AOA.
4. When the Work requires the Design-Builder to work within the AOA, the Design-Builder shall coordinate its work with MDAD (through the Field Representative) at least 48 hours prior to the commencement of such work. The Design-Builder shall not close an AOA until so authorized by the Field Representative and until all necessary temporary markings and associated lighting are in place, as specified hereinafter.
5. When the Work requires the Design-Builder to work within the AOA on an intermittent basis (intermittent opening and closing of the AOA), the Design-Builder shall maintain constant communications with the Field Representative and MDAD; obey all instructions to vacate the AOA; obey all instructions to resume work in such AOA. Failure to maintain the specified communications or to obey instructions shall be cause for suspension of the Design-Builder's operations within the AOA until the satisfactory conditions are provided.
6. When the Contract requires the maintenance of vehicular traffic on an existing road, street, or highway during the Design-Builder's performance of work, the Design-Builder shall keep such road, street, or highway open to all traffic and shall provide such maintenance of traffic as may be required to accommodate traffic. The Design-Builder shall furnish, erect, and maintain barricades, warning signs, flaggers, and other traffic control devices (to protect the public and the work) in reasonable conformity with the Manual of Uniform Traffic Control Devices for Streets and Highways (MUTCD) published by the Florida Department of Transportation. When used during periods of darkness, such barricades, warning signs, and hazard markings shall be suitably illuminated.
7. When the work requires closing an air operations area of the airport or portion of such area, the Design-Builder shall furnish, erect, and maintain temporary markings and associated lighting conforming to the requirements of AC 150/5340-1, Standards for Airport Markings.
8. The Design-Builder shall furnish, erect, and maintain markings and associated lighting of open trenches, excavations, temporary stockpiles, and its parked construction equipment that may be hazardous to the operation of emergency fire-rescue or maintenance vehicles on the airport in reasonable conformance to AC 150/5370-2, Operational Safety on Airports During Construction, current edition.
9. The Design-Builder shall identify each motorized vehicle or piece of construction equipment in reasonable conformance to AC 150/5370-2, current edition.
10. The Design-Builder shall furnish and erect all barricades, warnings signs, and markings for hazards prior to commencing work which requires such erection and shall maintain the barricades, warning signs, and markings for hazards until their dismantling is directed by the Field Representative, all as specified in Division 1 of the Project Manual.
11. Open-flame type lights are not permitted.

12. If the Design-Builder fails to maintain the markings, lighting and barricades as required above, the Owner shall cause such safety measures to be installed by others. The cost for such service by others in this regard shall be borne by the Design-Builder.
13. The Design-Builder's responsibility for Maintenance of Traffic shall begin on the day the Design-Builder starts work on the project, or on the NTP date, whichever comes first.

**F. COUNTY PURCHASES**

1. The County reserves the right to directly purchase materials, equipment, supplies and other items for this project, which are included in the Design-Builder's Base Bid and/or the Contract, (substantially in accordance with the Contract Documents).
2. The Design-Builder has included in its Base Bid, and in the final Contract price, Florida State Sales Tax and other applicable taxes for materials, supplies and equipment to be used in the construction of the Project. The County, being exempt from sales tax, reserves its right to directly purchase materials, equipment, supplies and other items for the Project that were included in the Design-Builder's Base Bid and/or the Contract, substantially in accordance with this Article. Such sales tax exemption applies when the County (or "Owner") is deemed to be the ultimate consumer of such materials, equipment, supplies or other items ("Owner Directly Purchased Materials"). Any purchase made under this process must be valued at least \$10,000. The responsibilities of the County and the Design-Builder, as the case may be, relating to such Owner Directly Purchased Materials shall be governed by the terms and conditions of this Article and all provisions contained herein shall referred to as the "Direct Purchases by Owner (DPO) Program."
3. The Design-Builder shall employ a person or persons necessary to coordinate this process with the County ("Design-Builder's Coordinator").
4. In preparation of a Purchase Order for materials or equipment to be purchased by the County, the Design-Builder shall fully cooperate with the County for review and approval of all required submittals, product data sheets and shop drawings as if the products were being purchased by the Design-Builder at no additional cost to the Owner.
5. Material and equipment suppliers shall be selected by the Design-Builder. Design-Builder shall provide the County a list of all intended suppliers, vendors, and materialmen for consideration as Owner Directly Purchased Materials. Design-Builder shall ensure that each vendor, supplier, and materialmen for the Project is currently, or becomes prior to the time a Purchase Order is issued, a vendor registered with the County in accordance with Section 2-8.1 of the County Code. Moreover, the Design-Builder shall strongly encourage vendors, suppliers and materialmen to provide information to the County so that Automated Clearing House ("ACH") payments can be made to the vendors, suppliers and materialmen.
6. The County is considering Owner Directly Purchased Materials listed on Exhibit No. 3 to the Contract for tax-exempt direct purchases pursuant to the Florida Department of Revenue (FDOR) Technical Assistance Advisement (TAA) Letter. The list set forth in Exhibit No. 3 will be reviewed by the Design-Builder and represents the items that may be purchased in relationship to the Project. The Design-Builder represents, acknowledges and affirms to the County that it will in good faith, work with the County towards the goal of tax savings on the Project and will assist to verify, to the best of its knowledge, the accuracy of items and amounts that the Design-Builder believes are eligible for purchase directly by the County on a tax-exempt basis as of the date of execution of the construction contract or other date to be determined by the County, as applicable. Items not included in the list can only be added or modified with prior authorization of the Board of County Commissioners ("Board"). The

County shall have the sole right to determine which items shall be purchased directly as Owner Directly Purchased Materials pursuant to the process set forth in this Article.

## **G. EXECUTION, PROCEDURES**

1. Upon request from the County, and in an expeditious and timely manner, Design-Builder shall submit the attached Purchase Order Requisition Form Exhibit No. 4 to the Owner's Representative, to specifically identify the materials, supplies and equipment which Owner has elected to purchase directly. On the Purchase Order Requisition Form, the Design-Builder will provide the Owner the required quantities of material at the price established in the vendor's quote to the Design-Builder, less any sales tax associated with such price. All material terms negotiated by the Design-Builder with the vendor (i.e., pricing, delivery date, payment terms, warranties, retainage) shall be noted on the Purchase Order Requisition Form.
2. Such Purchase Order Requisition Forms are to be submitted to Owner's Representative no less than fourteen (14) days prior to the need for ordering such Owner Directly Purchased Materials, in order to provide sufficient time for the County to review, approve and process the Purchase Order Requisition Form, or, if necessary, to seek more information from the Design-Builder, so as to assure that such Owner Directly Purchased Materials are timely delivered to the Project site so as to avoid any delay to the Project.
3. The County shall not be held liable for any loss or damage for delays caused by others, such as non-compliance with the provisions of this Article, including acts of nature, strikes, or other causes beyond the control or fault of the County. The Design-Builder agrees to make no claim for damages for delay of any kind in the performance of the DPO Program whether occasioned by any act or omission of the County or any of its representatives (whether it is an Excusable Delay or otherwise) and the Design-Builder agrees that any such claim shall be compensated solely by an extension of time to complete performance of the Work. In this regard, the Design-Builder alone hereby specifically assumes the risk of such delays, including without limitation: delays in processing or approving Purchase Orders, Sub-Contractor proposals or other related submittals to the DPO Program, or the failure to render determinations, approvals, replies, corrections of said Purchase Orders, in a timely manner. Design-Builder shall not receive monetary compensation for County delay arising from the DPO Program. Time extensions shall be authorized by the County at its sole discretion in certain situations.
4. No later than fourteen (14) days after receipt of the Purchase Order Requisition Form, the County shall prepare its Purchase Order for equipment, materials or supplies which the County chooses to purchase directly. Promptly upon receipt of each Purchase Order, Design-Builder shall verify the terms and conditions of the Purchase Order prior to its issuance to the supplier, materialman or vendor and in a manner to assure proper and timely delivery of items. After such verification by the Design-Builder, the County shall issue the Purchase Order to the supplier, materialman or vendor, as applicable. The Purchase Order shall require that the vendor, supplier or materialman provide the required shipping and handling insurance. The Purchase Order shall also require the delivery of the Owner Directly Purchased Materials on the delivery date provided by the Design-Builder in the Purchase Order Requisition Form and shall indicate F.O.B. jobsite. The County's Purchase Orders shall contain or be accompanied by the County's exemption certificate and must include the County's name, address, and exemption number with issue and expiration date shown. The County shall issue to each supplier or vendor a Certificate of Entitlement on the Certificate of Entitlement Form attached hereto as Exhibit No. 5 with each Purchase Order.
5. Design-Builder shall be fully responsible for all matters relating to the receipt of materials in accordance with these Procedures, including, but not limited to, verifying correct quantities, verifying documentation of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees in favor of and for the benefit of the County required



by the Contract Documents, inspection and acceptance of the goods at the time of delivery, and ensuring that the Owner Directly Purchased Materials conform to the Purchase Order and the Drawings and Specifications. At the time of, and subsequent to, the delivery of such materials, the County shall be liable for all loss or damage to equipment and materials purchased pursuant to the Purchase Order. Notwithstanding the transfer of Owner Directly Purchased Materials by the County to Design-Builder's possession, the County shall retain title to any and all Owner Directly Purchased Materials. Retaining such title by the County does not relieve the Design-Builder of the responsibility for oversight of the Owner Directly Purchased Materials.

6. The Design-Builder shall coordinate delivery schedules, sequence of delivery, loading orientation, storage of Owner Directly Purchased Materials and other arrangements normally required by the Design-Builder for the particular materials furnished. The County shall assume all risk associated with any act or omission of the County, the County's Representative, or any employee of the County that, under the direction of the County, impairs or otherwise adversely affects any warranty or other contract right of the County pursuant to the Purchase Order provided that such adverse matters related to Owner Directly Purchased Materials are not due to acts of nature, strikes or other causes beyond the control of the County or are the results, in whole or in part, of the actions of others. The Design-Builder shall provide all services required for the unloading, handling and storage of materials through installation. The Design-Builder shall provide adequate and secure storage to protect the Owner Directly Purchased Materials from loss or damage from the time of delivery and throughout installation into the Project up to the time when the County accepts the Work. It shall be the Design-Builder's responsibility to provide all paperwork and evidence necessary and to file any claims promptly to recover loss or damage to Owner Directly Purchased Materials. The Design-Builder shall compile all paperwork and file all claims resulting from Owner Directly Purchased Materials lost, broken, vandalized, or stolen while under the control of the Design-Builder.
7. The Design-Builder agrees to indemnify and hold harmless the County from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions or directions of Design-Builder. Notwithstanding the foregoing, the County shall be responsible for payment of the invoice issued by and outlined in this Article.
8. As Owner Directly Purchased Materials are delivered to the jobsite, the Design-Builder and the County's Representative, shall visually inspect all shipments from the suppliers, and approve the vendor's, supplier's or materialman's invoice, as applicable, for materials, supplies and/or equipment delivered. The Design-Builder shall assure that each delivery of Owner Directly Purchased Materials is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order, together with such additional information as the County or Design-Builder may require. The Design-Builder shall verify in writing to the County's Representative that the materials, supplies, and/or equipment were received and agree to approve the invoice for payment. The invoice shall be thereupon furnished to the County's Representative for processing and payment in the manner as all other County invoices are processed. The County shall have the right to assign County personnel to verify and audit the accuracy of all Owner Directly Purchased Materials' documents.
9. The Design-Builder shall determine, prior to incorporation of the Owner Directly Purchased Materials into the Work, if such materials are defective, and whether such materials are identical to the materials ordered and match the description on the bill of lading. If the Design-Builder discovers defective or nonconforming Owner Directly Purchased Materials either at initial inspection or at any time thereafter, the Design-Builder shall not utilize such non-conforming or defective Owner Directly Purchased Materials in the Project and shall instead shall promptly notify the vendor, materialman or supplier, as applicable, of the defective or

non-conforming condition in order to pursue repair or replacement of those materials without any undue delay or interruption to the Project. Additionally, the Design-Builder shall notify the County of such occurrence. If the Design-Builder fails to perform such inspection and otherwise incorporates defective or non-conforming Owner Directly Purchased Materials into the Project, the conditions of which it either knew or should have known by performance of an inspection, Design-Builder shall be responsible for all damages to the County, as set forth in the Contract resulting from Design-Builder's incorporation of such materials into the Project, including liquidated damages. In the event that materials furnished are found to be defective or nonconforming, the Design-Builder shall promptly take action to remedy the defect or nonconformance so as not to delay the work.

10. All repairs, maintenance or damage repair claims shall be forwarded to and managed by the Design-Builder for resolution with the appropriate vendor, supplier, or materialman, as applicable. Notification to the vendor, supplier or materialman shall include rescinding of any invoices by the vendor, supplier or materialman for the defective or non-conforming Owner Directly Purchased Materials. Design-Builder shall immediately notify the County in the event invoices have already been approved for payment.
11. The Design-Builder shall maintain records of all Owner Directly Purchased Materials it receives at the job site as well as records of Owner Directly Purchased Materials it incorporates into the Project from the stock of the Owner Directly Purchased Materials. These records shall be current and readily available upon request by the County and shall be reported and reconciled monthly comparing:
  - a. Owner Directly Purchased Materials to be ordered pursuant to the Construction Schedule.
  - b. Owner Directly Purchased Materials Ordered, Received, and Paid.
  - c. Owner Directly Purchased Materials on Hand; and
  - d. Owner Directly Purchased Materials Incorporated into the Project.
12. In connection with each Purchase Order relating to Owner Directly Purchased Materials used in connection with work performed under the Contract, a Direct Purchases Reconciliation Report will be issued by the Design-Builder within fourteen (14) days after the Purchase Order is issued and submitted to the County monthly. Each Direct Purchases Reconciliation Report shall reconcile all Purchase Orders issued in the previous month, for the full amount of purchases, plus the amount of sales tax that would have been applicable to the purchase against the Contract Price. Such amounts shall be deducted from the Design-Builder's monthly payment requisitions, with a corresponding credit to the County's payment obligations. Moreover, the cost for any Owner Directly Purchased Materials ordered and not utilized in the Project shall be reconciled on a monthly basis, reported to the County, and credited against the Contract Price with a deduct Change Order. Upon completion of all purchases, a deduct Change Order against the Contract Price to account for all supplies, materials, and equipment directly purchased by the County, and the value of the taxes thereon, will be issued and executed by the Design-Builder and the County to close out the Program. The Design-Builder shall be required to reimburse the County within thirty (30) days of notification of same for any overpayments the County may have made to the Design-Builder as a result of the direct purchases.
13. The Design-Builder shall be responsible for obtaining and managing all warranties and guarantees in favor of and for the benefit of the County for all materials and products as required by the Contract Documents. All repairs, maintenance or damage repair calls shall be forwarded to the Design-Builder for resolution with the appropriate supplier or vendor.
14. The County shall not be liable for any costs associated with interruption or delay in the Project or for any extra costs relating to the Project resulting from incorrect, incomplete or damaged

material, delay in the delivery of Owner Directly Purchased Materials to the extent such interruptions, delays or costs are due, in whole or in part, to acts of nature, strikes or other causes beyond the control of the County or the actions of others. Subject to Article 4(H)(4) above, the Design-Builder has the responsibility and accountability to resolve any and all performance issues with the vendors it selects to provide Owner Directly Purchased Materials.

15. Accurate and current invoices shall be submitted by the vendors, suppliers and materialmen when the correct material is received. Original invoices are to be sent to the County and to the Design-Builder with the County shown as the entity being invoiced. It is the policy of Miami-Dade County that payment for all purchases by the County shall be made in a timely manner and that interest payments be made on late payments. The County shall not be held liable for costs associated with any interest payments or any delay charges for late payments made as a result of instructions, directions or late approvals by the Design-Builder. On a weekly basis, the Design-Builder shall submit all vendor invoices on hand for Owner Directly Purchased Materials delivered to the work site that are approved for payment. The approval by the Design-Builder to issue payment is demonstrated by a signature from the Design-Builder on the original vendor invoice signed adjacent to the words 'Approved for Payment' and shall be sent to the County no later than seven (7) days after receipt from vendor(s) of a properly completed and executed invoice. The Design-Builder is responsible for notifying and resolving non-performance and defects on non-conforming items with each vendor, supplier and materialman.
16. In order to arrange for prompt payment to the vendor, supplier or materialman, the Design-Builder shall provide to the County a list of Owner Directly Purchased Materials that have been accepted and approved for payment in the monthly payment requests accompanying the invoice(s) submitted for payment. The invoice package shall include the summary as well as:
  - a. Documentation, such as a delivery ticket, bill of lading, packing slip, listing the Purchase Order number under which such item(s) were purchased.
  - b. The actual approved/signed invoice.
  - c. A copy of the applicable Purchase Order.
  - d. Signed authorization of acceptance of delivered items.
  - e. Partial or final releases of claim, as appropriate, which can only be conditioned on payment of the invoice submitted; and
  - f. Such other documentation as required by the Contract in order to effect payment.The County shall provide the Design-Builder a monthly report as to the amount, date, payee and check number/ACH confirmation number, as applicable, of all such direct payments to vendors, suppliers and materialmen. In addition, the County will promptly notify the Design-Builder of any instances when non-payment or less than full payment is made on an invoice, specifying all reasons for withholding payment (or partial payment) unless such request to withhold payment was initiated by Design-Builder. All requests to withhold payment by Design-Builder must be submitted in writing to the County.
17. The County is responsible to make payments to vendors for the Owner Directly Purchased Materials. If the County fails to make payments in accordance with this Article for any reason other than the fault or neglect of the vendor, supplier, materialman and/or Design-Builder, then the County will be liable for any increased costs or expenses caused by such failure. Claims, delays charges and interest for non-payment to vendors that arise from the actions or directions of Design-Builder including any actions that are not caused or under the control of the County shall be the responsibility of the Design-Builder.
18. The Design-Builder shall be responsible for obtaining partial or final release of claim waivers to be submitted, as applicable, when payment of invoices is requested. All waivers shall be conditioned on payment of the invoice submitted. The Design-Builder must ensure that all

terms agreed upon with selected vendors are consistent with this Article. Vendor, supplier and materialman agreements with the Design-Builder shall be clear in stating that partial or final releases of claim not being provided along with invoices for payment shall render the invoices not payable and shall be considered the fault of others and not the fault of the County.

19. Salvage materials shall be the property of the County and stored or removed from the site by the Design-Builder at the County's discretion at no additional cost to the Owner.
20. At the end of the Project, any refund for surplus materials returned to suppliers plus applicable sales tax savings amount shall be credited to the cost of the Work with an additive Change Order to the Owner's Contingency.

#### **H. ENVIRONMENTAL CONSIDERATIONS AND PROTECTION**

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

its design of the trench excavation safety system. Inspections required by OSHA trench excavation safety standards shall be provided by the Design-Builder.

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

#### **I. SAFETY, FIRE PREVENTION, AND ENVIRONMENTAL CONSIDERATIONS**

1. The Design-Builder shall comply with the rules and regulations of the Florida Department of Commerce regarding Industrial Safety under Section 440.56 Florida Statutes, Safety Rules Workers Compensation Laws and with United States Williams Steiger Occupational Safety and Health Act of 1970 commonly referred to as "OSHA", as applicable, and other national consensus standards of safety pertaining to particular trades.
2. The Design-Builder shall be solely responsible for developing and implementing a "Site-Specific" Safety and Health Plan ("S&H Plan") pursuant to the terms of this Contract, and shall at a minimum, conform and comply with all Laws governing safety and health in the workplace.
3. Prior to commencing any work at the work site, the Design-Builder shall submit its S&H Plan which shall include, but is not limited to, the following:
  - Hurricane Plan
  - Identification of competent person
  - Safety statistical data, which will include severity and lost-time frequencies
  - Design-Builder daily project safety inspections
  - Project Emergency Notification List (updated as needed)
  - Equipment certification and daily inspection
  - Trenching inspection
  - Confined Space Entry Permitting and coordination
  - Maintenance of Traffic Inspection
  - Hazard Communication
  - Work zone safety and flagging
  - Lockout/Tagout Coordination
  - Fire prevention, hotwork permitting, and Fire Watch
4. The Design-Builder shall not endanger, by cutting, digging, loading or otherwise, the structural integrity or overall safety of any structure, installation, facility, work in progress or work completed.
5. Materials stored upon the Site or along the route of the work shall be so placed and the work shall be so conducted as to cause no obstruction to traffic other than as provided in these Contract Documents.
6. The Design-Builder shall mark all equipment with three-foot square orange and white flags whenever such equipment is operating on the Air Operations Area (AOA) or in proximity to flight zones. Equipment employed on the AOA shall be withdrawn from work areas at the close of the workday. Equipment shall not be parked in any location where it will constitute a hazard to aircraft or aircraft operations. Equipment shall be night marked and lighted as required by the Technical Specifications and FAA Advisory Circular 150/5210-5 "Painting, Marking and Lighting of Vehicles Used on an Airport" latest edition.

7. Equipment will not be allowed on the airfield, which is not properly equipped to contain all material, debris, etc. Constant inspections will be performed by the Design-Builder to insure a continuous, clean and safe aircraft operating area at all times.
8. The Design-Builder shall obtain from MDAD Airside Operations, for work at Miami International Airport, or from the airport manager for work at other MDAD General Aviation Airports, all equipment height limitations. Approval for use of cranes and other high equipment may be given, provided that the Design-Builder submits full data and scheduling to MDAD for approval by the FAA. Design-Builders are cautioned that the FAA processing of this request may take eight (8) weeks from the time of application.
9. Design-Builder is cautioned to allow for such conditions as having to drop crane boom(s) at times required by the FAA (nighttime and inclement weather), providing 2-way radio communications with the FAA control tower, and possible disruption of crane use to accommodate special airport operations requirements.
10. The Design-Builder shall furnish and erect signs, barricades, lights, flags and other protective devices as may be required, to protect aircraft, pedestrian and vehicular traffic and the work. All such signs, barricades, lights, flags and other protective devices shall be in accordance with the requirements of the Contract Documents.
11. The Design-Builder shall furnish flaggers in sufficient numbers to protect and divert vehicular and pedestrian traffic from working areas closed to traffic, or to protect any new work. Such flaggers shall be furnished on a twenty-four (24) hour basis when conditions and/or airport operations require.
12. The Design-Builder and all Subcontractors shall be governed by the provisions of the Miami -Dade County, Florida, Fire Prevention and Safety Code, and shall take all necessary precautions to guard against and eliminate all possible fire hazards and to prevent injury to persons or fire damage to any construction, building materials, equipment, temporary field offices, storage sheds, and all other property, both public and private, particularly when gas or arc welding and torch cutting is taking place. Open flames (except approved torch cutting equipment), including the use of flambeaux, are strictly prohibited.
13. The Design-Builder shall not use explosives on the Site, nor allow explosives of any type or nature to be brought upon the Site of the construction, without the prior express written approval of the Miami-Dade Aviation Department. Any such authorized use of explosives shall be governed by the provisions of Chapter 13, Code of Miami-Dade County, and other governing agencies in their use or storage. Subject to conditions outlined below, the Owner will permit the use of powder actuated fasteners and tools in connection with airport construction:
  - a) Permission to use powder actuated fasteners and tools will in no way relieve the Design-Builder or its Subcontractors from responsibilities under its Contract relating to liability for damages arising out of the use of such equipment.
  - b) Design Criteria Professional approval must be given specifically, and in writing, for the use of such fasteners for each and every application for which the Design-Builder desires to use this type of fastener. The Design-Builder shall submit to the Architect/ Engineer for approval all structural and operational data pertinent to each and every application, such data to include, but not be limited to the following:
    - 1) Make and model number of the powder actuated tool(s).
    - 2) Manufacturer's brochure completely describing the proposed fastening system.
    - 3) Sufficient drawings, cross-sections, and/or descriptive specification data to fully define the location(s) where powder actuated fasteners are intended for use. This

information shall include the type and thickness of material into which the fasteners are to be driven, and the penetration of the proposed fasteners.

- 4) The name, address and social security number of each operator of the powder actuated tool(s) who has been certified by the manufacturer as a qualified operator of the equipment. The Design-Builder's submittal shall include an affidavit stating that only the certified operator(s) named shall be permitted to use the powder-actuated tool(s).
14. Only powder actuated tools of a safe, low-velocity, piston type which comply with all the requirements of OSHA regulations shall be allowed.
15. An operator of powder-actuated tools shall have on his/her person at all times the manufacturer's card certifying that he is a qualified operator. The Design Criteria Professional shall immediately suspend any work being conducted by operators not having such certification on his/her person.
16. The Design Criteria Professional, the County or the Owner may suspend any work in progress using powder actuated fasteners and tools, if such powder actuated work is deemed to be unsafe or is considered to be detrimental to the operation of the airport. Failure of the Design Criteria Professional, or the Owner to suspend any such work shall not impose any liability on the Design Criteria Professional, or the Owner.
17. Powder actuated fasteners are specifically prohibited from use in prestressed concrete structural members. The Design Criteria Professional may approve same after reviewing submittal data and after being satisfied as to procedures to be used to locate prestressed tendons.
18. Powder actuated fasteners will be disallowed when, in the opinion of the Design Criteria Professional, or the Owner, the noise from the powder-actuated tool would create disruption of airport operations.
19. This specification is intended to encourage the use of economical, efficient, structurally sound fastening systems, and to use them in a manner that is safe for the operators, other workmen, the public, and the structure.

## **J, SIGNS**

The Design-Builder will provide, at a minimum, a construction sign as called for in the Contract Documents and Division 01 General Requirements. This sign shall contain the required acknowledgement of project funding sources as outlined by the Owner.

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

## **K. INSURANCE REQUIREMENTS**

The Design-Builder shall maintain the insurance set forth in the Contract Documents throughout the performance of this Contract until the Work has been completed by the Design-Builder and accepted by the County.

- A. Within fourteen (14) days after the date of the execution of this Contract and prior to commencement of the Work, the Design-Builder shall obtain all insurance required under this Section. All insurance shall be maintained until the Work has been completed and accepted by the County. The Design-Builder shall furnish to the County:

- 1) Certificate(s) / or policies of insurance, which indicate that insurance coverage has been obtained which meets the requirements as outlined below.

- a. Certificate(s) of Insurance which clearly indicate the coverage required in Sections i, ii, iii, iv, v, and vi below.
  - i. **Commercial General Liability**, on a comprehensive basis, including Contractual Liability, Broad Form Property Damage and Products and Completed Operations, in an amount not less than \$5,000,000 combined single limit per occurrence for bodily injury and property damage. Miami Dade County must be shown as an additional insured with respect to this coverage.
  - ii. **Automobile Liability Insurance**, covering all owned, non-owned and hired vehicles used on connection with the work in an amount not less than, \$1,000,000 combined single limit per occurrence for bodily injury and property damage. Miami Dade County must be shown as an additional insured with respect to this coverage.
  - iii. **Contractors Pollution Liability** applicable to the work being performed, with a limit no less than \$2,000,000 per claim or occurrence and \$2,000,000 aggregate per policy period of one year.
  - iv. **Workers' Compensation** insurance as required by Chapter 440, Florida Statutes with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
  - v. **Completed Value Builders Risk and/or Installation Floater**, issued in the name of the Design-Builder and Miami Dade County as their interest may appear, in amount(s) not less than 100% of the insurable value of the structure (s), covering perils on an "All Risks" basis including windstorm. Policy(s) must clearly indicate that underground structure (if applicable) and materials being installed are covered. Any deductibles or self-insured retentions are the sole responsibility of the Design-Builder.
  - vi. **Professional Liability (Design-Builder)** insurance with limits no less than \$2,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

Insurance that the Design-Builder must ensure that the sub-contractors must carry at a minimum are as follows:

- i. **Commercial General Liability** on a comprehensive basis, including Contractual Liability, Broad Form Property Damage and Products and Completed Operations, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
  - ii. Workers' Compensation as required by Chapter 440, Florida Statutes.
  - iii. Automobile Liability not less than \$1,000,000
- B. 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:
- 1) The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division. Or the company must hold a valid Florida Certificate of Authority as show in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of



Financial Services.

The Design-Builder shall furnish Certificates of Insurance to the County prior to commencing any operations under this Contract, which certificates shall clearly indicate that the Design-Builder has obtained insurance, in the type, amount and classifications, in strict compliance with this Section. All insurance required by the Contract shall stay in force until construction of the Project is complete to a point where no construction personnel of the Design-Builder or any Subcontractor are required to be on the Work Site and all survey work for As-built Drawings is completed to the satisfaction of the County's Representative. At that point, the Design-Builder shall make written request to the County's Representative to discontinue all or portions of the insurance coverage for the Project (as appropriate) and upon receipt of written permission from the County's Representative may discontinue said insurance. In any instance where Work must be resumed after a pause, the Design-Builder shall obtain all insurance as required above prior to performing the Work.

**Note: MIAMI-DADE COUNTY CONTRACT NUMBER AND TITLE OF CONTRACT MUST APPEAR ON EACH CERTIFICATE AND POLICY.**

**CERTIFICATE HOLDER MUST READ: MIAMI-DADE COUNTY  
111 NORTHWEST 1ST STREET, SUITE 2340  
MIAMI, FLORIDA 33128**

Compliance with the foregoing requirements shall not relieve the Design-Builder of the liabilities and obligations under this Article or under any other Article of this Contract and the County shall have the right to inspect the original insurance policies in the event that submitted certificates of insurance are inadequate to ascertain compliance with required coverages.

- 2) The Design-Builder shall not commence the Work until it has obtained all insurances required hereunder and the County has approved of said policies. The Design-Builder shall maintain all required insurances for the full term of this Contract.
- 3) Design-Builder shall name the County, MDAD, and their employees, agents, and consultants as additional insureds for Design-Builder's liabilities assumed under the indemnification provisions of this Contract on all required insurance policies, except for Professional Liability and Workers Compensation policies.

#### **J. ART IN PUBLIC PLACES**

This Project is subject to the provisions set forth pursuant to Section 2.11.15 of the Miami-Dade County Code (the "Code"), which provisions are incorporated herein by reference. Basic coordination services to be provided by the Design-Builder shall extend to include Art in Public Places Program ("APP") as more particularly described below:

In performance of the Work, the Design-Builder shall be responsible for all coordination related to the implementation of the Art in Public Places Program in conjunction with the Project. The coordination efforts shall involve at minimum the Project architect, , and any other designated representatives, as deemed appropriate by the Design-Builder, to facilitate the design and construction of the Art Scope in regards to the Project.

The Design-Builder shall collaborate with APP in the development of concepts and or public art opportunities for the Project and the Work Site. The Director of the Department of Cultural Affairs

shall approve the final selection of concepts, locations, and or opportunities incorporated and described in the final Call to Artist for the Project. The APP Trust shall make final determination of the artist or artists (the “Artist,” collectively) upon recommendation of the APP Professional Advisory Committee (“PAC”).

The Design-Builder is expected to attend all meetings related to the implementation of the APP Program including, but not limited to:

- 1) APP orientation meeting(s) with staff to discuss and determine the scope of the APP program as related to the Project; and
- 2) PAC meetings, including one during the Artist pre-selection phase and one during the Artist Proposal Review and recommendation phase.

**APP Program Intent:** APP is committed to the collaboration of the Artist with the Design-Builder for the Project, other County authorities overseeing the management of the Project (where applicable), and the end-user (where applicable); all as required to fulfill its obligations as described under the Art in Public Places Procedures Manual 358 (Exhibit CC) to promote the successful integration of the artwork and the Site.

Collaborative efforts shall, by definition, include the Artist as a member of the Design Team and the continuous and proactive involvement of the Design-Builder and its designees, the Artist, and designated APP staff during all phases of the Project development, all as required to ensuring that the requisites of form and function, with respect to both the building architecture and Art, are satisfied and do not conflict with one another. APP staff will be involved in all aspects of administering the Art selection and the implementation process and will make themselves available to render assistance to the Design-Builder as may be required to facilitate the integration of Art in the Project and Site, including but not limited to providing expert advice on matters intrinsic to the public art processes.

**Coordination of APP Design & Construction Documents Development:** In consultation with APP and the Artist, the Design-Builder shall make all the necessary provisions and coordinate the development and/or incorporation of the Art Scope of Work (“Art Scope”), including any architectural/engineering details and/or specifications into the Construction Documents for the Project, irrespective of whether developed by the Design-Builder or provided by the Artist’s own forces. The Design-Builder shall coordinate and/or develop the design of elements necessary for the Art Scope such as means of attachments, electrical, mechanical, and plumbing systems, or other utility installations and/or connections that represent ancillary elements to the Art, in a manner consistent with both the APP’s intent and in compliance with applicable building code.

Whenever possible, and prior to the start of the Project’s construction phase, the Design-Builder shall provide technical support, including but not limited to assisting the Artist in the development of preliminary and final construction estimates for the ancillary infrastructure work described above that is to become part of the Construction Documents. The Design-Builder shall itemize and assign building construction unit costs for Work that is mutually agreed among A&E of record, Design-Builder, Artist, and APP to be consequential to the Art. This estimate of “Probable Construction Costs” will include any impacts to the building architecture (“Art Impact” or “Debit”) as well as any “descoping” to the building architecture due to integration of architectural elements or functions within the Art Scope (“Building Credit”). The Design-Builder and APP staff shall in good faith negotiate and agree on the final estimate of construction costs to be paid to the Project from the Artwork allocation or credited by the Project as a construction credit to the Artwork scope.

**APP Construction Coordination:** The Design-Builder shall coordinate the review and comment (as may be applicable) of shop drawings developed by the Trade Contractors that incorporate elements intrinsic to the Art, and any shop drawings or engineering documents developed by the Artist for compliance with the Construction Documents. The Design-Builder shall allow the Artist

to secure required building sub-permits as applicable to implementation of the Art (Artist to pay for all costs associated with permitting of the Art Scope) regardless of whether the Art scope of work is performed by subcontractors already in contract with the Design-Builder or by other qualified sub-contractors hired directly by the Artist to provide the quality of work and services required of the fabrication and installation of the Art scope.

The Design-Builder shall provide input on recommended construction procedures/ approach and shall coordinate the installation of the Art with the Artist during the construction and shall assist the Artist and APP in the resolution of issues pertaining to construction coordination for the Art in a manner consistent to that of managing other subcontract work. The Design-Builder shall periodically monitor the progress of construction and inspect, along with the Artist and APP Representative, work by the Artist own forces and Project Trade Contractors for compliance with the Construction Documents.

**Basic Timeline for APP Coordination Efforts**

<b>Client Team - Milestone</b>	<b>APP Team - Activity</b>
Upon Contract Award	APP introductory Kick-Off mtg w/ Client team
Schematic Design	APP and client to define opportunities for issuance of Call to Artist / This resembles the RFP process and usually takes around 3 months
Design Development	Commissioned Artist fully develops the artwork design documents
Construction Documents	Artist prices out fabrication and installation services and produces mockups & samples as needed to establish the final qualities and characteristics of the work APP manages permitting process as required per commission scope
Construction Administration	Artist release artwork fabrication contract and engages qualified & licensed subs to perform any construction-related service to accommodate the artwork installation
TCO	Artwork is substantially complete and final punch list is issued
CO	Artwork is 100% complete and documented per APP contractual requirements

**K. CONTRACT MEASURES**

The Design-Builder is required under this Agreement to achieve a Small Business Enterprise (SBE) Goal in accordance with the following Contract Measures and further described in Attachment 1 of Appendix A (Certificate of Assurance) and/or the SBD approved Utilization Plan, whichever is higher:

- 1) 14.00% SBE - A/E goal (Design portion only) (Refer to – Community Business Enterprise (CBE-A/E) Program for the Purchase of Professional Architectural, Landscape Architectural, Engineering, or Surveying and Mapping Services Implementing Order 3-32)
- 2) 16.49% SBE - Construction goal (Construction portion only) (Refer to Community Small Business Program for the Purchase of Construction Services – Implementing Order 3-22)
- 3) 1.96% - SBE-Good & Services Goal (Refer to – Small Business Enterprise (SBE) Program for the Purchase of Goods and Services Implementing Order 3-41)
- 4) 10.00% Community Workforce Goal
- 5) Responsible Wages - Building

The Director may declare the Consultant in default of this agreement for the failure of the Consultant to comply with the requirements of this paragraph.

END OF ARTICLE



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