

ATTACHMENT D
Draft Design/Build Contract

DRAFT

**CONTRACT FOR
DESIGN-BUILD SERVICES FOR THE
WAGNER CREEK/SEYBOLD CANAL RESTORATION PROJECT**

PROJECT B-50643



**Mayor Tomas P. Regalado
Commissioner Wifredo "Willy" Gort, District 1
Commissioner Ken Russell, District 2
Commissioner Frank Carollo, District 3
Commissioner Francis Suarez, District 4
Commissioner Keon Hardemon, District 5**

City Manager, Daniel J. Alfonso.

**Issued By:
City of Miami
Capital Improvements and Transportation Program
444 SW 2nd Avenue, 8th Floor
Miami, FL 33130**

Exhibit D
TABLE OF CONTENTS

SECTION 1 – GENERAL TERMS AND CONDITIONS1

1. **Definitions.....1**

2. **Time is of the Essence6**

3. **Contract Term6**

4. **Notices6**

5. **Priority of Provisions7**

6. **Indemnification7**

7. **Insurance7**

8. **Performance and Payment Bond.....11**

9. **Qualification of Surety11**

10. **General Requirements12**

11. **Method of Performing the Work13**

12. **Work Staging and Phasing14**

13. **Site Investigation and Representation14**

14. **Design-Build Firm to Check Plans, Specifications and Data.....14**

15. **Design-Build Firm's Responsibility for Damages and Accidents14**

16. **Accidents15**

17. **Safety Precautions15**

18. **Occupational Health and Safety16**

19. **Labor and Materials.....16**

20. **Rules, Regulations, and Licenses.....16**

21. **Project Management.....17**

22. **Superintendence and Supervision.....17**

23. **Authority of the Project Manager18**

24. **Inspection of Work19**

25. **Taxes20**

26. **Separate Contracts.....20**

27. **Lands of Work.....20**

28. **Coordination of Work.....20**

29. **Differing Site Conditions.....21**

30. **Existing Utilities.....21**

31. **Design-Build Firm's Responsibility for Utility Properties and Service.....21**

32. **Interfering Structures.....22**

33. **Field Relocation.....22**

34. **Design-Build Firm's Use of Project Site(s)22**

35. **Materials and Equipment23**

36. **Material and Equipment Shipment, Handling, Storage and Protection23**

37. **Manufacturer's Instructions.....25**

38. **Manufacturer's Warranty26**

39. **Submittals26**

40. **Shop Drawings, Working Drawings and Samples.....27**

41. **Product Data30**

42. **Record Set30**

43. **Supplemental Drawings and Instructions.....31**

44. **Design-Build Firm Furnished Drawings.....31**

45. **Substitutions31**

46. **City Furnished Drawings32**

47. **Interpretation of Drawings and Documents.....33**

48. **Product and Material Testing.....33**

49.	<u>Field Directives</u>	33
50.	<u>Changes in the Work or Contract Documents</u>	33
51.	<u>Continuing the Work</u>	33
52.	<u>Change Orders</u>	34
53.	<u>Change Order Procedure</u>	34
54.	<u>No Oral Changes</u>	35
55.	<u>Value of Change Order Work</u>	35
56.	<u>Extra Work Directive</u>	38
57.	<u>As-Built Drawings</u>	39
58.	<u>Worker’s Identification</u>	40
59.	<u>Removal of Unsatisfactory Personnel</u>	40
60.	<u>Substantial Completion and Punch List</u>	41
61.	<u>Acceptance and Final Payment</u>	42
62.	<u>NDPES Requirements</u>	42
63.	<u>Force Majeure</u>	43
64.	<u>Extension of Time</u>	43
65.	<u>Notification of Claim</u>	44
66.	<u>Extension of Time not Cumulative</u>	44
67.	<u>Design-Build Firm’s Damages for Delay</u>	45
68.	<u>Excusable Delay, Non-Compensable</u>	45
69.	<u>Acceptance of Defective or Non-Conforming Work</u>	45
70.	<u>Uncovering Finished Work</u>	46
71.	<u>Correction of Work</u>	46
72.	<u>Maintenance of Traffic and Public Streets</u>	47
73.	<u>Location and Damage to Existing Facilities, Equipment or Utilities</u>	48
74.	<u>Stop Work Order</u>	49
75.	<u>Hurricane Preparedness</u>	49
76.	<u>Use of Completed Portions</u>	50
77.	<u>Cleaning Up; City’s Right to Clean Up</u>	50
78.	<u>Removal of Equipment</u>	51
79.	<u>Set-offs, Withholdings, and Deductions</u>	51
80.	<u>Event of Default</u>	51
81.	<u>Notice of Default-Opportunity to Cure</u>	52
82.	<u>Termination for Default</u>	52
83.	<u>Remedies in the Event of Termination for Default</u>	53
84.	<u>Termination for Convenience</u>	53
85.	<u>Resolution of Disputes</u>	54
86.	<u>Mediation-Waiver of Jury Trial</u>	55
87.	<u>City May Avail Itself of All Remedies</u>	55
88.	<u>Permits, Licenses and Impact Fees</u>	56
89.	<u>Compliance with Applicable Laws</u>	56
90.	<u>Independent Design-Build Firm</u>	57
91.	<u>Third Party Beneficiaries</u>	57
92.	<u>Successors and Assigns</u>	57
93.	<u>Materiality and Waiver of Breach</u>	58
94.	<u>Severability</u>	58
95.	<u>Applicable Law and Venue of Litigation</u>	58
96.	<u>Amendments</u>	58
97.	<u>Entire Contract</u>	58
98.	<u>Nondiscrimination, Equal Employment Opportunity, and Americans with Disabilities Act</u>	58
99.	<u>Evaluation</u>	59

100.	<u>Commodities manufactured, grown, or produced in the City of Miami, Miami - Dade County and the State of Florida</u>	59
101.	<u>Royalties and Patents</u>	59
102.	<u>Continuation of the Work</u>	59
103.	<u>Review of Records</u>	59
104.	<u>No Interest</u>	60
105.	<u>Payments Related to Guaranteed Obligations</u>	60
106.	<u>Consent of City Required for Subletting or Assignment</u>	60
107.	<u>Agreement Limiting Time in Which to Bring Action Against the City</u>	60
108.	<u>Defense of Claims</u>	61
109.	<u>Contingency Clause</u>	61
110.	<u>Mutual Obligations</u>	61
111.	<u>Contract Extension</u>	61
112.	<u>Non-Exclusivity</u>	61
113.	<u>Nature of the Contract</u>	61
114.	<u>Contract Documents Contains all Terms</u>	62
115.	<u>Applicable Law and Venue of Litigation</u>	62
116.	<u>Survival</u>	62
117.	<u>Joint Preparation</u>	62
118.	<u>Nondisclosure</u>	62
SECTION 2 - SUPPLEMENTAL TERMS AND CONDITIONS		63
1.	<u>Scope of Work</u>	63
2.	<u>Contract Time</u>	63
3.	<u>Progress Payments</u>	63
4.	<u>Liquidated Damages</u>	64
5.	<u>Schedule of Values</u>	64
6.	<u>Project Schedules</u>	65
7.	<u>Release of Liens</u>	66
8.	<u>Progress Meetings</u>	67
9.	<u>Request for Information</u>	67
10.	<u>Project Site Facilities</u>	67
11.	<u>Temporary Facilities, Utilities and Construction</u>	71
12.	<u>Project Laboratory Testing Services</u>	68
13.	<u>Security</u>	69
14.	<u>Construction Signage</u>	69
15.	<u>Lines and Grades</u>	73
16.	<u>H2B Visa Report</u>	73
17.	<u>Progress Photos</u>	73
SECTION 3 – DESIGN SERVICES		70
1.	<u>Design Responsibility</u>	70
2.	<u>Subconsultants</u>	70
3.	<u>Ownership of Documents</u>	70
4.	<u>Delivery upon Request or Cancellation</u>	71
5.	<u>Error and Omission Issues</u>	71
6.	<u>Design-Build Firm’s Key Staff</u>	71
7.	<u>Truth-In-Negotiation Certificate</u>	71
8.	<u>Re-Use by City</u>	71
9.	<u>Scope of Services</u>	72
10.	<u>Basic Services</u>	72
11.	<u>Basis of Design</u>	75

14. **Additional Design Services**.....76

SECTION 6 - CONTRACT EXECUTION FORM

1. **Corporate Resolution**81
2. **Form of Performance Bond**82
3. **Form of Payment Bond**84
4. **Certificate as to Corporate Principal**.....86
5. **Performance and Payment Guaranty Form**87

Form A. - **Subconsultants**86
Form B. - **Key Staff**.....87

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Section 1 – General Terms and Conditions

1. Definitions

Addenda means written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.

Additional Services means any Work defined as such in a Work Order, secured in compliance with Florida Statutes and City Code.

Agreement means the written instrument which is evidence of the agreement between the City and Design Build Firm covering the Work. The work and services to be performed by the Design Build Firm pursuant to a particular Purchase Order. The “Agreement” is the combination of the Master Agreement and the Purchase Order for the specific assignment. The words “Agreement” and “Contract” are synonymous.

Application for Payment means the form acceptable to City which is to be used by Design Build Firm during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

Attachments mean any Attachments to this Agreement which are expressly incorporated by reference and made a part of this Agreement as if set forth in full.

Base Fee means the amount of compensation mutually agreed upon for the completion of Basic Services.

Basic Services means those services designated as such in this Agreement.

Change Order means a written document ordering a change in the Contract Price or Contract Time or a material change in the Work. A change order must comply with the Contract Documents.

City means the City of Miami, Florida, a Florida municipal corporation. In all respects hereunder, City’s performance is pursuant to the City’s capacity as Owner. In the event the City exercises its regulatory authority as a governmental body, the exercise of such regulatory authority and the enforcement of any rules, regulations, codes, laws and ordinances shall be deemed to have occurred pursuant to City’s authority as a governmental body and shall not be attributable in any manner to the City as a party to this Contract. For the purposes of this Contract, “City” without modification shall mean the City Manager or Director, as applicable.

City Commission means the legislative body of the City of Miami.

City Manager means the duly appointed chief administrative officer of the City of Miami.

Commissioning means the employing total building commissioning practices tailored to the size and complexity of the building site, building and its system components in order to verify performance of all components and systems and help ensure that design requirements are met. This includes a designated commissioning authority a commissioning plan, verification of the installation and performance of systems to be commissioned, and a commissioning report.

Consultant means the engineering firm selected for the purpose of performing construction, engineering and inspection services of the Design Build firm’s Work.

Construction Change Directive means a written directive to effect changes to the Work, issued by the Consultant or the Director that may affect the ITB Contract price or time.

Construction Schedule means a critical path schedule or other construction schedule, as defined and required by the Contract Documents.

Contract means this document, the RFP the Addenda, the Response to the RFP, and the Design Criteria Package, plans & specifications developed by the Design-Build Firm, and any change orders, modifications, directives, clarifications to this Contract. The documents which constitute the Contract will have the order of priority set forth in §5 of this document.

Contract Times means the number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any; (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.

Cure means the action taken by the Design-Build Firm promptly after receipt of written notice from the City of a breach of the Contract Documents which shall be performed at no cost to the City, to repair, replace, correct, or remedy all material, equipment, or other elements of the Work or the Contract Documents affected by such breach, or to otherwise make good and eliminate such breach, including, without limitation, repairing, replacing or correcting any portion of the Work or the Project(s) site(s) disturbed in performing such cure.

Cure Period means the period of time in which the Design-Build Firm is required to remedy deficiencies in the Work or compliance with the Contract Documents after receipt of written Notice to Cure from the City identifying the deficiencies and the time to Cure.

Day means a calendar day of 24 hours measured from midnight to the next midnight.

Design-Build Contract means a single contract with a design-build firm for the design and construction of a public construction project.

Design Criteria Package means concise, performance-oriented drawings or specifications of the public construction project. The purpose of the design criteria package is to furnish sufficient information to permit design-build firms to prepare a bid or a response to an agency's request for proposal, or to permit an agency to enter into a negotiated design-build contract. The design criteria package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project.

Design Criteria Professional means a firm who holds a current certificate of registration under Chapter 481, Florida Statutes to practice architecture or landscape architecture or a firm who holds a current certificate as a registered engineer under Chapter 471, Florida Statutes to practice engineering and who is employed by or under contract to the agency for the providing of professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.

Design Build Firm means the person, firm, or corporation with whom the City has contracted and who will be responsible for the acceptable performance of any Work and for the payment of all legal debts pertaining to any Work issued under this Contract. A “design-build firm” means a partnership, corporation, or other legal entity that 1) is certified under Section 489.119, Florida Statutes to engage in contracting through a certified or registered general Design-Build Firm or a certified or registered building Design-Build Firm as the qualifying agent; or 2) is certified under Section 471.023, Florida Statutes to practice or to offer to practice engineering; certified under Section 481.219, Florida Statutes to practice or to offer to practice architecture; or certified under Section 481.319, Florida Statutes to practice or to offer to practice landscape architecture.

Design Documents means the construction plans and specifications prepared by the Design-Build Firm.

Director means the Director of the Capital Improvements Program or designee, who has the authority and responsibility for managing the Project(s) under this Contract.

Drawings means the graphic and pictorial portions of the Work, which serve to show the design, location and dimensions of the Work to be performed, including, without limitation, all notes, schedules and legends on such Drawings.

Engineer means the individual or entity named as such in the Agreement. In the event that no independently contracted engineer is utilized, all references to Engineer in the Agreement shall be considered references to the City.

Field Directive means a written approval for the Design-Build Firm to proceed with Work requested by the City or the Consultant, which is minor in nature and should not involve additional cost.

Final Completion means the date subsequent to the date of Substantial Completion at which time the Design-Build Firm has completed all the Work in accordance with the Contract as certified by the engineer of record or the City and submitted all documentation required by the Contract Documents.

Hazardous Waste means materials defined in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

Inspector means an authorized representative of the City assigned to make necessary inspections of materials furnished by Design-Build Firm and of the Work performed by Design-Build Firm.

Laws or Regulations means any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

Lump Sum Work means Work to be paid at fixed price complete amounts.

Milestone means a principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

Notice of Award means the written letter to the Design-Build Firm notify the Design-Build Firm that they have been awarded the Contract.

Notice To Proceed means a written letter or directive issued by the Director or designee acknowledging that all conditions precedent have been met and directing that the Design-Build Firm may begin Work on the Project(s).

Plans and/or Drawings means the official graphic representations of a Project(s).

Professional Services means those services within the scope of the practice of architecture, professional engineering, or registered surveying and mapping, as applicable, as defined by the laws of the State of Florida, or those performed by any architect, professional engineer, or registered surveyor or mapper in connection with his or her professional employment or practice. These services may be abbreviated herein as “architectural/ engineering services” or “professional services”, as applicable, which are within this definition.

Progress Schedule means a schedule, prepared and maintained by the Design-Build Firm, describing the sequence and duration of the activities comprising the Contractor’s plan to accomplish the Work within the Contract Times.

Project or Work as used herein refers to all reasonably necessary and inferable and necessary construction and services required by the Contract Documents whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Design-Build Firm to fulfill the its obligations, including completion of the construction in accordance with the Drawings and Specifications. The Work may constitute the whole or a part of the Project(s).

Project Manager means the individual assigned by CITP to manage the Project(s).

Records Retention means City policy setting forth the criteria and standards for the management of Project records to be retained in a cost effective manner to meet business needs and comply with legal requirements, then destroyed in a timely manner when retention is no longer required.

Request for Information (RFI) means a request from the Design-Build Firm seeking an interpretation or clarification relative to the Contract Documents. The RFI, which shall be clearly marked RFI, shall clearly and concisely set forth the issue(s) or item(s) requiring clarification or interpretation and why the response is needed. The RFI must set forth the Design-Build Firm’s interpretation or understanding of the document(s) in question, along with the reason for such understanding.

Resident Project Representative means the authorized representative of Engineer who may be assigned to the Site or any part thereof.

Risk Administrator means the City’s Risk Management Administrator, or designee, or the individual named by the City Manager to administer matters relating to insurance and risk of loss for the City.

Schedule of Submittals means a schedule, prepared and maintained by the Design-Build Firm, of required submittals and the time requirements to support scheduled performance of related construction activities.

Schedule of Values means a schedule, prepared and maintained by the Design-Build Firm, allocating portions of the Compensation to various portions of the Work and used as the basis for reviewing the Design Build Firm’s Applications for Payment.

Scope of Services or Services means a comprehensive description of the activities, tasks, design features, objectives, deliverables and milestones required for the completion of Project or an assignment with sufficient detail to allow a reasonably accurate estimation of resources necessary for its completion.

Shop Drawings means all drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for the Design-Build Firm and submitted by the Design-Build Firm to illustrate some portion of the Work.

Site means lands or areas indicated in the Contract Documents as being furnished by the City upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by the City which are designated for the use of the Design-Build Firm.

Specifications means that part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.

Subconsultant means a person, firm or corporation having a direct contract with the Design-Build Firm for the purposes of performing Work.

Sub Design-Build Firm means a person, firm or corporation having a direct contract with Design-Build Firm including one who furnishes material worked to a special design according to the Contract Documents, but does not include one who merely furnishes Materials not so worked.

Submittal means documents prepared and submitted by the Proposer under this solicitation.

Substantial Completion means that point at which the Work is at a level of completion in substantial compliance with the Contract such that the City can use, occupy and/or operate the facility in all respects to its intended purpose. Substantial Compliance shall not be deemed to have occurred until any and all governmental entities, which regulate or have jurisdiction over the Work, have inspected, and approved the Work. Beneficial use or occupancy shall not be the sole determining factor in determining whether Substantial Completion has been achieved, unless a temporary certificate of occupancy has been issued.

Time and Materials Work means Work to be paid for on the basis of time and materials in accordance with [SPECIFY].

Unit Price Work means Work to be paid for on the basis of unit prices.

Wage Rates means the effective direct expense to Consultant and/or Subconsultant, on an hourly rate basis, for employees in the specified professions and job categories assigned to provide services under this Contract that justify and form the basis for professional fees regardless of actual manner of compensation.

Work Change Directive means a written statement to **Design Build Firm** issued on or after the Effective Date of the Agreement and signed by the City and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Compensation or the Contract Times, but is evidence that the parties expect that the change ordered or

documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Compensation or Contract Times.

2. Time is of the Essence

Time is of the essence in performance of the Work. Design-Build Firm will promptly perform its duties under the Contract and will give the Work as much priority as is necessary to cause the Work to be completed on a timely basis in accordance with the Contract. All Work shall be performed strictly (not substantially) within the time limitations necessary to maintain the critical path and all deadlines established in the Contract.

All dates and periods of time set forth in the Contract, including those for the commencement, prosecution, interim milestones, milestones, and completion of the Work, and for the delivery and installation of materials and equipment, were included because of their importance to the City.

Design-Build Firm acknowledges and recognizes that the City is entitled to full and beneficial occupancy and use of the completed Work following expiration of the Contract Time.

In agreeing to bear the risk of delays for completion of the Work except for extensions approved in accordance with Article 68, Excusable Delays, the Design-Build Firm understands that, except and only to the extent provided otherwise in the Contract, the occurrence of events of delay within the Design-Build Firm's control, the Work shall not excuse the Design-Build Firm from its obligation to achieve full completion of the Work within the Contract Time, and shall not entitle the Design-Build Firm to an adjustment. All parties under the control or contract with the Design-Build Firm shall include but are not limited to material persons, Subconsultants, Sub Design-Build Firm, suppliers and laborers.

The Design-Build Firm acknowledges that the City is purchasing the right to have the Design-Build Firm continuously working at the Project site for the full duration of the Project to ensure the timely completion of the Work.

3. Contract Term

The Contract shall commence upon issuance of the Notice of Award, which shall be issued subsequent to the execution of the Contract by the City. The Contract shall terminate upon notice by the City that the Contract has been closed-out after final completion or otherwise terminated by the City pursuant to the terms and conditions herein set forth.

4. Notices

Whenever either party desires to give Written Notice unto the other relating to the Contract, such must be addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Article. Notice shall be deemed given on the date received or within 3 days of mailing, if mailed through the United States Postal Service. Notice shall be deemed given on the date sent via e-mail or facsimile. Notice shall be deemed given via courier/delivery service upon the initial delivery date by the courier/delivery service. For the present, the parties designate the following as the respective places for giving of notice:

For City of Miami:

Mr. Jeovanny Rodriguez, P.E.

Department of Capital Improvements Program Director
City of Miami
444 S.W. 2nd Avenue, - 8th Floor
Miami, Florida 33130

For Design-Build Firm:
(To Be Determined and Inserted prior to award listing person, title and complete address)

During the Work the Design-Build Firm shall maintain continuing communications with Design-Build Professional and the Project Manager. The Design-Build Firm shall keep the City fully informed as to the progress of the Project(s) at all times through ongoing communications with the Project Manager.

5. Priority of Provisions

If there is a conflict or inconsistency between any term, statement requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into the Contract Documents by reference and a term, statement, requirement, the specifications and plans prepared by the Design Criteria Professional, or provision of the Contract Documents the following order of precedence shall apply:

In the event of conflicts in the Contract the order of precedence stated below shall govern;

- Revisions and Change Orders to the Contract
- Contract, as it may be amended from time to time
- Plans & Specifications
- RFP, and any addenda issued thereto
- RFP Responses

Where provisions of laws, codes, manufacturer's specifications or warranties or industry standards are in conflict, the more restrictive or higher quality shall govern

6. Indemnification

Design-Build Firm shall indemnify, hold/save harmless, and defend at its own costs and expense, the City, its agencies, instrumentalities, officials, officers, agents, representatives, and employees (collectively "the City" or "the Indemnitees") from liabilities, damages, losses, and costs, including, but not limited to reasonable attorney's fees, to the extent caused, in whole or in part, directly or indirectly, by the negligence, failure to follow any applicable professional standard of care, statute, code, regulation or rule, recklessness or intentional wrongful misconduct, act or omission of Design-Build Firm and persons employed or utilized by Design-Build Firm in the performance of this Contract and will indemnify, hold harmless and defend the Indemnities against, any civil actions, in law or in equity, in contract or in tort, statutory, regulatory, administrative or similar claims, injuries or damages arising or resulting from the permitted work, even if it is alleged that the City, its officials and/or employees were negligent. These indemnifications shall survive the term of this Contract. In the event that any action or proceeding is brought against City by reason of any such claim or demand, Design-Build Firm shall, upon written notice from City, resist and defend such action, at its own cost and expense, or proceeding by counsel satisfactory to the City Attorney. This will apply through administrative, litigation, appellate, supplemental, bankruptcy, and/ or regulatory proceedings. The

Design-Build Firm expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by Design-Build Firm shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Indemnitees.

The indemnification provided above shall obligate Design-Build Firm to defend at its own expense to and through administrative, litigation, regulatory, appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at City's option, any and all claims of liability and all suits and actions of every name and description which may be brought against City whether performed by Design-Build Firm, or persons employed or utilized by Design-Build Firm.

This indemnity will survive the cancellation or expiration of the Contract. This indemnity will be interpreted under the laws of the State of Florida, including without limitation and which conforms to the limitations and provisions of §725.06 and/or §725.08, Fla. Statutes, as amended from time to time and as applicable to the Contract .

Design-Build Firm shall require all Subcontractor agreements to include a provision that they will indemnify the City.

The Design-Build Firm agrees and recognizes that the City shall not be held liable or responsible for any claims, to the extent such claims arise from the actions or omissions of the Design-Build Firm in which the City participated either through review or concurrence of the Design-Build Firm's actions. In reviewing, approving or rejecting any submissions by the Design-Build Firm or other acts of the Design-Build Firm , the City in no way assumes or shares any responsibility or liability of the Design-Build Firm or Sub-Design-Build Firm , under this Agreement.

Ten dollars (\$10) of the payments made by the City constitute separate, distinct, and independent consideration for the granting of this Indemnification, the receipt and sufficiency of which is acknowledged by the Design-Build Firm.

7. Insurance

Without limiting any of the other obligations or liabilities of Design-Build Firm, Design-Build Firm shall provide, pay for, and maintain in force until all of its Work to be performed under this Contract has been completed and accepted by City (or for such duration as is otherwise specified hereinafter), the insurance coverages set forth herein.

7.1. Commercial General Liability

A. Limits of Liability	
Bodily Injury and Property Damage Liability	
Each Occurrence	\$1,000,000
General Aggregate Limit	\$2,000,000
Products/Completed Operations	\$2,000,000
Personal and Advertising Injury	\$1,000,000

B. Endorsements Required

City of Miami, its elected officials, instrumentalities and employees listed as an additional insured
Contingent and Contractual Exposures
Explosion, Collapse and Underground Hazard
Primary and Non Contributory Endorsement

Products and Completed Operations covered for a minimum of three years following project completion. Additional insureds included on this requirement.

7.2. Business Automobile Liability

- A. Limits of Liability
 - Bodily Injury and Property Damage Liability
 - Combined Single Limit
 - Any Auto/Owned/Scheduled
 - Including Hired, Borrowed or Non-Owned Autos
 - Any One Accident \$1,000,000

B. Endorsements Required

City of Miami, its elected officials, instrumentalities and employees listed as an additional insured

7.3. Worker's Compensation

- Limits of Liability
- Statutory-State of Florida
- Waiver of subrogation
- USL&H, IF APPLICABLE

Employer's Liability

- A. Limits of Liability
 - \$1,000,000 for bodily injury caused by an accident, each accident.
 - \$1,000,000 for bodily injury caused by disease, each employee
 - \$1,000,000 for bodily injury caused by disease, policy limit

7.4. Umbrella/Excess Liability

- A. Limits of Liability
 - Bodily Injury and Property Damage Liability
 - Each Occurrence \$15,000,000
 - Aggregate \$15,000,000

City of Miami, its elected officials, instrumentalities and employees listed as an additional insured

Excess Form over all applicable liability policies contained herein

7.5. Environmental Impairment/CPL Liability \$3,000,000

City of Miami, its elected officials, instrumentalities and employees listed as an additional insured

Five Year Reporting Period

7.6. Builder's Risk/Installation Floater (If applicable)

Causes of Loss: Special Form with Replacement Cost Valuation
Deductible: \$50,000 AOP, 5% Wind & Hail, Flood
City of Miami, its elected officials, instrumentalities and employees listed as loss payee/additional insured

Design-Build Firm IS RESPONSIBLE FOR ALL DEDUCTIBLES APPLICABLE HEREIN

- 7.7. Payment and Performance Bond** \$TBD
- City of Miami, its elected officials, instrumentalities and employees listed as an Obligee
- 7.8. Professional Liability** \$3,000,000/\$3,000,000 per claim and in the aggregate.
- Retro Date Included. This limit shall be equally applicable and provided by any and all consultants, subconsultants, or contractors engaged in the project.
- 7.9. Protection and Indemnity Liability (If Applicable)**
- Limits of Liability \$2,000,000/\$2,000,000
Jones Act Included
City of Miami, its elected officials, instrumentalities, and employees listed as an additional insured
- 7.10 Crime Coverage**
- Employee Dishonesty and Forgery Alteration
Limits of Liability \$1,000,000
City of Miami, its elected officials, instrumentalities, and employees listed as loss payee.
- The Design Build Firm is responsible for all applicable deductibles in terms of all lines of coverage, or policies herein contained, more specifically noted in Section (7) Insurance.

The above policies shall provide the City of Miami with written notice of cancellation or material change from the insurer not less than (30) days prior to any such cancellation or material change.

Companies authorized to do business in the State of Florida, with the following qualifications, shall issue all insurance policies required above:

The company must be rated no less than "A-" as to management, and no less than "Class X" as to Financial Strength, by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent. All policies and /or certificates of insurance are subject to review and verification by Risk Management prior to insurance approval.

8. Performance and Payment Bond

The Design-Build Firm shall within fifteen (15) calendar days of being notified of award, furnish a Performance/Payment Bond containing all the provisions of the attached Performance/Payment forms.

Each Bond shall be in the amount of one hundred percent (100%) of the Contract value guaranteeing to City the completion and performance of the Work covered in the Contract Documents as well as full payment of all suppliers, laborers, or Sub Design-Build Firm , and Subconsultant employed pursuant to this Project(s). Each Bond shall be with a Surety, which is qualified pursuant to Article 9, Qualification of Surety.

Each Bond shall continue in effect for one year after Final Completion and acceptance of the Work with liability equal to one hundred percent (100%) of the Contract value, or an additional bond shall be conditioned that Design-Build Firm will, upon notification by City, correct any defective or faulty work or materials which appear within one year after Final Completion of the Project(s).

The City must be listed as an Obligee.

Pursuant to the requirements of Section 255.05(1)(a), Florida Statutes, as may be amended from time to time, Design-Build Firm shall ensure that the bond(s) referenced above shall be recorded in the public records and provide City with evidence of such recording. The Payment/ Performance Bond shall be in substantially the form provided by Section 255.05, Florida Statutes and be subject to the approval of the Risk Management Director and the City Attorney as to legal form.

9. Qualification of Surety

Bid Bonds, Performance/ Payment Bonds over Five Hundred Thousand Dollars (\$500,000.00):

Each bond must be executed by a surety company of recognized standing, currently authorized to do business in the State of Florida as surety, having a resident agent in the State of Florida and having been in business with a record of successful continuous operation for at least five (5) years.

The Surety shall hold a current certificate of authority as acceptable surety on federal bonds in accordance with United States Department of Treasury Circular 570, Current Revisions. If the amount of the Bond exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the Surety shall not exceed the underwriting limitation in the circular, and the excess risks must be protected by coinsurance, reinsurance, or other methods in accordance with Treasury Circular 297, revised September 1, 1978 (31 DFR Section 223.10, Section 223.111). Further, the Surety shall provide City with evidence satisfactory to City, that such excess risk has been protected in an acceptable manner.

The City will accept a surety bond from a company with a rating of B+ or better for bonds up to \$2 million, provided, however, that if any surety company appears on the watch list that is published quarterly by Intercom of the Office of the Florida Insurance Commissioner, the City shall review and either accept or reject the surety company based on the financial information available to the City. A surety company that is rejected by the City may be substituted by the Bidder or proposer with a surety company acceptable to the City, only if the bid amount does not increase. The following sets forth, in general, the acceptable parameters for bonds:

Policy- Financial

<u>Amount of Bond</u>	<u>holders Ratings</u>	<u>Size Category</u>
500,001 to 1,000,000	B+	Class I
1,000,001 to 2,000,000	B+	Class II
2,000,001 to 5,000,000	A	ClassIII
5,000,001 to 10,000,000	A	Class ... IV
10,000,001 to 25,000,000	A	Class V
25,000,001 to 50,000,000	A	Class ... VI
50,000,001 or more	A	Class .. VII

For projects of \$500,000.00 or less, City may accept a Bid Bond, Performance Bond and Payment Bond from a Surety which has twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued, if the Surety is otherwise in compliance with the provisions of the Florida Insurance Code, and if the surety company holds a currently valid certificate of authority issued by the United States Department of the Treasury under Section 9304 to 9308 of Title 31 of the United States Code, as may be amended from time to time. A Certificate and Affidavit so certifying should be submitted with the Bid Bond and also with the Performance/Payment Bond.

More stringent requirements of any grantor agency are set forth within the RPP. If there are no more stringent requirements, the provisions of this section shall apply.

10. General Requirements

The employee(s) of the Design-Build Firm shall be considered to be at all times its employee(s), and not an employee(s) or agent(s) of the City or any of its departments.

The Design-Build Firm agrees that the Design-Build Firm will at all times employ, maintain and assign to the performance of a Project a sufficient number of competent and qualified professionals and other personnel to meet the requirements of the Work to be performed.

The Design-Build Firm agrees to adjust staffing levels or to replace any staff personnel if so requested by the Project Manager, should the Project Manager make a determination that said staffing is unacceptable or that any individual is not performing in a manner consistent with the requirements for such a position.

The Design-Build Firm represents that its staff personnel have the proper skills, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Work, in a competent and professional manner.

The Design-Build Firm shall perform the work complete, in place, and ready for continuous service, and shall include repairs, testing, permits, clean-up, replacements, and restoration required as a result of damages caused during this construction.

The Design-Build Firm shall provide temporary facilities and controls necessary to perform the Work and to ensure safe and proper access and use of the site by the Project Manager and the Consultant.

The Design-Build Firm shall at all times cooperate with the City, or the Consultant and coordinate its respective Work efforts to most effectively and efficiently progress the performance of the Work.

The City, the Consultant and other agencies authorized by the City, shall have full access to the Project(s) site(s) at all times, during the hours of work including, but not limited to, if the public's health, safety, and welfare are at risk.

The Design-Build Firm shall be responsible for the good condition of the Work or materials until formal release from his obligations under the terms of the Contract Documents.

Design-Build Firm shall bear all losses resulting to it on account of the amount or character of the Work, or the character of the ground, being different from what he anticipated.

All newly constructed work shall be carefully protected from injury in any way. No wheeling or walking or placing of heavy loads on it shall be allowed and the Design-Build Firm at its own expense shall reconstruct all portions damaged.

The Design-Build Firm shall at all times conduct the Work in such manner and in such sequence as will ensure the least practicable local interference. Design-Build Firm shall not open up Work to the prejudice of Work already started, and the Project Manager may require the Design-Build Firm to finish a section on which Work is in progress before Work is started on any additional section.

11. Method of Performing the Work

When measurements are affected by conditions already established or where items are to be fitted into constructed conditions, it shall be the Design-Build Firm's responsibility to verify all such dimensions at the site and the actual job dimensions shall take precedence.

The apparent silence of the Contract documents as to any detail, or the apparent omission from them of a detailed description concerning any Work to be done and materials to be furnished, shall be regarded as meaning that only the best general practice is to prevail and that only material and workmanship of the best quality is to be used, and interpretation of the Contract Documents shall be made upon that basis.

Communication and coordination between the Project Manager, Consultant , and the Design-Build Firm is key to successful execution and completion of the Work. If the Project Manager or Consultant reasonably determines the rate of progress of the Work is not such as to ensure its completion within the designated completion time, or if, in the opinion of the Project Manager the Design-Build Firm is not proceeding with the Work diligently or expeditiously or is not performing all or any part of the Work according to the Project schedule accepted by or determined by the Project, the Project Manager shall have the right to order the Design-Build Firm to do either or both of the following: (1) improve its work force; and/or (2) improve its performance in accordance with the schedule to ensure completion of the Project(s) within the specified time. The Design-Build Firm shall comply with such orders at no additional cost to the City, within seven calendar days upon the receipt of a "Notice to Cure"; (3) The City at its sole option may also have Work performed by a third party Design-Build Firm and deduct such cost from any monies due the Design-Build Firm.

Where materials are transported in the performance of the Work, vehicles shall not be loaded beyond the capacity recommended by the vehicle manufacturer or permitted by Federal, State or local law(s). When it is necessary to cross curbing or sidewalks, protection against damage shall be provided by the Design-Build Firm and any damaged curbing, grass areas, sidewalks or other areas shall be repaired at the expense of the Design-Build Firm to the satisfaction of the Project Manager and Consultant.

The Design-Build Firm shall furnish to the Project Manager a complete listing of 24-hour telephone numbers at which responsible representatives of the Design-Build Firm and all of the Design-Build Firm's Sub Design-Build Firm and Subconsultants can be reached should the need arise at any time.

12. Work Staging and Phasing

The Work to be performed shall be done in such a manner so as not to interfere with the normal City operations of the Project site or facility. The manner in which the Work is performed shall be subject to the approval of the Project Manager and Consultant, whom if necessary, shall have the authority to require changes in the manner in which the Work is performed. There shall be no obstruction of City services without the prior written approval of the Project Manager or Consultant. All requests for such interruption or obstruction must be given in writing to the Project Manager or Consultant 24 hours in advance of the interruption of City operations.

The Design-Build Firm shall familiarize itself with normal City operations where the Work is to be performed so that it can conduct the Work in the best possible manner to the complete satisfaction of the Project Manager and Consultant.

A staging plan must be submitted to and approved by the Project Manager or the Consultant prior to the start of construction and issuance of the Notice to Proceed. Such staging plan shall be revised and resubmitted as necessary during construction.

13. Site Investigation and Representation

The Design-Build Firm acknowledges that it has satisfied itself as to the nature and location(s) of the Work under the Contract Documents, the general and local conditions, particularly those bearing upon availability of transportation, disposal, handling and storage of materials, availability of labor, water, electric power, and roads, the conformation and conditions at the ground based on City provided reports, the type of equipment and facilities needed preliminary to and during the performance of the Work and all other matters which can in any way affect the Work or the cost thereof under the Contract Documents.

The Design-Build Firm further acknowledges that it has satisfied itself based on any geotechnical reports the City may provide and inspection of the Project(s) site(s) as to the character, quality, and quantity of surface and subsurface materials to be encountered from inspecting the site and from evaluating information derived from exploratory work that may have been done by the City or included in this Contract Documents.

Any failure by the Design-Build Firm to acquaint itself with all the provided information and information obtained by visiting the Project(s) site(s) will not relieve Design-Build Firm from responsibility for properly estimating the difficulty or cost thereof under the Contract Documents. In the event that the actual subsurface conditions vary from the actual City provided reports the Design-Build Firm shall notify the City and the Contract Documents amount may be adjusted up or down depending on the conditions.

14. Design-Build Firm to Check Plans, Specifications and Data

Design-Build Firm shall verify all dimensions, quantities and details shown on the plans, specifications or other data received from Project Manager or Consultant as part of the Contract Documents, and shall notify the Project Manager and the Consultant of all errors, omissions and discrepancies found therein within three (3) calendar days of discovery. Design-Build Firm will not be allowed to take advantage of any error, omission or discrepancy in the plans or specifications as the Design-Build Firm has sole responsibility for design and construction. Design-Build Firm is also liable for damages and/or re-works resulting from errors, omissions or discrepancies in the plans and/or specifications

15. Design-Build Firm's Responsibility for Damages and Accidents

Design-Build Firm shall accept full responsibility for Work against all losses or damages of whatever nature sustained until Final Acceptance by City, and shall promptly repair or replace, at no additional cost to the City any Work, materials, equipment, or supplies damaged, lost, stolen, or destroyed from any cause whatsoever.

16. Accidents

The Design-Build Firm shall provide such equipment and facilities as are necessary or required, in the case of accidents, for first aid service to person who may be injured during the Project(s) duration. The Design-Build Firm shall also comply with the OSHA requirements as defined in the United States Labor Code 29 CFR 1926.50. In addition, the Design-Build Firm must report immediately to the Project Manager every accident to persons or damage to property, and shall furnish in writing full information, including testimony of witnesses regarding any and all accidents.

17. Safety Precautions

Design-Build Firm shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Design-Build Firm shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

- All employees on the Project(s) site(s) and other persons who may be affected thereby;
- All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the Project(s) site(s); and
- Other property at the Project(s) Site(s) or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

Design-Build Firm shall designate a responsible member of its organization at the Project(s) site(s) whose duty shall be the prevention of accidents. This person shall be Design-Build Firm's superintendent unless otherwise designated in writing by Design-Build Firm to Project Manager.

Design-Build Firm shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Design-Build Firm shall notify owners of adjacent property and utilities when prosecution of the Work may affect them. All damage, injury or loss to any property caused directly or indirectly, in whole or in part, by Design-Build Firm, any Subcontractor, Subconsultant or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be remedied by Design-Build Firm. Design-Build Firm's duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed and Project Manager has issued the Design-Build Firm a notice of Final Acceptance.

Design-Build Firm must adhere to the applicable environmental protection guidelines for the duration of a Project. If hazardous waste materials are used, detected or generated at any time, the Project Manager must be immediately notified of each and every occurrence. The Design-Build Firm shall comply with all codes, ordinances, rules, orders and other legal requirements of public authorities (including OSHA, EPA, PERA, the City, Miami-Dade County, FDOT, State of Florida, and Florida Building Code), which bear on the performance of the Work.

The Design-Build Firm shall take the responsibility to ensure that all Work is performed using adequate safeguards, including but not limited to: proper safe rigging, safety nets, fencing, scaffolding, barricades, chain link fencing, railings, barricades, steel plates, safety lights, and ladders that are necessary for the protection of its employees, as well as the public and City employees. All riggings and scaffolding shall be constructed with good sound materials, of adequate dimensions for their intended use, and substantially braced, tied or secured to ensure absolute safety for those required to use it, as well as those in the vicinity. All riggings, scaffolding, platforms, equipment guards, trenching, shoring, ladders and similar actions or equipment shall be OSHA approved, as applicable, and in accordance with all federal, state and local regulations.

If an emergency condition should develop during a Project, the Design-Build Firm must immediately notify the Project Manager of each and every occurrence. The Design-Build Firm should also recommend any appropriate course(s) of action to the Project Manager.

18. Occupational Health and Safety

In compliance with Chapter 442, Florida Statutes, any toxic substance listed in Section 38F-41.03 of the Florida Administrative Code delivered as a result of a Project must be accompanied by a Material Safety Data Sheet (MSDS) which may be obtained from the manufacturer. The MSDS must include the following information:

- The chemical name and the common name of the substance.
- The hazards or other risks in the use of the substance, including:
 - The potential for fire, explosion, corrosion, and reaction;
 - The known acute and chronic health effects of risks from exposure, including the medical conditions which are generally recognized as being aggravated by exposure to the substance; and
 - The primary routes of entry and symptoms of overexposure.
- The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the substances, including appropriate emergency treatment in case of overexposure.
- The emergency procedure for spills, fire, disposal, and first aid.
- A description in lay terms of the known specific potential health risks posed by the substance intended to alert any person reading this information.
- The year and month, if available, that the information was compiled and the name, address, and emergency telephone number of the manufacturer responsible for preparing the information.

19. Labor and Materials

Unless otherwise provided herein, Design-Build Firm shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

Design-Build Firm shall at all times enforce strict discipline and good order among its employees, Sub Design-Build Firm, and Subconsultant at the Project(s) site(s) and shall not employ on the Project(s) any unfit person or anyone not skilled in the Work to which they are assigned.

20. Rules, Regulations, and Licenses; Community Business Enterprise

The successful Design-Build Firm shall comply with all laws and regulations applicable to provision of services specified in the Contract Documents. The Design-Build Firm shall be familiar with all federal, state and local laws that may in affect the goods and/or services offered.

The City Manager has made a written determination that due to the highly specialized nature of this particular design-build engagement Community Business Enterprise (“CBE”) Requirements under 18-87(p) are unfeasible. Such requirements are stated as not being applicable in the City’s solicitation documents. Accordingly the solicitation document states there are no established Community Business enterprise (“CBE”) requirements for this Contract.

21. Project Management

Where a Design-Build Firm is awarded Work, the Design-Build Firm shall be responsible for all Project management, including any and all subcontracts necessary to ensure that the Work is performed in accordance with the Contract Documents. Project Management shall include, but is not limited to: obtaining bids from subcontractors and suppliers; coordinating the securing of all permits; obtaining licenses and inspections; ensuring that subcontractors, and Subconsultants comply with all City requirements; performing the Work in accordance with the Contract Documents to the satisfaction of the Project Manager; paying all Sub Design-Build Firm s and Subconsultants; obtaining release of liens/claims fees; and obtaining temporary and final Certificates of Occupancy or Completion.

22. Superintendence and Supervision

The Design-Build Firm shall keep the Contract under his own control and it shall be its responsibility to see that the Work is properly supervised and carried on faithfully and efficiently. The Design-Build Firm shall supervise the Work personally and shall have a competent, English-speaking superintendent, or representative who shall be on the site of the Project at all working hours, and who shall have full authority by the Design-Build Firm to direct the performance of the Work and make arrangements for all necessary materials, equipment, and labor without delay.

The orders of the City are given through the Project Manager, which instructions are to be strictly and promptly followed in every case. Design-Build Firm shall keep on the Project during its progress, a full-time competent English speaking superintendent and any necessary assistants, all satisfactory to Project Manager. The superintendent shall not be changed except with the written consent of Project Manager, unless the superintendent proves to be unsatisfactory to Design-Build Firm and ceases to be in its employ. The superintendent shall represent Design-Build Firm and all directions given to the superintendent shall be as binding as if given to Design-Build Firm and will be confirmed in writing by Project Manager upon the written request of Design-Build Firm. Design-Build Firm shall give efficient supervision to the Work, using its best skill and attention. The Project Manager shall be provided telephone number(s) for the superintendent where the superintendent can be contacted during normal working hours as well as after hours for emergencies.

The Design-Build Firm's superintendent shall record, at a minimum, the following information in a bound log: the day; date; weather conditions and how any weather condition affected progress of the Work; time of commencement of Work for the day; the Work being performed; materials, labor, personnel, equipment and Sub Design-Build Firm s and Subconsultants at the Project(s) site(s); visitors to the Project site, including representatives of the City, regulatory representatives; any special or unusual conditions

or occurrences encountered; and the time of termination of Work for the day. All information shall be recorded in the daily log in indelible ink. The daily log shall be kept on the Project(s) site(s) and shall be available at all times for inspection and copying by Project Manager.

The Project Manager, Design-Build Firm and Consultant shall meet at least every two (2) weeks or as otherwise determined by the Project Manager, during the course of the Work to review and agree upon the Work performed and outstanding issues. The Design-Build Firm shall publish, keep, and distribute minutes and any comments thereto of each such meeting.

If Design-Build Firm, in the course of performing the Work, finds any discrepancy between the Contract Documents and the physical conditions of the locality, or any errors, omissions, or discrepancies in the Plans, it shall be Design-Build Firm's duty to immediately inform Project Manager and Consultant, in writing, and Project Manager or Consultant, will promptly review the same. All Work performed as a result of such discovery, will be done at Design-Build Firm's sole risk.

Design-Build Firm shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Design-Build Firm shall be solely responsible for the means, methods, techniques, sequences and procedures of construction.

23. Authority of the Project Manager

The Director hereby authorizes the Project Manager or the Consultant, within the scope of its agreement with the City, designated in the Contract Documents to determine, all questions of any nature whatsoever arising out of, under or in connection with, or in any way relating to or on account of the Work, and questions as to the interpretation of the Work to be performed under this Contract Documents.

The Design-Build Firm shall be bound by all determinations or orders of the Project Manager and/or Consultant and shall promptly respond to requests of the Project Manager and/or Consultant, including the withdrawal or modification of any previous order, and regardless of whether the Design-Build Firm agrees with the Project Manager's and/or Consultant's determination or requests. Where requests are made orally, the Project Manager and/or Consultant will follow up in writing, as soon thereafter as is practicable.

The Project Manager and/or Consultant shall have authority to act on behalf of the City to the extent provided by the Contract, unless otherwise modified in writing by the City. All instructions to the Design-Build Firm shall be issued in writing. All instructions to the Design-Build Firm shall be issued through the Director or Project Manager or the Consultant.

The Project Manager and Consultant shall have access to the Project(s) Site(s) at all times. The Design-Build Firm shall provide safe facilities for such access so the Project Manager and Consultant may perform their functions under the Contract. The Project Manager and Consultant will make periodic visits to the Work Site to become generally familiar with the progress and quality of the Work, and to determine if the Work is proceeding in accordance with the Contract Documents.

The Project Manager will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and will not be responsible for the Design-Build Firm's failure to carry out the Work in accordance with the Contract Documents.

The Project Manager and Consultant will have authority to reject Work that does not conform to the Contract Documents. Whenever, in his or her opinion, it is considered necessary or advisable to ensure the proper completion of the Contract Documents the Project Manager and Consultant will have authority to require special inspections or testing of the Work, whether or not such Work is fabricated, installed or completed. Neither the Project Manager's nor Consultant's authority to act under this paragraph, nor any decision made by him in good faith either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the Project Manager or Consultant to the Design-Build Firm, any Sub Design-Build Firm, Subconsultant, supplier or any of their agents, employees, or any other person performing any of the Work.

All interpretations and recommendations of the Project Manager and Consultant shall be consistent with the intent of the Contract Documents.

The Project Manager shall notify the Design-Build Firm in writing where the Work does not comply with the scope of services.

The Project Manager will not be responsible for the acts or omissions of the Design-Build Firm, any Sub Design-Build Firm, Subconsultant, or any of their agents or employees, or any other persons performing any of the Work.

24. Inspection of Work

Inspectors and the City shall at all times have access to the Work during normal work hours, and Design-Build Firm shall provide proper facilities for such access and for inspecting, measuring and testing.

Should the Contract Documents, Consultant/Inspector Project Manager's instructions, any laws, ordinances, or any public authority require any of the Work to be specially tested or approved, Design-Build Firm shall give Project Manager and Consultant timely notice of readiness of the Work for testing. If the testing or approval is to be made by an authority other than City, timely notice shall be given of the date fixed for such testing. Testing shall be made promptly, and, where practicable, at the source of supply. If any of the Work should be covered up without approval or consent of Project Manager or Consultant, it must, if required by the Project Manager or Consultant, be uncovered for examination and properly restored at Design-Build Firm's expense.

Unless otherwise provided, the Design-Build Firm shall make arrangements for such tests, inspections and approvals with the City's testing laboratory or entity. The Design-Build Firm shall give the City and the Consultant timely notice of when and where tests and inspections are to be made so that the City or Consultant may be present for such procedures.

Re-examination of any of the Work may be ordered by the Project Manager or Consultant, and if so ordered, the Work must be uncovered by Design-Build Firm. If such Work is found to be in accordance with the Contract Documents, City shall pay the cost of reexamination and replacement by means of a Change Order. If such Work is not in accordance with the Contract Documents, Design-Build Firm shall pay such cost.

The Design-Build Firm shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the City or separate Design-Build Firms caused by the Design-Build Firm's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

Inspectors shall have no authority to permit deviations from, or to relax any of the provisions of the Contract Documents or to delay the Work by failure to inspect the

materials and Work with reasonable promptness without the written permission or instruction of Project Manager or Consultant.

The payment of any compensation, whatever may be its character or form, or the giving of any gratuity or the granting of any favor by the Design-Build Firm to any Inspector, directly or indirectly, is strictly prohibited, and any such act on the part of the Design-Build Firm will constitute a breach of this Contract.

25. Taxes

Design-Build Firm shall pay all applicable sales, consumer, use and other taxes required, assessed or levied by law. Design-Build Firm is responsible for reviewing the pertinent state statutes involving state taxes and complying with all requirements.

26. Separate Contracts

Prior to the commencement of the Work the Project Manager will notify the Design-Build Firm of all ongoing projects or projects scheduled to commence during the Work that may require coordination. The Design-Build Firm shall be responsible for coordinating the Work with any other project to minimize any potential adverse impact. Design-Build Firm shall not be entitled to any days of delay for failure to properly coordinate the Work. The Project Manager will assist the Design-Build Firm in coordinating the Work. However, the sole responsibility for coordination rests with the Design-Build Firm.

If any part of Design-Build Firm's Work depends for proper execution or results upon the work of any other persons, Design-Build Firm shall inspect and promptly report to Project Manager and Consultant any defects in such work that render it unsuitable for such proper execution and results. Design-Build Firm's failure to so inspect and report shall constitute an acceptance of the other person's work as fit and proper for the reception of Design-Build Firm's Work, except as to defects which may develop in other Design-Build Firm's work after the execution of Design-Build Firm's Work.

Design-Build Firm shall conduct its operations and take all reasonable steps to coordinate the prosecution of the Work so as to create no interference or impact on any other Design-Build Firm on the site. Should such interference or impact occur, Design-Build Firm shall be liable to the affected Design-Build Firm for the cost of such interference or impact.

To ensure the proper execution of subsequent Work, Design-Build Firm shall inspect the Work already in place and shall at once report to Project Manager and Consultant any discrepancy between the executed Work and the requirements of the Contract Documents.

27. Lands of Work

City shall provide, as may be indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way and easements for access thereto and such other lands as are designated by City for the use of Design-Build Firm.

Design-Build Firm shall provide, at Design-Build Firm's own expense and without liability to City, any additional land and access thereto that may be required for temporary construction facilities, or for storage of materials. Design-Build Firm shall furnish to City copies of written permission obtained by Design-Build Firm from the owners of such facilities.

28. Coordination of Work

The Project Site(s) may be occupied and may operate on a twenty-four hour seven day a week schedule. Design-Build Firm shall ensure that the performance of the Work does not impact any ongoing operations at Project(s) site(s), which also includes the delivery of any materials and equipment. Access to and egress from the Project Site(s) shall be coordinated with the Project Manager to minimize interference to regular and emergency operations of the facility.

During progress of Work under this Contract, it may be necessary for other Design-Build Firm's and persons employed by the City to Work in or about the Project. The City reserves the right to put such other Design-Build Firm s to work and to afford such access to the Project site of the Work to be performed hereunder at such times as the City deems proper.

If this Contract requires a portion of the Work to be tied into work done under other Contract(s), it will be necessary for Design-build Firm to plan its Work and cooperate with other Design-Build Firm s insofar as possible to prevent any interference and delay.

The Design-build Firm shall not impede or interfere with the work of other Design-Build Firms engaged in or about the Work and shall so arrange and conduct its Work that such other Design-Build Firm s may complete their work at the earliest date possible.

29. Differing Site Conditions

No adjustments to the Contract Time or Contract Price shall be approved due to differing site conditions as the Design-Build Firm is solely responsible for all aspects of design and construction of the Project.

30. Existing Utilities

Known utilities and structures adjacent to or encountered in the Work will be shown on the Drawings. The locations shown are taken from existing records and the best information available from existing plans and utility investigations; however, it is expected that there may be some discrepancies and omissions in the locations and quantities of utilities and structures shown. Those shown are for the convenience of the Design-Build Firm only, and no responsibility is assumed by either the City for their accuracy or completeness. No request for additional compensation or contract time resulting from encountering utilities not shown will be considered. The Design-Build Firm is responsible for locating all underground utilities. The Design-Build Firm shall explore sufficiently ahead of the Work to allow time for any necessary adjustments The Design-Build Firm must coordinate all underground utility locations through "Sunshine State One Call of Florida, Inc", who shall be contacted a minimum of 48 hours before the Design-Build Firm commences any digging.

31. Design-Build Firm's Responsibility for Utility Properties and Service

Where the Design-Build Firm's operations could cause damage or inconvenience to railway, telephone, fiber optic, television, electrical power, oil, gas, water, sewer, or irrigation systems, the Design-Build Firm shall make all arrangements necessary for the protection of these utilities and services or any other known utilities.

Notify all utility companies that are affected by the construction operation at least 48 hours in advance. Under no circumstance expose any utility without first obtaining permission from the appropriate agency. Once permission has been granted, locate, expose, and provide temporary support for all existing underground utilities and utility poles where necessary.

The Design-Build Firm and its Sub Design-Build Firm s shall be solely and directly responsible to the owner and operators of such properties for any damage, injury, expense, loss, inconvenience, delay, suits, actions, or claims of any character brought because of any injuries or damage which may result from the construction operations under the Contract Documents.

Neither the City nor its officers or agents shall be responsible to the Design-Build Firm for damages as a result of the Design-Build Firm's failure to protect utilities encountered in the Work.

In the event of interruption to domestic water, sewer, storm drain, or other utility services as a result of accidental breakage due to construction operations, promptly notify the proper authority. Cooperate with said authority in restoration of service as promptly as possible and bear all costs of repair. In no event shall interruption of any utility service be allowed unless granted by the owner of the utility.

In the event water service lines that interfere with trenching are encountered, the Design-Build Firm may, by obtaining prior approval of the water utility, cut the service, dig through, and restore the service with similar and equal materials at the Design-Build Firm's expense and as approved by the Project Manager or Consultant.

Replace, with material approved by the Project Manager or Consultant, at Design-Build Firm's expense, any and all other laterals, existing utilities or structures removed or damaged during construction, unless otherwise provided for in the Contract Documents and as approved by the Project Manager or Consultant.

Replace with material approved by the Project Manager or Consultant, at Design-Build Firm's expense, any existing utilities damaged during the Work

32. Interfering Structures

An attempt has been made to show major structures on the furnished Drawings. While the information has been compiled from the best available sources, its completeness and accuracy cannot be guaranteed, and is presented as a guide. The Design-Build Firm shall field verify all locations. Design-Build Firm shall coordinate with any affected companies, including utility companies and take necessary precautions to prevent damage to existing structures whether on the surface, above ground, or underground, including have the owner of the interfering structures place temporary supports.

33. Field Relocation

During the process of the Work, it is expected that minor relocations of the Work may be necessary. Such relocations shall be made only by the direction of the Project Manager or Consultant at the Design-Build Firm's expense. If existing structures are encountered that will prevent construction as shown, the Design-Build Firm shall notify the Project Manager or Consultant before continuing with the Work in order that the Project Manager or Consultant may make such field revisions as necessary to avoid conflict with the existing structures. Where the Design-Build Firm fails to notify the Project Manager or Consultant when an existing structure is encountered, and proceeds with the Work despite this interference, the Design-Build Firm does so at his own risk.

34. Design-Build Firm's Use of Project Site(s)

Limitations may be placed on the Design-Build Firm's use of the Project(s) site(s) and such limitations will be identified by the Project Manager. In addition to such limitations, the Project Manager may make storage available to the Design-Build Firm at his sole

discretion based on availability of space. The Design-Build Firm shall also coordinate and schedule deliveries so as to minimize disruptions to City day-to-day operations.

The Design-Build Firm shall limit its use of the Project site(s), so as to allow for the City's continuous operation. This is necessary, as the Project Site(s) may remain in operation during the Work.

- The Design-Build Firm shall:
 - Confine operations at the Project(s) site(s) to the areas permitted by the Project Manager; not disturb portions of the Project(s) site(s) beyond the specified areas; conform to Project(s) site(s) rules and regulations affecting the Work.
 - Keep existing driveways and entrances serving surrounding facilities clear and available to the City, its employees and the public at all times; not use areas for parking and/or storage of materials except as authorized by the Project Manager.
 - Assume all responsibility for its tools, equipment and materials, including any materials purchased for the Work and not accepted by the City, and its vehicles while performing Work for the City and/or while parked or stored at a City facility. The City assumes no liability for damage or loss to the items specified in this paragraph.

Access to parking and egress from the Project(s) site(s) shall be subject to the approval of the Project Manager.

35 Materials and Equipment

Design-Build Firm warrants to City that all materials and equipment furnished under the Contract will be new unless otherwise specified and that all of the Work will be of the highest quality, free from faults and defects and in conformance with the Contract. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Project Manager or Consultant, Design-Build Firm shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by any other provisions within the Contract Documents.

36. Material and Equipment Shipment, Handling, Storage and Protection

Preparation for Shipment

When practical, equipment shall be factory assembled. The equipment parts and assemblies that are shipped unassembled shall be furnished with assembly plan and instructions. The separate parts and assemblies shall be factory match-marked or tagged in a manner to facilitate assembly. All assemblies are to be made by the Design-Build Firm at no additional cost to the City.

Generally, machined and unpainted parts subject to damage by the elements shall be protected with an application of a strippable protective coating, or other approved protective method.

Equipment shall be packaged or crated in a manner that will provide protection from damage during shipping, handling, and storage.

The outside of the package or crate shall be adequately marked or tagged to indicate its contents by name and equipment number, if applicable; approximate weight; state any special precautions for handling; and indicate the recommended requirements for storage prior to installation.

Packaging and Delivery of Spare Parts and Special Tools

Properly mark to identify the associated equipment by name, equipment, and part number. Parts shall be packaged in a manner for protection against damage from the elements during shipping, handling, and storage. Ship in boxes that are marked to indicate the contents. Delivery of spare parts and special tools shall be made prior to the time associated equipment is scheduled for the initial test run.

Shipment

All equipment and material shall be shipped with freight and shipping paid, FOB job site.

The Design-Build Firm shall request a 7-day advance notice of shipment from manufacturers, and, upon receipt of such notice, provide the Engineer with a copy of the current delivery information concerning equipment items and material items of critical importance to the Project schedule.

Receiving

The Design-Build Firm shall unload and record the receipt of all equipment and materials at the jobsite.

All costs for receiving, inspection, handling, storage, insurance, inventory control, and equipment maintenance for the Design-Build Firm-Supplied and City-Supplied materials and equipment shall be included in the prices Bid and no extra compensation will be allowed.

Inspection

Immediately upon receipt of equipment and materials at the jobsite, the Design-Build Firm shall inspect for completeness and any evidence of damage during shipment. City supplied equipment and material shall be inspected and inventoried together with City's Inspector. Should there appear to be any shortage or damage, the Project Manager or Consultant shall be immediately notified; and the Design-Build Firm shall be fully responsible for informing the manufacturers and the transportation company of the extent of the shortage or damage. If the item or items require replacing or supplying missing parts, the Design-Build Firm shall take the necessary measures to expedite the replacement or supply the missing parts.

Handling

Equipment and materials received for installation on the Project(s) shall be handled in accordance with the manufacturer's recommendations, and in a manner that will prevent damage.

Storage

Equipment and materials shall be stored prior to installation as recommended by the manufacturer. Generally, materials such as pipe shall be stored off the ground in approved storage yards. Items subject to damage by the elements, vandalism, or theft shall be stored in secure buildings. Items requiring environmental control for protection shall be provided with the necessary environmentally controlled storage facilities at no cost to the City.

Insurance

The Design-Build Firm's insurance shall adequately cover the value of materials delivered but not yet incorporated into the Work.

Inventory Control

Equipment and materials shall be stored in a manner to provide easy access for inspection and inventory control. The Design-Build Firm shall keep a running account of all materials in storage to facilitate inspection and to estimate progress payments for materials delivered but not installed in the Work.

Equipment's Maintenance Prior to Acceptance by the City

Provide the required or manufacturer's recommended maintenance during storage, during the installation, and until such time as the City accepts the equipment for full-time operation.

Salvage Equipment

Any salvageable pipe, fittings, or other miscellaneous material or equipment removed during construction and not reused in the Work shall be cleaned, hauled, and stored by the Design-Build Firm at his own expense, where directed by the Project Manager, and shall remain the property of the City. All other material shall be disposed of by the Design-Build Firm at his own expense.

37. Manufacturer's Instructions

The Design-Build Firm shall:

Comply with manufacturer's requirements for the handling, delivery, storage, and installation of all materials, and equipment. Where required by the Contract Documents, Design-Build Firm shall submit manufacturer's printed instructions for delivery, storage, assembly, and installation.

Comply with the manufacturer's applicable instructions and recommendations for the performance of the Work, to the extent that these instructions and recommendations are more explicit or more stringent than requirements indicated in the Contract Documents including the Contract Documents.

Inspect each item of material or equipment immediately prior to installation and reject damaged and defective items.

Provide attachment and connection devices and methods for securing the Work; secure Work true to line plumb and level, and within recognized industry standards; allow for expansion and building movement; provide uniform joint width in exposed Work; arrange joints in exposed Work to obtain the best visual effect and refer questionable visual effect choices to the Consultant for final decision when applicable to the Work.

Recheck measurements and dimensions of the Work, as an integral step in starting each portion of the Work.

Install each unit or section of Work during favorable weather conditions, which shall ensure the best possible results in coordination with the entire Project(s) and isolate each unit of Work from incompatible Work as necessary to prevent potential interference among each section and/or deterioration of equipment.

Coordinate enclosure of the Work, which requires inspections and tests so as to minimize the necessity of uncovering Work for that purpose.

When required by the Contract Documents or the manufacturer, a qualified representative shall be present to observe field conditions, conditions of surface and installation, quality of workmanship, and applications. Manufacturer's representative shall provide the Design-Build Firm and the Project Manager a written report of field observations.

38. Manufacturer's Warranty

Design-Build Firm shall provide all manufacturers' warranties. All warranties, expressed and/or implied, shall be made available to the City for material and equipment covered by this Contract Documents. All material and equipment furnished shall be fully guaranteed by the Design-Build Firm against factory defects and workmanship. At no expense to the City, the Design-Build Firm shall correct any and all apparent and latent defects that may occur within the manufacturer's standard warranty. The Contract Documents may supersede the manufacturer's standard warranty. Manufacturer's warranties will become effective upon Final Acceptance of the Project(s).

39. Submittals

Design-Build Firm shall check and approve all shop drawing, samples, product data, schedule of values, and any and all other submittals to make sure they comply with the Contract Documents prior to submission to the Project Manager or Consultant.

Design-Build Firm by approving and submitting any submittals, represents that they have verified the accuracy of the submittals, and they have verified all of the submittal information and documentation with the requirements of the Contract Documents. At time of submission the Design-Build Firm shall advise the Project Manager and Consultant in writing of any deviations from the Contract Documents. Failure of the Design-Build Firm to advise the Project Manager or Consultant of any deviations shall make the Design-Build Firm solely responsible for any costs incurred to correct, add or modify any portion of the Work to comply with the Contract Documents.

Each shop drawing submittal shall contain a title block containing the following information:

- Number and title of drawing, including Contract title and Number
 - Date of drawing and revisions
 - Name of Design-Build Firm and Sub Design-Build Firm s, (if any) submitting drawings
 - Name of Project, Building or Facility
 - Specification Section title and number
 - Design-Build Firm's Stamp of approval, signed by the Design-Build Firm or his checker
 - Space above the title block for Project Manager' or Consultant's action stamp
 - Submittal or re-submittal number (whether first, second, third, etc.)
- Date of submittal

Design-Build Firm shall sign, in the proper block, each sheet of shop drawing and data and each sample label to certify compliance with the requirements of the Contract Documents. Shop drawing submitted without the stamp and signature shall be rejected and it will be considered that the Design-Build Firm has not complied with the requirements of the Contract Documents. Design-Build Firm shall bear the risk of any delays that may occur as a result of such rejection.

City shall not be liable for any materials, fabrication of products or Work commenced that requires submittals until the Project Manager or Consultant has returned approved submittals to the Design-Build Firm.

Project Manager shall make every effort to review submittals within fourteen (14) calendar days from the date of receipt by the Project Manager. Project Manager's review shall only be for conformance with design concepts and the information provided in the Contract Documents. The approval of a separate item shall not constitute approval of an assembly

in which the item functions. The Project Manager or Consultant shall return the shop drawings to the Design-Build Firm for their use and distribution.

Acceptance of any submittal shall not relieve the Design-Build Firm of any responsibility for any deviations from the requirements of the Contract Documents unless the Design-Build Firm has given written notice to the Project Manager of the specific deviations and the Project Manager has issued written approval of such deviations.

By approving and submitting Shop Drawings, Product Data and Samples, the Design-Build Firm represents that all materials, field measurements and field construction criteria related thereto have been verified, checked and coordinated with the requirements of the Work and have been verified, checked and coordinated with this Contract Documents.

Design-Build Firm shall be responsible for the distribution of all shop drawings, copies of product data and samples, which bear the Project Manager's or Consultant's stamp of approval. Distribution shall include, but not be limited to; job site file, record documents file, Sub-Design-Build Firm, suppliers, and other affected parties or entities that require the information.

The Design-Build Firm shall also provide copies of all plans approved and permitted by the required governing authorities.

The Design-Build Firm shall not be relieved of responsibility for errors or omissions in any and all submittals by the Project Manager's or Consultant's acceptance thereof. The Design-Build Firm warrants the adequacy for the purpose intended of any shop drawings or portion of a shop drawing that alters, modifies or adds to the requirements of the Contract Documents.

Nothing in the Project Manager's or Consultant's review of Shop Drawings, Submittals and Samples shall be construed as authorizing additional work or increased cost to the City.

40. Shop Drawings, Working Drawings and Samples

The Design-Build Firm shall submit to the Design Criteria Professional for acceptance, if any, such working drawings, shop drawings, test reports and data on materials and equipment, and material samples as are included in the Design Documents prepared by the Design-Build Firm, or in the DCP.

SHOP DRAWINGS: The term "Shop Drawings" shall be construed to mean Design-Build Firm's plans for material and equipment, which becomes an integral part of the Project. Shop drawings shall consist of fabrication, erection and setting drawings and schedule drawings, manufacturer's scale drawings, wiring and control diagrams, material and equipment lists, catalog data sheets, cuts, performance curves, diagrams, materials of construction and similar descriptive material.

Shop drawings shall be prepared in a manner and sufficient detail to enable the City to determine compliance with all FDOT and City of Miami design standards.

Drawings and schedules shall be checked and coordinated with the work of all trades involved before they are submitted for review by the City and shall bear the Design-Build Firm's stamp of review and acceptance as evidence of such checking and coordination.

If drawings show variation from Contract requirements because of standard shop practice or for other reasons, the Design-Build Firm shall describe such variations in his letter of transmittal. If acceptable, proper adjustment in the Contract shall be implemented where appropriate. If the Design-Build Firm fails to describe such variations, he shall not be

relieved of the responsibility for executing the Work in accordance with the Contract, even though such drawings have been reviewed.

WORKING DRAWINGS: The term "Working Drawings" shall be construed to mean the Design-Build Firm's plan for temporary structures such as temporary bulkheads, support of open cut excavation, support of utilities, groundwater control systems, forming and false work for underpinning, and for such other work as may be required for construction but does not become an integral permanent part of the Project.

Working Drawings shall be submitted to the Project Manager at least thirty (30) calendar days (unless otherwise specified) in advance of their being required for the Work.

Working Drawings, where required, shall be prepared, signed and sealed by a registered professional engineer currently licensed to practice in the State of Florida. Working Drawing submittals are required to verify compliance with this provision. The Design-Build Firm and the Design-Build Firm's engineer assume all risks of error; the City shall have no responsibility therefore.

DESIGN-BUILD FIRM 'S RESPONSIBILITY - The DESIGN-BUILD FIRM shall:

1. Check all drawings, data and samples prepared by or for him before submitting them to the Project Manager for review;
2. Stamp each data Submittal with "Design-Build Firm's Stamp" indicating that they have been checked. Shop drawings submitted to the Project Manager without the "Design-Build Firm's Stamp" will be returned for nonconformance with this requirement;
3. Determine and verify field measurements and construction criteria;
4. Determine and verify specific catalog numbers and similar data (other catalog or manufacturer's data not pertinent to the Submittal shall be crossed or marked out).
5. Determine and verify general conformance with the Design Criteria.
6. Not begin any work covered by a shop drawing returned for correction until a revision or correction thereof has been reviewed, accepted and returned to the Design-Build Firm by the Project Manager. The Design-Build Firm shall be responsible for and bear all costs for damages which may result from the ordering of any material or from proceeding with any part of the work prior to the review and acceptance by the City of the necessary shop drawings;
7. Carry out the construction in accordance with shop drawings as returned by the City with no exceptions or as noted and shall make no further changes therein except upon written instruction from the Engineer;
8. Submit to the Project Manager all shop drawings, samples and schedules sufficiently in advance of construction requirements to provide no less than thirty (30) calendar days for checking, and appropriate action;
8. List exceptions to the Design Criteria taken by the Design-Build Firm in the letter of Shop Drawing Transmittal to the Project Manager.

CITY'S RESPONSIBILITY - the City will:

1. Review shop drawings, data, and samples submitted by the Design-Build Firm to interpret the work depicted on such Submittal to be in general conformance with the design concept and in general compliance with the Contract requirements. The City's review and comments, if any, constitutes a limited, conditional or qualified permission to use such materials, equipment or methods and does not constitute

an acceptance of dimensions, quantities, details of the material, equipment, device or item submitted. The City is not responsible for the accuracy or content of the submittals by the Design-Build Firm.

2. Review and return shop drawing submittals within 30 calendar days of receipt.
3. Reject and return shop drawings to the Design-Build Firm without action (Stamped "REJECTED") or review with the following applicable notation:
 - a. "Design-Build Firm's Stamp required - Incomplete Review by Design-Build Firm ", or
 - b. "Submittal Incomplete - See Section _____", or
 - c. "Contract Variation Not Noted in Transmittal".

SUBMITTAL PROCEDURES:

Preliminary Shop Drawing Data: Within 20 days after the Award of the Contract the Design-Build Firm shall submit to the Project Manager a complete listing of manufacturers for all items for which shop drawings are to be submitted.

Shop Drawing Submittal Schedule: Within 30 days after the Notice to Proceed, the Design-Build Firm shall submit to the Project Manager a complete schedule of shop drawing submittals fixing the respective dates for submission, the beginning of manufacture, testing, and installation of materials, supplies and equipment, noting those submittals critical to the progress schedule.

Submittal Log: An accurate updated log of submittals maintained by the Design-Build Firm and subject to review by the City at each scheduled progress meeting.

When reviewed by the City each of the shop drawings will be identified as having received such review, being so stamped and dated. Shop drawings stamped "REJECTED" will be returned to the Design-Build Firm for correction and re-submittal with the required correction indicated on the shop drawing or listed on a "Shop Drawing Review sheet".

If submitted drawings or schedules show a departure or variation from the Contract Requirements which are in the interest of the City and to be so minor as not to involve a change in Contract Price or time for performance, the City may return the reviewed drawings without noting an exception.

If the Design-Build Firm makes a determination that conflicts with any part of the Design Criteria Package, the Design-Build Firm shall give written notice thereof to the Project Manager. This does not constitute a change order until accepted by the City.

Re-submittals will be handled in the same manner as first submittals. On re-submittals, the Design-Build Firm shall direct specific attention on the transmittal and on re-submitted shop drawings to revisions other than the corrections requested by the Project Manager on previous submissions. The Design-Build Firm shall make any corrections required by the Project Manager.

The Project Manager will review a Submittal/re-submittal a maximum of two (2) times after which the cost of review will be borne by the Design-Build Firm at the Project Manager's standard hourly rate. No partial submittals will be reviewed. Submittals not complete will be returned to the Design-Build Firm, and will be considered "Rejected" until properly resubmitted.

Design-Build Firm shall submit a minimum of five (5) sets, plus additional sets as required by his Sub Design-Build Firm's, of each shop drawing Submittal for review.

If catalog sheets or prints of manufacturers' standard drawings are submitted as Shop Drawings, any additional information or changes on such drawings shall be typewritten or lettered in ink.

The minimum size for shop drawings shall be 11" X 17". Each shop drawing shall be clear, thoroughly detailed and shall have listed on it all Contract Documents references, drawing number(s), specification section number(s) and the shop drawing numbers of related work. Shop drawings must be complete in every detail, including location of the Work. Materials, gauges, methods of fastening and spacing of fastenings, connections with other work, cutting, fitting, drilling and any and all other necessary information per standard trade practices or as required for any specific purpose shall be shown.

Where professional calculations and/or certification of performance criteria of materials, systems, and or equipment are required, the Project Manager is entitled to rely upon the accuracy and completeness of such calculations and certifications submitted by the Design-Build Firm. Calculations, when required, shall be submitted in a neat clear and easy format to follow.

Design-Build Firm shall keep one set of Shop Drawings marked with Project Manager's and/or Consultant's approval at the job site at all times.

41. Product Data

Design-Build Firm shall submit four (4) copies of product data, warranty information and operating and maintenance manuals in the same manner as shop drawing submittals. Each copy must be marked to identify applicable products, models, options and other data. Design-Build Firm shall supplement manufacturer's standard data to provide information unique to the Work.

Design-Build Firm shall only submit pages that are pertinent. Submittals shall be marked to identify pertinent products, with references to the specifications and the Contract Documents. Identify reference standards, performance characteristics and capacities, wiring and piping diagrams and controls, component parts, finishes, dimensions and required clearances.

Design-Build Firm shall submit a draft of all product data, warranty information and operating and maintenance manuals at 50% completion of construction.

42. Record Set

Design-Build Firm shall maintain in a safe place at the Project(s) site(s) a copy of the Contract, one record copy and one permit set of the Contract documents, including, but not limited to, all Drawings, Specifications, accepted shop drawings, amendments, Change Orders, RFIs, and Field Directives, field and performance test records, construction progress schedules, as well as all written interpretations and clarifications issued by the Project Manager or Consultant, in good order and annotated to show all changes made during construction. The record documents shall be continuously updated by Design-Build Firm throughout the prosecution of the Work to accurately reflect all field changes that are made to adapt the Work to field conditions, changes resulting from Change Orders, Construction Change Directives, and Field Directives as well as all written interpretations and clarifications, and all concealed and buried installations of piping, conduit and utility services. Design-Build Firm shall certify the accuracy of the updated record documents. As a condition precedent to City's obligation to pay Design-Build Firm, the Design-Build Firm shall provide evidence, satisfactory to the Project Manager that Design-Build Firm is fulfilling its obligation to continuously update the record documents. All buried items, outside the Project(s) site(s), shall be accurately located on the record

documents as to depth and in relationship to not less than two (2) permanent features (e.g. interior or exterior wall faces). The record documents shall be clean and all changes, corrections and dimensions shall be given in a neat and legible manner in red. The record documents shall be available to the City for reference. Upon completion of the Work and as a condition precedent to Design-Build Firm's entitlement to final payment, the record documents shall be delivered to the Project Manager by the Design-Build Firm. The Record Set of Drawing shall be submitted in both hard copy and as electronic plot and .dwg files.

43. Supplemental Drawings and Instructions

Included as part of the Design Criteria Package is a CD titled: Supplemental Documents, which includes documents number two (2) through fourteen (14).

The Project Manager or Design Criteria Professional shall have the right to approve and issue supplemental instructions setting forth written orders, instructions, or interpretations concerning the Contract Documents or its performance, provided such Supplemental Instructions involve no change in the Contract Documents Price or this Contract Documents Time.

Project Manager or Design Criteria Professional shall have the right to modify the details of the plans and specifications, to supplement the plans and specifications with additional plans, drawings or additional information as the Work proceeds, all of which shall be considered as part of the Contract Documents. In case of disagreement between the written and graphic portions of the Contract Documents, the written portion shall govern.

44. Design-Build Firm Furnished Drawings

A Contract Documents may require the Design-Build Firm to furnish design, shop and/or as-built drawings depending on the nature and scope of the Work to be performed. The following applies to the different types of drawings.

The Project Manager and/or Consultant shall, after review of the drawings, initial and mark the drawings in one of the following manners:

1. ACCEPTED - No correction required.
2. PROCEED AS CORRECTED - Minor changes or corrections identified. Work can proceed subject to re-submittal and acceptance of the drawings.
3. REVISE AND RESUBMIT- Significant changes or corrections are recommended. Submittal must be revised and resubmitted for acceptance prior to Work proceeding.
4. REJECTED - Not in accordance with the Contract and/or Contract Documents due to excessive changes or corrections or other justifiable reason. Drawings must be corrected and resubmitted prior to any Work being performed.

Revisions required by the permitting jurisdiction must also be reviewed and accepted by the Project Manager or Design Criteria Professional prior to resubmission to the permitting agency.

Acceptance by the City shall not relieve the Design-Build Firm from responsibility for errors and omissions in the drawings.

45. Substitutions

Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function and quality required. Unless the name

is followed by words indicating that no substitution is permitted, materials or equipment of other suppliers may be accepted by the Engineer of Record if sufficient information is submitted by Design-Build Firm to allow City and the Engineer of Record to determine that the material or equipment proposed is equivalent or equal to that named. Requests for review of substitute items of material and equipment will not be accepted by City and the Engineer of Record from anyone other than Design-Build Firm.

If Design-Build Firm wishes to furnish or use a substitute item of material or equipment, Design-Build Firm shall make application to the Engineer of Record for acceptance thereof, certifying that the proposed substitute shall perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application shall state that the evaluation and acceptance of the proposed substitute will not prejudice Design-Build Firm's achievement of Substantial Completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents to adapt the design to the proposed substitute and whether or not incorporation or use by the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service shall be indicated. The application also shall contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs for redesign and claims of other Design-Build Firms affected by the resulting change, all of which shall be considered by the Engineer of Record in evaluating the proposed substitute. The Engineer of Record may require the Design-Build Firm to furnish at Design-Build Firm's expense additional data about the proposed substitute.

If a specific means, method, technique, sequence or procedure of construction is indicated in or required by Contract Documents, Design-Build Firm may furnish or utilize a substitute means, method, technique, sequence or procedure of construction acceptable to the Engineer of Record, if the Design-Build Firm submits sufficient information to allow the Engineer of Record to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedures for submission to and review by the Engineer of Record shall be the same as those provided herein for substitute materials and equipment.

The Engineer of Record and the City shall be the sole judges of the acceptability of any substitute. No substitute shall be ordered, installed or utilized without the City's and the Engineer of Record's prior written acceptance which shall be evidenced by either a Change Order or an approved submittal. The City and the Engineer of Record may require the Design-Build Firm to furnish at Design-Build Firm's expense a special performance guarantee or other surety with respect to any substitute. If the City and the Engineer of Record rejects the proposed substitute, at their discretion, the City may require the Design-Build Firm to reimburse the City for the charges for evaluating the proposed substitute.

Design-Build Firm shall maintain sole liability and responsibility for ensuring that all substitutions and any required design of such are in full compliance with and meet all the requirements of the Contract Documents.

46. City Furnished Drawings

The DCP as required by Florida Statute §287.55, Florida Statutes has been prepared by CH2M HILL Constructors, Inc. The DCP establishes the design criteria necessary for the Design-Build Firm to perform the Work under this Project.

47. Interpretation of Drawings and Documents

Drawings and specifications are intended to be consistent, be mutually explanatory, and should be used together and not separately. During the performance of the Project(s), should any errors, omissions, conflicts, ambiguities or discrepancies be found in the drawings and/or specifications, the Project Manager or the Consultant will clarify in writing the intent of the drawings and/or specifications and the Design-Build Firm agrees to abide by the Project Manager's or Consultant's interpretation and perform the Work in accordance with the decision of the Project Manager or the Consultant. In such event, the Design-Build Firm will be held to have included in its Contract Price the best materials suitable for the purpose and/or methods of construction.

48. Product and Material Testing

The Design-Build Firm must provide for its own construction quality assurance and quality control inspections, testing and material certifications and not rely upon the City for these services. The City will not be responsible for materials testing of any type (e.g., grout for rock/soil anchors). All quality assurance services as may be required by the approved project specifications shall be the responsibility of the Design Build Firm.

49. Field Directives

The Project Manager or Consultant may at times issue field based on visits to the Project(s) Site(s). Such Field Directives shall be issued in writing and the Design-Build Firm shall be required to comply with the directive. Where the Design-Build Firm believes that the directive is outside the scope of the Work, the Design-Build Firm shall, within 48 hours, notify the Project Manager that the work is outside the scope of the Work. At that time the Field Directive may be rescinded or the Design-Build Firm may be required to submit a request for a change to the Contract. Where the Design-Build Firm is notified of the City's position that the Work is within the scope and the Design-Build Firm disagrees, the Design-Build Firm shall notify the Project Manager that the Design-Build Firm reserves the right to make a claim for the time and monies based on the Field Directive. At no time shall the Design-Build Firm refuse to comply with the directive. Failure to comply with the directive may result in a determination that the Design-Build Firm is in default of the Contract.

50. Changes in the Work or Contract Documents

Without invalidating the Contract Documents and without notice to any Surety, City reserves and shall have the right, from time to time to make such increases, decreases or other changes in the character or quantity of the Work under the Contract Documents as may be considered necessary or desirable to complete fully and acceptably the proposed construction of a Project in a satisfactory manner. Any extra or additional Work within the scope of the Project(s) must be accomplished by means of appropriate Field Orders and Supplemental Instructions or Change Orders.

Any changes to the terms of the Contract Documents must be contained in a written document, executed by the parties hereto. This section shall not prohibit the issuance of Change Orders executed only by City.

51. Continuing the Work

Design-Build Firm shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with City, including disputes or disagreements concerning a request for a Change Order, a request for a change in the Contract price or Contract time

for completion. The Work shall not be delayed or postponed pending resolution of any disputes or disagreements.

52. Change Orders

Changes in the quantity or character of the Work within the scope of the Project(s) which are not properly the subject of Field Orders or Supplemental Instructions, including all changes resulting in changes in the Contract Price, or the Contract Time, shall be authorized only by Change Orders approved in advance and issued in accordance with the provisions of the City.

In the event satisfactory adjustment cannot be reached for any item requiring a change in the Contract Price or Contract Time, and a Change Order has not been issued, City reserves the right at its sole option to either terminate the Contract as it applies to the items in question and make such arrangements as may be deemed necessary to complete the disputed work; or submit the matter in dispute to the Director as set forth in Article 85, Resolution of Disputes. During the pendency of the dispute, and upon receipt of a Change Order approved by City, Design-Build Firm shall promptly proceed with the change in the Work involved and advise the Project Manager, and Director in writing within seven (7) calendar days of Design-Build Firm's agreement or disagreement with the method, if any, provided in the Change Order for determining the proposed adjustment in the Contract Price or Contract Time.

On approval of any Contract change increasing the Contract Price, Design-Build Firm shall ensure that the performance bond and payment bond (if applicable) are increased so that each reflects the total Contract Price as increased.

Under circumstances determined necessary by the City, Change Orders may be issued unilaterally by the City.

The City reserves the right to order changes which may result in additions to or reductions from the amount, type or value of the Work shown in the Contract and which are within the general scope of the Contract Documents. Any such changes will be known as Extra Work.

No Extra Work shall be performed except pursuant to written orders of the Project Manager expressly and unmistakably indicating his/her intention to treat the Work described therein as Extra Work. In the absence of such an order, the Project Manager may direct, order or require the Design-Build Firm to perform any Work including that which the Design-Build Firm deems to be Extra Work. The Design-Build Firm shall nevertheless comply and shall promptly and in no event after, begin the performance thereof or incur cost attributable thereto and give written notice to the Project Manager stating why he deems such Work (hereinafter "Disputed Work") to be Extra Work. Said notice is for the purposes of (1) affording an opportunity to the Project Manager to cancel such order, direction or requirements promptly; (2) affording an opportunity to the Project Manager to keep an accurate record of materials, labor and other items involved; and (3) affording an opportunity to the City to take such action as it may deem advisable in light of such disputed Work.

53. Change Order Procedure

Extra Work shall result in an equitable adjustment (increase or decrease) to the Contract representing the reasonable cost or the reasonable financial savings related to the change in Work. Extra Work may also result in an equitable adjustment in the Contract schedule for performance for both the Extra Work and any other Work affected by the Extra Work.

The City shall initiate the Extra Work procedure by a notice to Design-Build Firm outlining the proposed Extra Work. Upon receipt of the notice to proceed with the Extra Work, the Design-Build Firm is required to immediately start the Extra Work. The Design-Build Firm is required to obtain permission for an extension to start the Extra Work if it is beyond the Design-Build Firm's ability to start within the allotted timeframe.

The Design-Build Firm is required to provide the Project Manager with a detailed Change Proposal Request which shall include requested revisions to the Contract, including but not limited to adjustments in this Contract Price and Contract Time. The Design-Build Firm is required to provide sufficient data in support of the cost proposal demonstrating its reasonableness. In furtherance of this obligation, the City may require that the Design-Build Firm submit any or all of the following: a cost breakdown of material costs, labor costs, labor rates by trade, and Work classification and overhead rates in support of Design-Build Firm's Change Proposal Request. The Design-Build Firm's Change Proposal Request must include any schedule revisions and an explanation of the cost and schedule impact of the Extra Work on the Project(s). If the Design-Build Firm fails to notify the Project Manager of the schedule changes associated with the Extra Work, it will be deemed to be an acknowledgment by Design-Build Firm that the proposed Extra Work will not have any scheduling consequences. The Design-Build Firm agrees the Change Proposal Request will in no event include a combined profit and overhead rate in excess of fifteen (15%) percent of the direct labor and material costs, unless the Project Manager determines that the complexity and risk of the Extra Work is such that an additional factor is appropriate. The Change Proposal Request may be accepted or modified by negotiations between the Design-Build Firm and the City. If an agreement on the Extra Work is reached, both parties shall execute the Extra Work order in writing via a Change Order. The execution by the Design-Build Firm of the Change Order shall serve as a release of the City from all claims and liability to the Design-Build Firm relating to, or in connection with, the Extra Work, including any impact, and any prior acts, neglect or default of the City relating to the Extra Work.

Upon execution of a change order that affects the Contract Time the Design-Build Firm shall, within five (5) business days submit a revised Project schedule reflecting the changes against the baseline schedule.

54. No Oral Changes

Except to the extent expressly set forth in the Contract, no change in or modification, termination or discharge of the Contract or, in any form whatsoever, shall be valid or enforceable unless it is in writing and signed by the parties charged, therewith or their duly authorized representative.

55. Value of Change Order Work

The value of any Work covered by a Change Proposal Request or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

- Where the Work involved is covered by unit prices contained in the Contract, by application of unit prices to the quantities of items involved.
- By mutual acceptance of a lump sum which Design-Build Firm and Project Manager acknowledge contains a component for overhead and profit.
- On the basis of the "cost of Work," determined as provided in this, plus a Design-Build Firm's fee for overhead and profit which is determined as provided in this Article.

- The term "cost of Work" means the sum of all direct costs necessarily incurred and paid by Design-Build Firm in the proper performance of the Work described in the Change Order. Except as otherwise may be agreed to in writing by the Project Manager, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in herein.

Payroll costs for employees in the direct employ of Design-Build Firm in the performance of the Work described in the Change Proposal Request under schedules of job classifications agreed upon by Project Manager and Design-Build Firm. Payroll costs for employees not employed full time on the Work covered by the Change Proposal Request shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' or workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay application thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing the Work after regular working hours, on Sunday or legal holidays shall be included in the above to the extent authorized by City.

Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and manufacturers' field services required in connection therewith. All cash discounts shall accrue to Design-Build Firm unless City deposits funds with Design-Build Firm with which to make payments, in which case the cash discounts shall accrue to City. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment shall accrue to City and Design-Build Firm shall make provisions so that they may be obtained. Rentals of all construction equipment and machinery and the parts thereof whether rented from Design-Build Firm or others in accordance with rental agreements approved by City with the advice of Consultant and the costs of transportation, loading, unloading, installation, dismantling and removal thereof, all in accordance with the terms of said agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the Work.

If required by the City, Design-Build Firm shall obtain competitive bids for the Change Order Work. Design-Build Firm shall deliver such competitive bids to the City who will determine which bids will be accepted. If the Sub Design-Build Firm is to be paid on the basis of cost of the Work plus a fee, the Sub Design-Build Firm's cost of the Work shall be determined in the same manner as Design-Build Firm's cost of the Work. All Sub Design-Build Firm s shall be subject to the other provisions of the Contract Documents insofar as applicable.

The term "cost of the Work" shall include any of the following:

- Cost of special consultants, including, but not limited to, consultants, engineers, testing laboratories, and surveyors employed for services specifically related to the performance of the Work described in the Change Order.
- Supplemental costs including the following:
- The proportion of necessary transportation, travel and subsistence expenses of Design-Build Firm's employees incurred in discharge of duties connected with the Work except for local travel to and from the site of the Work.

- Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workmen, which are consumed in the performance of the Work, and less market value of such items used but not consumed which remains the property of Design-Build Firm.
- Sales, use, or similar taxes related to the Work, and for which Design-Build Firm is liable, imposed by any governmental authority.
- Deposits lost for causes other than Design-Build Firm's negligence; royalty payments and fees for permits and licenses.
- The cost of utilities, fuel and sanitary facilities at the site.
- Receipted minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the Work.
- Cost of premiums for additional bonds and insurance required because of changes in the Work.

The term "cost of the Work" shall **not** include any of the following:

- Payroll costs and other compensation of Design-Build Firm's officers, executives, principals (of partnership and sole proprietorships), general managers, consultants, engineers, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by Design-Build Firm whether at the site or in its principal or a branch office for general administration of the Work and not specifically included in the agreed-upon schedule of job classifications., all of which are to be considered administrative costs covered by Design-Build Firm's fee.
- Expenses of Design-Build Firm's principal and branch offices other than Design-Build Firm's office at the site.
- Any part of Design-Build Firm's capital expenses, including interest on Design-Build Firm's capital employed for the Work and charges against Design-Build Firm for delinquent payments.
- Cost of premiums for all Bonds and for all insurance whether or not Design-Build Firm is required by the Contract Documents to purchase and maintain the same, except for additional bonds and insurance required because of changes in the Work.
- Costs due to the negligence or neglect of Design-Build Firm, any Sub Design-Build Firm, Subconsultant, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.
- Other overhead or general expense costs of any kind and the cost of any item not specifically and expressly included in this Article

Design-Build Firm's fee allowed to Design-Build Firm for overhead and profit shall be determined as follows:

- A mutually acceptable fixed fee or if none can be agreed upon,
- A fee based on the following percentages of the various portions of the cost of the Work:
- Where the Design-Build Firm self-performs the Work, Design-Build Firm's fee shall not exceed ten percent (10%).
- Where a Sub Design-Build Firm performs the Work, Design-Build Firm's fee shall not exceed seven and one half percent (7.5%); and if a subcontract is on

the basis of cost of the Work plus a fee, the maximum allowable to the Sub Design-Build Firm as a fee for overhead and profit shall not exceed ten percent (10%); and

- No fee shall be payable for special consultants or supplemental costs.

The amount of credit to be allowed by Design-Build Firm to City for any such change which results in a net decrease in cost will be the amount of the actual net decrease. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured on the basis of the net increase, if any, however, Design-Build Firm shall not be entitled to claim lost profits for any Work not performed.

Whenever the cost of any Work is to be determined pursuant to this Article, Design-Build Firm will submit in a form acceptable to Project Manager an itemized cost breakdown together with the supporting data.

Where the quantity of any item of the Work that is covered by a unit price is increased or decreased by more than twenty percent (20%) from the quantity of such Work indicated in the Contract Documents, an appropriate Change Order shall be issued to adjust the unit price, if warranted.

Whenever a change in the Work is to be based on mutual acceptance of a lump sum, whether the amount is an addition, credit or no change-in-cost, Design-Build Firm shall submit an initial cost estimate acceptable to the Project Manager.

- Breakdown shall list the quantities and unit prices for materials, labor, equipment and other items of cost.
- Whenever a change involves Design-Build Firm and one or more Sub Design-Build Firm s and the change is an increase in the Contract Price, overhead and profit percentage for Design-Build Firm and each Sub Design-Build Firm shall be itemized separately.
- Each Change Order must state within the body of the Change Proposal Request whether it is based upon unit price, negotiated lump sum, or "cost of the Work."

56. Extra Work Directive

If the parties fail to reach agreement with respect to the proposed Extra Work, or in case or extenuating circumstances, the City may nevertheless issue a directive to the Design-Build Firm to do the proposed Extra Work. Immediately upon receipt of the Extra Work Directive, the Design-Build Firm shall be obligated to proceed with the Work set forth in that directive.

Except as provided below, the Design-Build Firm shall be entitled to initiate a dispute pursuant to the Article 85, Resolution of Disputes, by furnishing a written statement to the Project Manager within five (5) days of the Extra Work Directive, based upon any aspect, of such Extra Work which the Design-Build Firm disputes. Such dispute must relate to specific matters raised or specific matters reserved by the Design-Build Firm in its proposal and have not been resolved prior to the issuance of the Extra Work Directive. The written statement must set forth all details of the Design-Build Firm's claim including the manner that the disputed item was specified in the Design-Build Firm's proposal. During the pendency of any dispute hereunder, the Design-Build Firm must proceed with Work as set forth in the Extra Work Directive unless otherwise advised by the Project Manager's written instructions. In the event there is a dispute as to price, the Design-Build Firm will be paid in accordance with the following paragraph. This payment(s) will be in

full satisfaction of the Design-Build Firm's claim for an adjustment to the value of the Contract.

Compensation for Extra Work in the event of the parties' inability to agree upon a mutually satisfactory price shall be as follows:

- No payment will be made to the Design-Build Firm for Extra Work in excess of "Actual and Necessary Cost" which is to say time and materials plus a mark-up not to exceed 10%. This will not vary, whether the Extra Work is performed by the Design-Build Firm or his Sub Design-Build Firm. Any exceptions must be approved by the Project Manager.

"Actual and Necessary Net Cost" shall be deemed to include the actual and necessary cost of the Extra Work for (i) labor, which includes wages, payroll deductions, if any, made by the Design-Build Firm as employer pursuant to bona fide collective bargaining labor agreements applicable to the Work; (ii) contributions to the State Unemployment Insurance Law, (iii) excise taxes pursuant to Federal Social Security Act; (iv) any increases in public liability and property damage insurance or performance and payment bonds occasioned solely by the Extra Work, (v) the actual and necessary operating expenses (except the expense of supplies and small tools not operated by mechanical or electrical power), power for such plant and a reasonable rental for the same (including small power tools), as determined by the Project Manager; and (vi) any additional materials necessary for the performance of the Extra Work.

In case any Work or materials shall be required to be done or furnished under the provisions of this Article, the Design-Build Firm shall at the end of each day furnish to the City such documentation as the City may require supporting all the costs of the Extra Work. If payments on account are desired as the Extra Work progresses, the Design-Build Firm shall render an itemized statement showing the total amount expended for each class of labor and for each kind of material on account of each item of Work as a condition precedent to the inclusion of such payment in a partial estimate. Upon the request of the City, the Design-Build Firm shall produce for audit by the City, books, vouchers, collective bargaining labor agreements, records or other documents showing the actual cost for labor and materials. Such documents shall not be binding on the City. The Project Manager shall determine any questions or dispute as to the correct cost of such labor or materials or plant.

In case the Design-Build Firm is ordered to perform Work under this Article, which in the opinion of the Project Manager, it is impracticable to have performed by the Design-Build Firm's own employees, the Design-Build Firm will, subject to the approval of the Project Manager, be paid the actual cost to Design-Build Firm of such Work, and in addition thereto five (5%) percent to cover the Design-Build Firm's superintendence, administration and other overhead expenses.

Payment of any amount under this Article shall be subject to subsequent audit and approval, disapproval, modification or revision by representatives of the City.

57. As-Built Drawings

During the Work, Design-Build Firm shall maintain records of all deviations from the Drawings and Specifications as approved by the Project Manager and prepare As-Built Record Drawings showing correctly and accurately all changes and deviations made during construction to reflect the Work as it was actually constructed. It is the responsibility of the Design-Build Firm to check the As-Built Drawings for errors and omissions prior to submittal to the City and certify in writing that the As-Built Drawings are correct and

accurate, including the actual location of all internal piping, electrical/signal conduits in or below the concrete floor. Indicate the size, depth and voltage in each conduit.

Legibly mark to record actual construction: On-site structures and site Work as follows:

- Depths of various elements of foundation in relation to finish first floor datum.
- All underground piping and ductwork with elevations and dimensions and locations of valves, pull boxes, etc. Changes in location. Horizontal and vertical locations of underground utilities and appurtenances, referenced to permanent surface improvements. Actual installed pipe material, class, etc.
- Location of internal utilities and appurtenances concealed in the construction, referenced to visible and accessible features of the structure. Air conditioning ducts with locations of dampers, access doors, fans and other items needing periodic maintenance.
- Field changes in dimensions and details.
- Changes made by Project Manager's or Consultant's written instructions or by Change Order.
- Details not on original Contract Drawings.
- Equipment, conduit, electrical panel locations.
- Project Manager's or Consultant's schedule changes according to Design-Build Firm's records and shop drawings.

Specifications and Addenda: Legibly mark each section to record:

- Manufacturer, trade name, catalog number and Supplier of each product and item of equipment actually installed.
- Changes made by Project Manager's or Consultant's written instructions or by Change Order.

Approved Shop Drawings: Provide record copies for each process equipment, piping, electrical system and instrumentation system.

As-built documents shall be updated monthly as a condition precedent to payment.

For construction of new building or building additions as-built drawings signed and sealed by a Florida licensed Registered Land Surveyor.

58. Worker's Identification

The Design-Build Firm's employees, who include any Sub Design-Build Firm, and/or Subconsultant, shall wear an identification card provided by the Design-Build Firm. The identification card shall bear the employee's picture, name, title and name of the employer. Failure by a Design-Build Firm's employee to wear such identification may result in his removal from the Work until such time as the identification card is obtained and worn. Such removal shall not act as a basis for the Design-Build Firm to submit a claim for an extension of time.

59. Removal of Unsatisfactory Personnel

The City may make written request to the Design-Build Firm for the prompt removal and replacement of any personnel employed or retained by the Design-Build Firm, or any or Sub-Design-Build Firm engaged by the Design-Build Firm to provide and perform services or Work pursuant to the requirements of the Contract Documents. The Design-Build Firm shall respond to the City within seven (7) calendar days of receipt of such request with either the removal and replacement of such personnel or written justification as to why that may not occur. The City shall make the final determination as to the removal of

unsatisfactory personnel from Work assigned by City. The Design-Build Firm agrees that the removal of any of its employees does not require the termination or demotion of employee(s).

60. Substantial Completion and Punch List

The Work shall be substantially complete when the Project Manager, in the reasonable exercise of his/her discretion determines that the Work is complete and there are no material and/or substantial variations from the Contract Documents and the Work is fit for its intended purpose. Upon Substantial Completion, the Project Manager and the Design-Build Firm shall sign the Substantial Completion Inspection Form. The signing of this form shall not relieve the Design-Build Firm from its obligation to complete the Project.

When the Design-Build Firm believes that the Work is substantially complete, the Design-Build Firm shall request in writing that the Project Manager inspect the Work to determine if Substantial Completion has been achieved. No request for Substantial Completion inspection is to be submitted until the Design-Build Firm has obtained a Certificate(s) of Occupancy, Certificate of Completion or Completion or a Temporary Certificate of Occupancy or any other approvals from agencies having jurisdiction over the Work.

The request for Substantial Completion Inspection shall include a written certification that:

- DCP has been reviewed.
- Work has been inspected by the Design-Build Firm for compliance with the Design Criteria.
- Work has been completed in accordance with the Design Criteria
- Equipment and systems have been tested in the presence of the Project Manager and/or other City representatives and are operational.
- Work is completed and ready for Substantial Completion inspection.

The Project Manager shall schedule the date and time for any inspection and notify the Design-Build Firm and any other parties deemed necessary. During this inspection, the Project Substantial Completion Inspection Form will be completed as necessary. Any remaining Construction Work shall be identified on this form and shall be known as Punch List Work. The inadvertent omission of any item from the Punch List shall not relieve the Design-Build Firm from its obligations as detailed in the DCP and the Contract. The Punch List shall be signed by the Project Manager, and the Design-Build Firm confirming that the Punch List contains the item(s) necessary to complete the Work. The failure or refusal of the Design-Build Firm to sign the Project Substantial Completion Inspection Form or Punch List shall not relieve the Design-Build Firm from complying with the findings of the Project Substantial Completion Inspection and completing the Project to the satisfaction of the City

Where the Punch List is limited to minor omissions and defects, the Project Manager shall indicate that the Work is substantially complete subject to completion of the Punch List. Where the Project Manager determines, on the appropriate form that the Work is not substantially complete, the Project Manager shall provide a list of all open items necessary to achieve Substantial Completion. Upon completion of such Work, the Design-Build Firm shall request another Substantial Completion inspection.

The Project Manager and the Design-Build Firm shall agree on the time reasonably required to complete all remaining Work included in the Punch List.

The City will prepare a Certificate of Substantial Completion in the form which shall establish the Date of Substantial Completion. Once substantial completion is achieved

the City shall be responsible for security, maintenance, heat, utilities, damage to the Project site, and insurance; and shall list all Work yet to be completed to satisfy the requirements of the Contract Documents for Final Completion. The failure to include any items of corrective Work on such list does not alter the responsibility of Design-Build Firm to complete all of the Work in accordance with the Contract Documents. Warranties required by the Contract Documents shall commence on the date of Final Acceptance completion of the Work or designated portion thereof unless otherwise provided in the Contract Documents.

61. Acceptance and Final Payment

Upon receipt of written notice from Design-Build Firm that the Work is ready for final inspection and acceptance, Project Manager and/or Consultant shall, within ten (10) calendar days, make an inspection thereof. If Project Manager and/or Consultant find the Work acceptable, the requisite documents have been submitted and the requirements of the Contract Documents fully satisfied, and all conditions of the permits and regulatory agencies have been met, a Final Certificate for Payment **shall** be issued by Project Manager, stating that the requirements of the Contract Documents have been performed and the Work is ready for acceptance under the terms and conditions thereof.

Before issuance of the Final Certificate for Payment, Design-Build Firm shall deliver to the Project Manager a final release of all liens arising out of the Contract Documents, receipts in full in lieu thereof; an affidavit certifying that all suppliers, Subconsultants, and Sub Design-Build Firm s have been paid in full and that all other indebtedness connected with the Work has been paid, and a consent of the surety to final payment; the final corrected as-built drawings; operations and maintenance data, and the final bill of materials, if required, and payment application. Design-Build Firm shall deliver the written Design-Build Firm's and all Manufacturer's warranties prior to issuance of the Final Certificate for Payment.

If, after the Work has been substantially completed, full completion thereof is materially delayed through no fault of Design-Build Firm, and Project Manager so certifies, City shall, upon such certification, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

The acceptance of final payment shall constitute a waiver of all claims by Design-Build Firm, except those previously made in strict accordance with the provisions of the Contract and identified by Design-Build Firm as unsettled at the time of the application for final payment.

Upon the receipt of all documentation, resolution of any outstanding issues and issuance of final payment, the Project Manager shall notify the Design-Build Firm in writing of the closeout of the Project.

62. NPDES Requirements

Design-Build Firm shall comply with the State of Florida rules and regulations for the National Pollutant Discharge Elimination System (NPDES) including but not limited to all permitting, Notices of Intent, and the Storm Water Pollution Prevention Plan (SWPPP). All costs for NPDES and SWPPP shall be included in the Bid prices. For further information on compliance requirements for NPDES and SWPPP contact the City of Miami Public Works Department at (305) 416-1200 or visit the State of Florida website at <http://www.dep.state.fl.us/water/stormwater/npdes/>. Design-Build Firm is responsible for

obtaining, completing and paying for any required NPDES application or permits that may be required.

63. Force Majeure

Should any failure to perform on the part of Design-Build Firm be due to a condition of force majeure as that term is interpreted under Florida law, and then the City may allow an extension of time reasonably commensurate with the cause of such failure to perform or cure.

If the Design-Build Firm is delayed in performing any obligation under the Contract Documents due to a force majeure condition, the Design-Build Firm shall request a time extension from the City within two (2) working days of said force majeure occurrence. Any time extension shall be subject to mutual agreement and shall not be cause for any claim by the Design-Build Firm for extra compensation unless additional services are required. **Does Not Include** inclement weather except as permitted by Florida law and may not include the acts or omissions of Sub-Design-Build Firms.

64. Extension of Time

Any reference in this section to the Design-Build Firm shall be deemed to include material persons, suppliers, laborers and permitted Subconsultants and Sub Design-Build Firm s Firms, whether or not in privity of contract with the Design-Build Firm for the purpose of this article.

If the Design-Build Firm is delayed at any time during the progress of the Work beyond the Contract Time and/or Notice to Proceed (NTP) by the neglect or failure of the City or by a Force Majeure, then the Contract Time set forth in the Contract shall be extended by the City subject to the following conditions:

- The cause of the delay arises after issuance of the NTP and could not have been anticipated by the Design-Build Firm by reasonable investigation before proceeding with the Work;
- The Design-Build Firm demonstrates that the completion of the Work will be actually and necessarily delayed;
- The effect of such cause cannot be avoided or mitigated by the exercise of all reasonable precautions, efforts and measures whether before or after the occurrence of the cause of delay.

Note: A delay meeting all the conditions of the above, shall be deemed an Excusable Delay.

The City reserves the right to rescind or shorten any extension previously granted if subsequently, the Project Manager determines that any information provided by the Design-Build Firm in support of a request for an extension of time was erroneous; provided however, that such information or facts, if known, would have resulted in a denial of the request for an Excusable Delay. Notwithstanding the above, the Project Manager will not rescind or shorten any extension previously granted if the Design-Build Firm acted in reliance upon the granting of such extension and such extension was based on information which, although later found to have been erroneous, was submitted in good faith by the Design-Build Firm.

The request for an Excusable Delay shall be made within ten (10) calendar days after the time when the Design-Build Firm knows or should have known of any cause for which it may claim an extension of time and shall provide any actual or potential basis for an extension of time, identifying such causes and describing, as fully as practicable at that

time, the nature and expected duration of the delay and its effect on the completion of that part of the Work identified in the request. The Project Manager may require the Design-Build Firm to furnish such additional information or documentation, as the Project Manager shall reasonably deem necessary or helpful in considering the requested extension.

The Design-Build Firm shall not be entitled to an extension of time unless the Design-Build Firm affirmatively demonstrates that it is entitled to such extension.

The Project Manager shall endeavor to review and respond to the Design-Build Firm's request for Excusable Delays in a reasonable period of time; however, the Design-Build Firm shall be obligated to continue to perform the Work required regardless of whether the Project Manager has issued a decision or whether the Design-Build Firm agrees or disagrees with that decision.

With regard to an injunction, strike or interference of public origin which may delay the Project, the Design-Build Firm shall promptly give the Project Manager a copy of the injunction or other orders and copies of the papers upon which the same shall have been granted. The City shall be afforded the right to intervene and become a party to any suit or proceeding in which any such injunction shall be obtained and move to dissolve the same or otherwise, as the City may deem proper.

The permitting of the Design-Build Firm to proceed with the Work subsequent to the date specified in the Contract (as such date may have been extended by a change order), the making of any payment to the Design-Build Firm, the issuance of any Change Order, shall not waive the City's rights under the Contract, including but not limited to the assessment of liquidated damages or declaring Design-Build Firm in default.

65. Notification of Claim

Any claim for a change in the Contract Time or Contract Price shall be made by written notice by Design-Build Firm to the Project Manager within ten (10) business days of the commencement of the event giving rise to the claim and stating the general nature and cause of the claim. Thereafter, within twenty (20) calendar days of the termination of the event giving rise to the claim, written notice of the extent of the claim with supporting information and documentation shall be provided unless the Project Manager allows an additional period of time to ascertain more accurate data in support of the claim and such notice shall be accompanied by Design-Build Firm's written notarized statement that the adjustment claimed is the entire adjustment to which the Design-Build Firm has reason to believe it is entitled as a result of the occurrence of said event. All claims for changes in the Contract Time or Contract Price shall be determined by the Project Manager in accordance with Article 67, Design-Build Firm's Damages for Delay hereof, if City and Design-Build Firm cannot otherwise agree. It is expressly and specifically agreed that any and all claims for changes to the Contract time or Contract price shall be waived if not submitted in strict accordance with the requirements of this Article.

The Contract time will be extended in an amount equal to time lost on critical Work items due to delays beyond the control of and through no fault or negligence of Design-Build Firm if a claim is made therefore as provided in this Article. Such delays shall include, but not be limited to, acts or neglect by any separate Design-Build Firm employed by City, fires, floods, labor disputes, epidemics, abnormal weather conditions or acts of God.

66. Extension of Time not Cumulative

In case the Design-Build Firm shall be delayed for any period of time by two or more of the causes mentioned in Article 68, Excusable Delays the Design-Build Firm shall not be

entitled to a separate extension for each one of the causes; only one period of extension shall be granted for the delay.

67. Design-Build Firm's Damages for Delay

No claim for damages or any claim, other than for an extension of time, shall be made or asserted against City by reason of any delays except as provided herein. Design-Build Firm shall not be entitled to an increase in the Contract price or payment or compensation of any kind from City for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by Design-Build Firm for actual delays due solely to bad faith or active, intentional and willful interference on the part of City. Otherwise, Design-Build Firm shall be entitled only to extensions of the Contract Time for completion of the Work as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above. NO EXCEPTIONS.

Except as may be otherwise specifically provided for in the Contract Documents, the Design-Build Firm agrees to make no claim for damages for delay of any kind in the performance of the Contract Documents whether occasioned by any act or omission of the City or any of its representatives (whether it is an Excusable Delay or otherwise) and the Design-Build Firm 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-Build Firm alone hereby specifically assumes the risk of such delays, including without limitation: delays in processing or approving shop drawings, samples or other submittals or the failure to render determinations, approvals, replies, inspections or tests of the Work, in a timely manner. Design-Build Firm shall not receive monetary compensation for City delays (unless a court in a final order determines the City delay was solely due to a willful, intentional and deliberate action of the City specifically intending to act in bad faith). Time extensions may be authorized by the City in certain situations. This Section shall not be interpreted or construed to contravene or abridge the City's sovereign immunity under applicable laws including Florida Statute 768.28.

68. Excusable Delay, Non-Compensable

Excusable Delay is (i) caused by circumstances beyond the control of Design-Build Firm, its Sub Design-Build Firm s, Subconsultants, suppliers and vendors, and is also caused by circumstances beyond the control of the City or Consultant, or (ii) is caused jointly or concurrently by Design-Build Firm or its Sub Design-Build Firms, Subconsultants, suppliers or vendors and by the City. Then Design-Build Firm shall be entitled only to a time extension and no compensation for the delay.

Design-Build Firm is entitled to a time extension of the Contract time for each day the Work is delayed due to Excusable Delay. Design-Build Firm shall document its claim for any time extension as provided in Article 65, Notification of Claim, hereof.

Failure of Design-Build Firm to comply with Article 65, Notification of Claim hereof as to any particular event of delay shall be deemed conclusively to constitute a waiver, abandonment or relinquishment of any and all claims resulting from that particular event of delay.

69. Acceptance of Defective or Non-Conforming Work

The City, in its sole discretion, may elect in writing to accept defective or non-conforming Work instead of requiring its removal and correction. In such instances, a Change Order will be issued to reflect an appropriate reduction in the Contract sum, or, if the amount is determined after final payment, any difference in the amount shall be paid to the City by the Design-Build Firm.

70. Uncovering Finished Work

The Project Manager's, and/or Inspector's right to make inspections shall include the right to order the Design-Build Firm to uncover or take down portions of finished Work. The Project Manager shall notify the Design-Build Firm in writing concerning all uncovered finished Work. Should the Work prove to be in accordance with the Contract Documents, the uncovering or taking down and the replacing and the restoration of the parts removed will be treated as Extra Work for the purpose of computing additional compensation and an extension of time. Should the Work examined prove unsatisfactory, such uncovering, taking down, replacing and restoration shall be at the expense of the Design-Build Firm. Such expenses shall also include repayment to the City for any and all expenses or costs incurred by it, including employee salaries or related cost, in connection with such uncovering, taking down, replacing and restoration at the Project site.

71. Correction of Work

Project Manager or Consultant shall have the authority to reject or disapprove Work which Project Manager or Consultant finds to be defective. If required the Design-Build Firm shall promptly correct all Work rejected by the Project Manager or Consultant as defective or as failing to conform to the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Design-Build Firm shall bear all direct, indirect and consequential cost of removing and/or correcting such rejected Work, including the cost of the City's additional services thereby made necessary.

The Design-Build Firm further agrees that after being notified in writing by the Project Manager of any Work not in accordance with the requirements of the Contract Documents or any defects in the Work, the Design-Build Firm will commence and prosecute with due diligence all Work necessary to fulfill the terms of the Contract and to complete the Work within a reasonable period of time, as determined by the Project Manager, and in the event of failure to so comply, the Design-Build Firm does hereby authorize the City to proceed to have such Work done at the Design-Build Firm's expense and that the Design-Build Firm will pay the cost thereof upon demand. The City shall be entitled to all costs, including reasonable attorneys' fees, necessarily incurred upon the Design-Build Firm's refusal to pay the above costs. Notwithstanding the foregoing paragraph, in the event of an emergency constituting an immediate hazard to the health or safety of personnel, property, or licensees, the City may undertake, at the Design-Build Firm's expense, without prior notice, all Work necessary to correct such hazardous condition when it was caused by Work of the Design-Build Firm not being in accordance with the requirements of the Contract.

If, within one (1) year after the date of final completion of the Project or within such longer period of time as may be prescribed by law, by the Contract Documents, or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, the Design-Build Firm shall correct it promptly after receipt of a written notice from the City to do so. The City shall give such notice promptly after discovery of the condition.

Failure to reject any defective Work or material shall not in any way prevent later rejection when such defect is discovered, or obligate City to final acceptance.

72. Maintenance of Traffic and Public Streets

Scope of Work

The Design-Build Firm shall be responsible for the maintenance of public streets and traffic control necessary to perform the Work under the Contract Documents. The cost of traffic control shall be included in the Design-Build Firm's Bid.

Regulations

As used herein, any reference to Miami-Dade County, its departments, or its published regulations, permits and data, shall be synonymous and interchangeable with other recognized governing bodies over particular areas or streets, or their departments, published regulations (i.e., Manual of Uniform Traffic Control Devices (MUTCD), FDOT Roadway and Bridge Standard Index Drawing Book), permits or data. The Design-Build Firm shall abide by all applicable laws, regulations, and codes thereof pertaining to Maintenance of Traffic (MOT) on public streets, detour of traffic, traffic control and other provisions as may be required for this Project.

Maintenance of Traffic (MOT)

- The Design-Build Firm shall be fully responsible for the MOT on public streets, detour of traffic (including furnishing and maintaining regulatory and informative signs along the detour route), traffic control, and other provisions, throughout the Project, as required by the Manual of Uniform Traffic Control Devices (MUTCD), and FDOT Roadway and Bridge Standard Index drawing Book. Traffic shall be maintained according to corresponding typical traffic control details as outlined in the previous noted standards. No street shall be completely blocked, nor blocked more than one-half at any time, keeping the other one-half open for traffic, without specific approval.
- If required by the Project Manager, Traffic Division or FDOT or as otherwise authorized by the Project Manager or Consultant, the Design-Build Firm shall make arrangements for the employment of uniformed off-duty policemen to maintain and regulate the flow of traffic through the work area. The number of men required and the number of hours on duty necessary for the maintenance and regulation of traffic flow shall be provided by the City of Miami Police Department.
- The Design-Build Firm shall provide all barricades with warning lights, necessary arrow boards and signs, to warn motorists of the Work throughout the Project. Adequate approved devices shall be erected and maintained by the Design-Build Firm to detour traffic.
- Excavated or other material stored adjacent to or partially upon a roadway pavement shall be adequately marked for traffic safety at all times. The Design-Build Firm shall provide necessary access to all adjacent property during construction.
- The Design-Build Firm shall be responsible for the provision, installation and maintenance of all MOT and safety devices, in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) and FDOT Roadway and Bridge Standards index drawing book. In addition, the Design-Build Firm shall be responsible for providing the Project Manager with MOT plans for lane closures

and/or detours for approval. These plans (sketches) shall be produced, signed and sealed by a professional Engineer registered in the State of Florida, employed by the Design-Build Firm and certified under FDOT Procedure NPIL No. 625-010-010.

- Where excavations are to be made in the vicinity of signalized intersections, attention is directed to the fact that vehicle loop detectors may have been embedded in the pavement. Verify these locations by inspecting the site of the Work and by contacting the Sunshine State One-Call Center (1-800-432-4770), 48 hours prior to any excavation. Any loop detector which is damaged, whether shown on the Plans or not, shall be repaired or replaced to the satisfaction of the Miami Dade County Signs and Signal Division (305-592-3470).
- Where applicable, the Design-Build Firm shall notify the Traffic Division 24 hours in advance of the construction date or 48 hours in advance of construction within any signalized intersection.
- Temporary pavement will be required over all cuts in pavement areas, and also where traffic is to be routed over swale or median areas. When the temporary pavement for routing traffic is no longer necessary, it shall be removed and the swale or median areas restored to their previous condition.
- Pavement markings damaged during construction shall be remarked, as required by the Traffic Division.

Maintenance of Traffic for Bypass Pumping

- The Design-Build Firm shall take appropriate steps to ensure that all temporary pumps, piping and hoses are protected from vehicular traffic and pedestrian traffic.

Lane Closures

- Where construction of the Project shall involve lane closures public streets, the following shall apply:
- Lane closures require a Lane Closure Permit, obtained two weeks prior to planned construction, with a minimum 48-hour prior notice to local police and emergency departments (some police jurisdictions may require considerably more notice). Lane closures of a one day or less duration will generally not be approved for major collector streets or for arterial streets during the hours of 7am to 9am and 4pm to 6pm weekdays.

73. Location and Damage to Existing Facilities, Equipment or Utilities

As far as possible, all existing utility lines in the Project(s) area(s) will be shown on the plans. However, City does not guarantee that all lines are shown, or that the ones indicated are in their true location. It shall be the Design-Build Firm's responsibility to field verify all underground and overhead utility lines or equipment affecting or affected by the Project. No additional payment will be made to the Design-Build Firm because of discrepancies in actual and plan location of utilities, and damages suffered as a result thereof.

The Design-Build Firm shall notify each utility company involved at least fourteen (14) calendar days prior to the start of construction to arrange for positive underground location, relocation or support of its utility where that utility may be in conflict with or endangered by the proposed construction. Relocation of water mains or other utilities for the convenience of the Design-Build Firm shall be paid by the Design-Build Firm. All

charges by utility companies for temporary support of its utilities shall be paid for by the Design-Build Firm. All costs of permanent utility relocation to avoid conflict shall be the responsibility of the utility company involved. No additional payment will be made to the Design-Build Firm for utility relocations, whether or not said relocation is necessary to avoid conflict with other lines.

The Design-Build Firm shall schedule the Work in such a manner that the Work is not delayed by the utility providers relocating or supporting their utilities. The Design-Build Firm shall coordinate its activities with any and all public and private utility providers occupying the right-of-way. No compensation will be paid to the Design-Build Firm for any loss of time or delay.

All overhead, surface or underground structures and utilities encountered are to be carefully protected from injury or displacement. All damage to such structures is to be completely repaired within a reasonable time; needless delay will not be tolerated. The City reserves the right to remedy such damage by ordering outside parties to make such repairs at the expense of the Design-Build Firm. All such repairs made by the Design-Build Firm are to be made to the satisfaction of the utility owner. All damaged utilities must be replaced or fully repaired. All repairs are to be inspected by the utility owner prior to backfilling

74. Stop Work Order

The City may, at any time, by written order to the Design-Build Firm, require the Design-Build Firm to stop all, or any part, of the Work for a period of up to ninety (90) days (or any lesser period), commencing no sooner than the date the order is delivered to the Design-Build Firm, and for any further period to which the parties may agree. Any such order shall be specifically identified as a "Stop Work Order" issued pursuant to this paragraph. Within the period of ninety (90) days (or the lesser period specified) after a Stop Work Order is delivered to the Design-Build Firm, or within any extension to which the parties have agreed the City shall either:

- Cancel the Stop Work Order; or
- Terminate the Work covered by such order as provided in Article 82, Termination for Convenience.

If a Stop Work Order issued under this Article is canceled or the period of the order or any extension thereof expires, the Design-Build Firm shall resume the Work without compensation to the Design-Build Firm for such suspension other than extending the time for Substantial Completion to the extent that, in the opinion of the Project Manager, the Design-Build Firm may have been delayed by such suspension. In the event the Project Manager or Consultant determines that the suspension of Work was necessary due to Design-Build Firm's defective or incorrect Work, unsafe Work conditions caused by the Design-Build Firm or any other reason caused by Design-Build Firm's fault or omission, the Design-Build Firm shall not be entitled to an extension of time as a result of the issuance of a Stop Work Order.

75. Hurricane Preparedness

During such periods of time as are designated by the United States Weather Bureau as being a hurricane warning, the Design-Build Firm, at no cost to the City, shall take all precautions necessary to secure the Project site in response to all threatened storm events, regardless of whether the Project Manager has given notice of same.

Compliance with any specific hurricane warning or alert precautions will not constitute additional work.

Suspension of the Work caused by a threatened or actual storm event, regardless of whether the City has directed such suspension, will entitle the Design-Build Firm to additional Contract time as non-compensable, excusable delay, and shall not give rise to a claim for compensable delay.

76. Use of Completed Portions

City shall have the right, at its sole option, to take possession of and use any completed or partially completed portions of the Project(s). Such possession and use shall not be deemed an acceptance or beneficial use or occupancy of any of the Work not completed in accordance with the Contract Documents. If such possession and use increases the cost of or delays the Work, Design-Build Firm shall be entitled to reasonable extra compensation, or reasonable extension of time or both, as determined by Project Manager.

In the event City takes possession of any completed or partially completed portions of the Project, the following shall occur:

- City shall give notice to Design-Build Firm in writing at least thirty (30) calendar days prior to City's intended occupancy of a designated area.
- Design-Build Firm shall complete to the point of Substantial Completion the designated area and request inspection and issuance of a Certificate of Substantial Completion from Project Manager.
- Upon Project Manager's issuance of a Certificate of Substantial Completion, City will assume full responsibility for maintenance, utilities, subsequent damages of City and public, adjustment of insurance coverage's and start of warranty for the occupied area.
- Design-Build Firm shall complete all items noted on the Certificate of Substantial Completion within the time specified by Project Manager on the Certificate of Substantial Completion, as specified in the Punch List and request final inspection and final acceptance of the portion of the Work occupied. Upon completion of final inspection and receipt of an application for final payment, Project Manager shall issue a Certificate of Final Payment relative to the occupied area.
- If City finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion thereof, such occupancy or use shall not commence prior to a time mutually agreed upon by City and Design-Build Firm and to which the insurance company or companies providing the property insurance have consented by endorsement to the policy or policies. Insurance on the unoccupied or unused portion or portions shall not be canceled or lapsed on account of such partial occupancy or use. Consent of Design-Build Firm and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.

77. Cleaning Up; City's Right to Clean Up

Design-Build Firm shall at all times keep the premises free from accumulation of waste materials or rubbish caused by its operations. During construction, the Design-Build Firm shall sprinkle with water, sweep and use other means to eliminate dust annoyance to adjacent properties. At the completion of a Project(s), Design-Build Firm shall remove all its waste materials and rubbish from and about the Project(s) as well as its tools, construction equipment, machinery and surplus materials. If Design-Build Firm fails to clean up during the prosecution of the Work or at the completion of the Work, City may do

so and the cost thereof shall be charged to Design-Build Firm. If a dispute arises between Design-Build Firm and separate Design-Build Firms as to their responsibility for cleaning up, City may clean up and charge the cost thereof to the Design-Build Firms responsible therefore as the Project Manager and/or Consultant shall determine to be just. All combustible waste materials shall be removed from the Project(s) at the end of each day. Cleaning operations should be controlled to limit dust and other particles adhering to existing surfaces.

78. Removal of Equipment

In case of termination of this Contract before completion for any cause whatsoever, Design-Build Firm, if notified to do so by City, shall promptly remove any part or all of Design-Build Firm's equipment and supplies from the property of City. If the Design-Build Firm does not comply with City's order, the City shall have the right to remove such equipment and supplies at the expense of Design-Build Firm.

79. Set-offs, Withholdings, and Deductions

The City may set-off, deduct or withhold from any payment due the Design-Build Firm, such sums as may be specifically allowed in the Contract or by applicable law including, without limitation, the following:

- Any amount of any claim by a third party, except third party claims covered by Design-Build Firm's insurance;
- Any Liquidated Damages, and/or;
- Any unpaid legally enforceable debt owed by the Design-Build Firm to the City.

The City shall notify the Design-Build Firm in writing of any such withholdings.

Any withholding, which is ultimately held to have been wrongful, shall be paid to the Design-Build Firm in accordance with the Local Government Prompt Payment Act

80. Event of Default

An event of default shall mean a breach of the Contract or by the Design-Build Firm. Without limiting the generality of the foregoing and in addition to those instances referred to herein as a breach, an Event of Default, shall include but not limited to, the following:

- The Design-Build Firm has not performed the Work in a timely manner;
- The Design-Build Firm has refused or failed, except in case for which an extension of time is provided, to supply properly skilled staff or provided sufficient quantities of staff to perform the Work;
- The Design-Build Firm has failed to make prompt payment to Sub Design-Build Firm, Subconsultant or suppliers for any services or materials they have provided;
- The Design-Build Firm has become insolvent or has assigned the proceeds received for the benefit of the Design-Build Firm's creditors, or the Design-Build Firm has taken advantage of any insolvency statute or debtor/creditor law or if the Design-Build Firm's affairs have been put in the hands of a receiver;
- The Design-Build Firm has failed to obtain the approval of the City where required by the Contract;
- The Design-Build Firm has failed in the representation of any warranties stated herein;
- When, in the opinion of the City, reasonable grounds for uncertainty exist with respect to the Design-Build Firm's ability to perform the Work, the City shall notify the Design-Build Firm in writing that it must, within the time frame set forth in the

City's request, provide adequate assurances and a plan of action to the City, in writing, of the Design-Build Firm's ability to perform in accordance with the terms of the Contract Documents. In the event that the Design-Build Firm fails to provide to the City the requested assurances within the prescribed time frame, the City may:

- Treat such failure as a repudiation of the Contract and/or;
- Resort to any remedy for breach provided herein or by law, including but not limited to, taking over the performance of the Work or any part thereof either by itself or through others.
- In the event the City may, at its sole discretion terminate the Contract for default, the City or its designated representatives may immediately take possession of all applicable documentation and data.
- Where the City erroneously terminates the Contract or for default, the terminations shall be converted to a Termination for Convenience, and the Design-Build Firm shall have no further recourse of any nature for wrongful termination.

81. Notice of Default-Opportunity to Cure

In the event that the City determines that the Design-Build Firm is in default of their obligations under the Contract, the City may at its sole discretion notify the Design-Build Firm, specifying the basis for such default, and advising the Design-Build Firm that such default must be cured within a specified time frame or the Contract with the City may be terminated. The City is under no obligation to issue such notification. The City may grant an extension to the cure period if the City deems it appropriate and in the best interest of the City, without waiver of any of the City's rights hereunder. The City, at its sole discretion, may have a default corrected by its own forces or another Design-Build Firm and any such costs incurred will be deducted from any sums due the Design-Build Firm under any contract with the City.

82. Termination for Default

If Design-Build Firm fails to comply with any term or condition of the Contract Documents, or fails to perform any of its obligations hereunder, then Design-Build Firm shall be in default. Upon the occurrence of a default hereunder which is not cured within the time specified to cure the default if one has been granted by the City, the Director in addition to all remedies available to it by law, may immediately, upon written notice to Design-Build Firm, terminate this Contract whereupon any advances for which Work has not been performed, paid by the City to Design-Build Firm while Design-Build Firm was in default shall be immediately returned to the City. The Director may also suspend any payment or part thereof or order a Work stoppage until such time as the issues concerning compliance are resolved. Design-Build Firm understands and agrees that termination of this Contract under this Article shall not release Design-Build Firm from any obligation accruing prior to the effective date of termination. Upon Termination for Default and the City fully satisfying all of its obligations under this Contract the City shall have full use of the Work Product in connection with the City's completion and occupancy of the Project.

A finding of default and subsequent termination for cause may include, without limitation, any of the following:

- Design-Build Firm fails to obtain the insurance or bonding herein required by the Contract.

- Design-Build Firm fails to comply with any of its duties under the Contract Documents, with any terms or conditions set forth in this Contract, beyond any specified period allowed to cure such default.
- Design-Build Firm fails to commence the Work within the timeframes provided or contemplated herein, or fails to complete the Work in a timely manner as required by the Contract.

Where it has been determined that the Design-Build Firm has been erroneously terminated under this Article, such termination shall be deemed to have been occurred under Article 84, Termination for Convenience. The City in its sole discretion may terminate the Contract without providing the Design-Build Firm a written notice to cure.

83. Remedies in the Event of Termination for Default

If a Termination for Default occurs, the Design-Build Firm and the bond provider, if applicable) shall be notified of the effective date of the termination and shall be liable for all damages resulting from the default, including but not limited to re-procurement costs and other direct damages

The Design-Build Firm shall stop Work as of the date of notification of the termination and immediately remove all labor, equipment and materials (not owned or paid for by the City) from the Work Site. The City assumes no liability for the Design-Build Firm's failure to remove such items from the Project(s) site(s) as required.

The Design-Build Firm shall also remain liable for any liabilities and claims related to the Design-Build Firm's default.

As an alternative to termination, the City may bring suit or proceedings for specific performance or for an injunction

84. Termination for Convenience

In addition to cancellation or termination as otherwise provided for in the Contract, the City Manager may at any time, in its sole discretion, with or without cause, terminate the Contract by written notice to the Design-Build Firm. Such Written Notice by the City Manager shall state the date upon which Design-Build Firm shall cease all Work under the Contract and vacate the Project(s) site(s).

The Design-Build Firm shall, upon receipt of such notice, unless otherwise directed by the City:

- Stop all Work on the Project(s) on the date specified in the notice (“the Effective Date”);
- Take such action as may be necessary for the protection and preservation of the City’s materials and property;
- Cancel all cancelable orders for materials and equipment;
- Assign to the City and deliver to the site, or any other location specified by the Project Manager, any non-cancelable orders for materials and equipment that can not otherwise be used except for Work under the Contract and have been specifically fabricated for the sole purpose of the Work and not incorporated in the Work;
- Take no action that shall increase the amounts payable by the City under the Contract Documents; and
- Take reasonable measures to mitigate the City’s liability under the Contract Documents.

- All charts, sketches, studies, drawings, reports and other documents, including electronic documents, related to Work authorized under the Contract, whether finished or not, must be turned over to the City. Failure to timely deliver the documentation shall be cause to withhold any payments due without recourse by Design-Build Firm until all documentation is delivered to the City.

In the event that the City Manager exercises its right to terminate the Contract pursuant to the Contract Documents, the City will pay the Design-Build Firm:

- For the actual cost or the fair and reasonable value, whichever is less, of (1) the portion of the Project(s) completed in accordance with the Contract through the completion date, and (2) non-cancelable material(s) and equipment that is not of any use to the City except in the performance of the Contract, and has been specifically fabricated for the sole purpose of the Contract but not incorporated in the Work; and
- To the extent practical, the fair and reasonable value shall be based on the price established as a result of the Contract. In no event, shall any payments under this Paragraph exceed the maximum cost set forth in the Contract.
- The amount due hereunder may be offset by all payments made to the Design-Build Firm.
- All payments pursuant to this Article shall be accepted by the Design-Build Firm in full satisfaction of all claims against the City arising out of the termination including, Further, the City may deduct or set off against any sums due and payable under this Article any claims it may have against the Design-Build Firm.
- Design-Build Firm shall not be entitled to lost profits, overhead or consequential damages as a result of a Termination for Convenience.
- All payments made under the Contract are subject to audit

Upon the City's payment in full of the amounts due the Design-Build Firm under this Article, the Design-Build Firm grants the City full use of the Work and any Work Product to complete the Project and subsequently occupy the Project.

85. Resolution of Disputes

Design-Build Firm understands and agrees that all disputes between it and the City based upon an alleged violation of the terms of this Contract by the City shall be submitted for resolution in the following manner.

The initial step shall be for the Design-Build Firm to notify the Project Manager in writing of the claim or dispute and submit a copy to the City of Miami personnel identified in Article 4, Notices.

Should the Design-Build Firm and the Project Manager fail to resolve the dispute the Design-Build Firm shall submit their dispute in writing, with all supporting documentation, to the Assistant Director-Contracts, as identified in Article 4, Notices. Upon receipt of said notification the Assistant Director-Contracts shall review the issues relative to the claim or dispute and issue a written finding.

Should the Design-Build Firm and the Assistant Director-Contracts fail to resolve the dispute the Design-Build Firm shall submit their dispute in writing within five (5) calendar days to the Director. Failure to submit such appeal of the written finding shall constitute acceptance of the finding by the Design-Build Firm. Upon receipt of said notification the Director shall review the issues relative to the claim or dispute and issue a written finding.

Design-Build Firm must submit any further appeal in writing within five (5) calendar days to the City Manager. Failure to submit such appeal of the written finding shall constitute acceptance of the finding by the Design-Build Firm. Appeal to the City Manager for his/her resolution, is required prior to Design-Build Firm being entitled to seek judicial relief in connection therewith. Should the amount of compensation hereunder exceed \$100,000, the City Manager's decision shall be approved or disapproved by the City Commission. Design-Build Firm shall not be entitled to seek judicial relief unless:

- (i) it has first received City Manager's written decision, approved by the City Commission if applicable, or
- (ii) a period of sixty (60) days has expired after submitting to the City Manager a detailed statement of the dispute, accompanied by all supporting documentation, or a period of (90) days has expired where City Manager's decision is subject to City Commission for approval; or
- (iii) City has waived compliance with the procedure set forth in this Article by written instrument(s) signed by the City Manager.

In the event the determination of a dispute under this Article is unacceptable to either party hereto, the party objecting to the determination must notify the other party in writing within fourteen (14) calendar days of receipt of the written determination. The notice must state the basis of the objection and must be accompanied by a statement that any Contract price or Contract time adjustment claimed is the entire adjustment to which the objecting party has reason to believe it is entitled to as a result of the determination. Within sixty (60) calendar days after Final Completion of the Work, the parties shall participate in mediation to address all objections to any determinations hereunder and to attempt to prevent litigation. The mediator shall be mutually agreed upon by the parties. Should any objection not be resolved in mediation, the parties retain all their legal rights and remedies provided under State law. A party objecting to a determination specifically waives all of its rights provided hereunder, including its rights and remedies under State law, if said party fails to comply in strict accordance with the requirements of this Article. The foregoing procedure consists of an administrative remedy that must be employed in the event of a dispute.

86. Mediation-Waiver of Jury Trial

In an effort to engage in a cooperative effort to resolve conflict which may arise during the course of the construction of a Project(s), and/or following the completion of the Project(s), the parties to this Contract agree all unresolved disputes between them shall be submitted to non-binding mediation prior to the initiation of litigation, unless otherwise agreed in writing by the parties. A certified Mediator, who the parties find mutually acceptable, will conduct any Mediation Proceedings in Miami-Dade County, State of Florida. The parties will share the costs of a certified Mediator on a 50/50 basis. The Design-Build Firm agrees to include such similar contract provisions with all Sub-Design-Build Firms retained for the Work, thereby providing for non-binding mediation as the primary mechanism for dispute resolution.

In an effort to expedite the conclusion of any litigation the parties voluntarily waive their right to jury trial or to file permissive counterclaims in any action arising under this Contract.

87. City May Avail Itself of All Remedies

The City may avail itself of each and every remedy herein specifically given to it now or existing at law or in equity, and each and every such remedy shall be in addition to every other remedy so specifically given or otherwise so existing and may be exercised from time to time and as often and in such order as may be deemed expedient by the City. The

exercise or the beginning of the exercise, of one remedy shall not be deemed a waiver of the right to exercise, at the same time or thereafter, of any other remedy. The City's rights and remedies as set forth in the Contract Documents are not exclusive and are in addition to any other rights and remedies in law or in equity.

88. Permits, Licenses and Impact Fees

All applicable permit fees, and associated costs, including those assessed by the City, are the responsibility of the Design-Build Firm. That includes also any other permit fees not directly related to the actual construction of the Project(s), including but not limited to, licenses, permits and fees, such as Permits for dumpsters, job trailers, etc., which may be required by Miami-Dade County, the State of Florida, or other governmental entities.

Except as otherwise provided within the Contract Documents, all permits and licenses required by federal, state or local laws, rules and regulations necessary for the prosecution of the Work undertaken by the Design-Build Firm pursuant to the Contract Documents shall be secured and paid for by Design-Build Firm. It is Design-Build Firm's responsibility to have and maintain appropriate Certificate(s) of Competency, valid for the Work to be performed and valid for the jurisdiction in which the Work is to be performed for all persons working on the Project(s) for whom a Certificate of Competency is required.

Fees for Permits **REQUIRED BY THE CITY AND PAYABLE TO THE CITY** (e.g. Building Department's Fees such as, Master Permit, Major Trades, Mechanical, Electrical, and Plumbing Fees; Public Works Fees, such as Line and Grade, Excavation, Dewatering and NPDES Fees, and Zoning Department's Fees) by virtue of this construction as part of the Contract shall be reimbursed to the Design-Build Firm by the City through an Allowance Account set for herein, evidenced by an invoice or other acceptable documentation issued by the public entity.

Permit Fees reimbursement to Design-Build Firm shall be for the actual amount and in no event shall include profit or overhead of Design-Build Firm, and or markup.

Permit fees related the Design-Build Firm's operations (e.g. permits for dumpsters, job trailers, etc.) are not reimbursable.

89. Compliance with Applicable Laws, Ethics and Public Records Laws

The Design-Build Firm shall comply with all applicable laws, regulations, building and construction codes of the Federal government, the State of Florida, the County, and the City.

The attention of the Design-Build Firm is directed to the requirements of the Florida Building Code and the Codes of Miami-Dade County and the City of Miami, Florida, governing the qualifications for Design-Build Firm and Sub-Design-Build Firm doing business anywhere in the City.

The Design Build Firm shall comply with all Ethics Codes, Statutes, and Ordinances of the State of Florida, Miami-Dade County, and the City of Miami. The Design –Build Firm shall comply with the Public Records Act, Chapter 119, Florida Statutes, including without limitation Florida Statute 119.0701, Florida Statutes, as applicable m, which provides: Design-Build Firm shall additionally comply with Section 119.0701, Florida Statutes, including without limitation : (1) keep and maintain public records that ordinarily and necessarily would be required by the City to perform this service ; (2) provide the public with access to public records on the same terms and conditions as the City would at the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law ; (3) ensure that public records that are exempt or confidential and exempt from

disclosure are not disclosed except as authorized by law; (4) meet all requirements for retaining public records and transfer , at no cost, to the City all public records in its possession upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from disclosure requirements ; (5) All electronically stored public records must be provided to the City in a format compatible with the City's information technology systems

90. Independent Design-Build Firm

The Design-Build Firm is engaged as an independent business and agrees to perform Work as an independent Design-Build Firm. In accordance with the status of an independent Design-Build Firm, the Design-Build Firm covenants and agrees that the Design-Build Firm will conduct business in a manner consistent with that status, that the Design-Build Firm will not claim to be an officer or employee of the City for any right or privilege applicable to an officer or employee of the City, including, but not limited to: worker's compensation coverage; unemployment insurance benefits; social security coverage; retirement membership, or credit.

The Design-Build Firm's staff shall not be employees of the City, and the Design-Build Firm alone shall be responsible for their Work, the direction thereof, and their compensation and benefits of any kind. Nothing in the Contract shall impose any liability or duty on the City on account of the Design-Build Firm's acts, omissions, liabilities or obligations of those of any person, firm, company, agency association, corporation, or organization engaged by the Design-Build Firm as a Sub Design-Build Firm s, Subconsultants, expert, consultant, independent Design-Build Firms, specialist, trainee, employee, servant or agent or for taxes of any nature, including, but not limited to: unemployment insurance; worker's compensation and anti-discrimination, or workplace legislation of any kind. The Design-Build Firm hereby agrees to indemnify and hold harmless the City against any such liabilities, even if they arise from actions directed or taken by the City.

91. Third Party Beneficiaries

Neither Design-Build Firm nor City intends to directly or substantially benefit a third party by this Contract. Therefore, the parties agree that there are no third party beneficiaries to this Contract and that no third party shall be entitled to assert a claim against either of them based upon this Contract. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Contract.

92. Successors and Assigns

The performance of this Contract shall not be transferred pledged, sold, delegated or assigned, in whole or in part, by the Design-Build Firm without the written consent of the City. It is understood that a sale of the majority of the stock or partnership shares of the Design-Build Firm, a merger or bulk sale, an assignment for the benefit of creditors shall each be deemed transactions that would constitute an assignment or sale hereunder requiring prior City approval.

Any transference without City approval shall be cause for the City to nullify this Contract. Any assignment without the City's consent shall be null and void. The Design-Build Firm shall have no recourse from such cancellation. The City may require bonding, other security, certified financial statements and tax returns from any proposed assignee and the execution of an assignment/ assumption agreement in a form satisfactory to the City Attorney as a condition precedent to considering approval of an assignment.

The Design-Build Firm and the City each binds one another, their partners, successors, legal representatives and authorized assigns to the other party of this Contract and to the partners, successors, legal representatives and assigns of such party in respect to all covenants of this Contract.

93. Materiality and Waiver of Breach

City and Design-Build Firm agree that each requirement, duty, and obligation set forth in this Contract Documents is substantial and important to the formation of the Contract Documents and, therefore, is a material term hereof.

City's failure to enforce any provision of the Contract Documents shall not be deemed a waiver of such provision or modification of the Contract Documents. A waiver of any breach of a provision of the Contract Documents shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of the Contract Documents.

94. Severability

In the event the any provision of the Contract Documents is determined by a Court of competent jurisdiction to be illegal or unenforceable, then such unenforceable or unlawful provision shall be excised from this Contract, and the remainder of the Contract Documents shall continue in full force and effect. Notwithstanding the foregoing, if the result of the deletion of such provision will materially and adversely affect the rights of either party, such party may elect, at its option, to terminate the Contract in its entirety. An election to terminate the Contract based upon this provision shall be made within seven (7) calendar days after the finding by the court becomes final.

95. Applicable Law and Venue of Litigation; Attorney's Fees

This Contract shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida. Each party shall bear their own respective attorney's fees. The court may award the prevailing party court costs.

96. Amendments

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Contract and executed by the City Manager, Director or designee.

97. Entire Contract

The Contract Documents, as they may be amended from time to time, represent the entire and integrated Contract between the City and the Design-Build Firm and supersede all prior negotiations, representations or agreements, written or oral. This Contract may not be amended, changed, modified, or otherwise altered in any respect, at any time after the execution hereof, except by a written document executed with the same formality and equal dignity herewith. Waiver by either party of a breach of any provision of the Contract Documents shall not be deemed to be a waiver of any other breach of any provision of the Contract Documents.

98. Nondiscrimination, Equal Employment Opportunity, and Americans with Disabilities Act

Design-Build Firm shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this

Contract. Design-Build Firm shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by City, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, Design-Build Firm shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

Design-Build Firm's decisions regarding the delivery of services under the Contract Documents shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully used as a basis for service delivery.

99. Evaluation

Design-Build Firm acknowledges that upon completion of the of the Work under the Contract Documents and/or at any other time deemed appropriate by the City a performance evaluation report will be completed by the City. A copy of each performance evaluation shall also be forwarded to the Design-Build Firm. The performance evaluations will be kept in City files for evaluation on future solicitations.

100. Commodities manufactured, grown, or produced in the City of Miami, Miami -Dade County and the State of Florida

Whenever two or more competitive sealed bids are received, one or more of which relates to commodities manufactured, grown, or produced within the City of Miami, Miami-Dade County and the State of Florida, and whenever all things stated in such received bids are equal with respect to price, quality, and service, the commodities manufactured, grown, or produced within the City of Miami, Miami-Dade County and the State of Florida shall be given preference.

101. Royalties and Patents

All fees, royalties, and claims for any invention, or pretended inventions, or patent of any article, material, arrangement, appliance, or method that may be used upon or in any manner be connected with the construction of the Work or appurtenances, are hereby included in the prices stipulated in the Contract for said Work.

102. Continuation of the Work

Any Work that commences prior to and will extend beyond the expiration date of the current contract period shall, unless terminated by mutual written agreement between the City and the involved Design-Build Firm, continue until completion at the same prices, terms and conditions.

103. Review of Records

City shall have the right to inspect and copy, at City's expense, the books and records and accounts of Design-Build Firm which relate in any way to the Project(s), and to any claim for additional compensation made by Design-Build Firm, and to conduct an audit of the financial and accounting records of Design-Build Firm which relate to a Project(s) and to any claim for additional compensation made by Design-Build Firm including but not limited to all payroll records, invoices for materials, and books of accounts. Such records shall conform to Generally Accepted Accounting Principles requirements (GAAP), and shall only address those transactions related to the Contract.

Records subject to the provisions of Public Record Law, Florida Statutes Chapter 119, shall be kept in accordance with such statute. Otherwise Design-Build Firm shall retain and make available to City all such books and records and accounts, financial or otherwise, which relate to the Project(s) and to any claim for a period of five (5) years following Final Completion of the Project(s).

The Design-Build Firm agrees to maintain an accounting system that provides for accounting records that are supported with adequate documentation and adequate procedures for determining allowable costs.

Design-Build Firms shall develop the proper forms and reports acceptable to the City for the administration and management of the Contract Documents.

104. No Interest

Any monies not paid by City when claimed to be due to Design-Build Firm under the Contract Documents, including, but not limited to, any and all claims for damages of any type, shall not be subject to interest including, but not limited to prejudgment interest. However, the provisions of Section 218.74(4), Florida Statutes as such relates to the payment of interest, shall apply to valid and proper invoices.

105. Payments Related to Guaranteed Obligations

The City may withhold from any payments to be made such sums as may reasonably be necessary to ensure completion of the Project(s) with respect to defective Work, equipment or materials which may be identified by the Project Manager.

The City may deduct from any payment due the Design-Build Firm an amount equal to its cost incurred on account of the Design-Build Firm's failure to fully perform its obligations under the Contract.

The Project Manager, prior to withholding or deducting any monies hereunder, shall give the Design-Build Firm notice of the defective Work, equipment or material and the basis for the withholding or deduction.

Upon the Project Manager's determination that the Design-Build Firm has fulfilled its obligations, the City will pay the Design-Build Firm any monies owed, subject to Design-Build Firm's submission of, or compliance with, any remaining documentation or obligation, as the case may be, in accordance with the Contract Documents

106. Consent of City Required for Subletting or Assignment

If the Design-Build Firm assigns, transfers, sublets or otherwise disposes of the Contract or its right, title or interest in or to the same or any part thereof, in whole or in part, without the previous consent in writing of the City, such action shall be an Event of Default. Nothing herein shall either restrict the right of the Design-Build Firm to assign monies due to, or to become due or be construed to hinder, prevent or affect any assignment by the Design-Build Firm for the benefit of its creditors, made pursuant to applicable law.

107. Agreement Limiting Time in Which to Bring Action against the City

In the event the Design-Build Firm may be deemed to have a cause of action against the City, no action shall lie or be maintained by the Design-Build Firm against the City upon any claim arising out of or based upon the Contract Documents by reason of any act or omission or requirement of the City or its agents, unless such action shall be commenced within six (6) months after the date of issuance of a final payment under the Contract, or if final payment has not been issued within six (6) months of substantial completion of the

Work or upon any claim relating to monies required to be retained for any period after the issuance of the said certificate, unless such action is commenced within six (6) months after such monies become due and payable under the terms of the Contract Documents, or if the Contract is terminated or declared abandoned under the provisions of the Contract unless such action is commenced within six (6) months after the date of such termination or declaration of abandonment by the City.

108. Defense of Claims

Should any claim be made or any legal action brought in any way relating hereto or to the Work hereunder, except as expressly provided herein, the Design-Build Firm shall diligently render to the City, after additional compensation is mutually agreed upon, any and all assistance which the City may require of the Design-Build Firm.

109. Contingency Clause

Funding for this Contract is contingent on the availability of funds and continued authorization for program activities and the Contract is subject to amendment or termination due to lack of funds, reduction of funds and/or change in regulations, upon thirty (30) days notice.

110. Mutual Obligations

This document, change order, field directive, and written clarifications issued under the Contract, and the Design-Build Firm's submittals, shall constitute the Contract Documents between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by their duly authorized representatives.

Nothing in the Contract shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.

In those situations where the Contract Documents imposes an indemnity obligation on the Design-Build Firm, the City, may at its expense, elect to participate in the defense of the claim if the City should so choose. Furthermore, the City may, at its own expense, defend or settle any such claim if the Design-Build Firm fails to diligently defend such claim, and thereafter seek indemnity for such cost from the Design-Build Firm.

111. Contract Extension

The City reserves the right to exercise its option to extend the Contract for up to ninety (90) calendar days beyond the original Contract period. In such event, the City will notify the Design-Build Firms in writing of such extensions.

112. Non-Exclusivity

It is the intent of the City to enter into a Contract with all Successful Proposer(s) that will satisfy its needs as described herein. However, the City reserves the right, as deemed in its best interest, to perform, or cause to be performed, the Work and services, or any portion thereof, herein described in any manner it sees fit, including but not limited to: award of other contracts, use of any Design-Build Firm, or perform the Work with its own employees.

113. Nature of the Contract

The Design-Build Firm shall provide the services set forth in the Contract Documents. The Design-Build Firm shall provide full and prompt cooperation with the City in all aspects of the Work to be performed.

The Design-Build Firm acknowledges that the Contract Documents require the performance of all things necessary for or incidental to the effective management and performance of a Project(s). All things not expressly mentioned in the Contract Documents, but necessary to carrying out its intent are required by the Contract Documents, and the Design-Build Firm shall perform the same as though they were specifically mentioned, described and delineated.

The Design-Build Firm shall furnish all labor, materials, tools, supplies and other items required for the completion of the Contract. All Work shall be accomplished at the direction of and to the satisfaction of the Project Manager.

114. Contract Documents Contains all Terms

The Contract Documents and all documents incorporated herein by reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of the Contract Documents shall be deemed to exist or to bind any of the parties hereto, or to vary any of the terms contained herein.

115. Applicable Law and Venue of Litigation

This Contract shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida.

116. Survival

The parties acknowledge that any of the obligations in the Contract Documents will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Design-Build Firm and the City under the Contract, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration thereof.

117. Joint Preparation

Preparation of this Contract has been a joint effort of the City and Design-Build Firm and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

118. Nondisclosure

To the extent allowed by law, Design-Build Firm agrees not to divulge, furnish or make available to any third person, firm or organization, without Director or designee's prior written consent, or unless incident to the proper performance of the Design-Build Firm's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by Design-Build Firm hereunder, and Design-Build Firm shall require all of its employees, agents, Subconsultants and Sub Design-Build Firm s to comply with the provisions of this paragraph.

Section 2 - Supplemental Terms and Conditions

1. Scope of Work

Design-Build Firm shall, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Build Firm, or procured from qualified, independent licensed design consultants, the necessary design services, including architectural, engineering and other professional services, for the preparation of the required drawings, specifications and other submittals to permit Design-Build Firm to complete the Work consistent with the Contract Documents. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between City and any design or other consultants under contract to the Design-Build Firm.

2. Contract Time

The Design-Build Firm shall furnish all labor, materials, equipment, tools, services, and incidentals to complete all Work required by the Design Criteria at a rate of progress that will ensure completion of the Work within the Contract Time.

Design-Build Firm shall have four hundred and eighty (480) calendar days to achieve Substantial Completion from the date of the Notice to Proceed is issued. Design-Build Firm shall have an additional thirty (30) calendar days for Final Completion of the Work. The Work shall commence within ten (10) calendar days of Design-Build Firm's receipt of the Notice to Proceed unless the parties mutually agree otherwise in writing.

3. Progress Payments

Design-Build Firm may make application for payment for Work completed during the Project(s) at intervals of not more than once a month or upon completion and Final Acceptance of the Work. All applications shall be submitted in triplicate and the Design-Build Firm shall only use the City's Design-Build Firm Payment Application Form. Where the time frame for completion of the Work is less than or equal to one month or a Schedule of Values is not required, the Design-Build Firm shall submit the appropriate documentation as defined below. Supporting evidence to be included with any application for payment shall include, but is not limited to, an updated progress schedule as required by Article 4 of the Supplemental Terms and Conditions and a partial or final release of liens or consent of Surety relative to the Work, which is the subject of the application for payment and any other information required by the Project Manager or Consultant. Each application for payment shall be submitted in triplicate for approval. City shall make payment to Design-Build Firm within thirty (30) days after approval of Design-Build Firm's application for payment.

Ten percent (10%) of all monies earned by Design-Build Firm shall be retained by City until Final Acceptance by the City. Any interest earned on retainage shall accrue to the benefit of City. All requests for retainage reduction shall be in writing in a separate stand-alone document.

City may withhold, in whole or in part, payment to such extent as may be necessary to protect itself from loss on account of:

- Defective Work not remedied.
- Claims filed or reasonable evidence indicating probable filing of claims by other parties against Design-Build Firm or City because of Design-Build Firm's performance.
- Failure of Design-Build Firm to make payments properly to Sub Design-Build Firm, Subconsultant, or for material or labor.

- Damage to another Design-Build Firm not remedied.
- Liquidated damages and costs incurred by City and/or Consultant for extended construction administration.
- Failure of Design-Build Firm to provide any and all documents required by the Contract Documents.

The City will pay, and the Design-Build Firm shall accept as full compensation for the Work, the sums specified in the Design-Build Firm's submittal to the Contract Documents, as accepted by the City.

Design-Build Firm may be paid for materials or equipment purchased and stored at the Project(s) Site(s) or another location. Where a payment request is made for materials or equipment not incorporated in the Project(s), but delivered and suitably stored at the site or at some other location agreed upon in writing, the written documentation must be submitted at the time of request for payment. Payment shall be conditioned upon submission by the Design-Build Firm of paid invoices and an executed Material Purchased/Stored On-Premises form to establish the City's title to such materials or equipment, or otherwise protect the City's interest, including applicable insurance in the name of City and transportation to the site.

Design-Build Firm retains sole liability to replace such stored materials or equipment as a result of damage or loss for any reason

Requests for payment that do not include the updated Project Schedule will not be processed for payment.

4. Liquidated Damages

The Design-Build Firm is obligated and guarantees to complete the Project in the time set forth in the Contract Documents or any approved extension of time the Design-Build Firm shall pay to the City liquidated damages as follows. In the event of a delay in completion beyond the timeframe set forth in the Contract Documents for Substantial Completion the Design-Build Firm shall pay to the City for each and every calendar day of unexcused delay, the sum of one thousand dollars (\$1,000.00) per calendar day, which is hereby agreed upon not as a penalty but as liquidated damages. In the event of a delay in completion beyond the timeframe set forth in the Contract Documents for Final Completion the Design-Build Firm shall pay to the City for each and every calendar day of unexcused delay, the sum of five hundred dollars (\$500.00) per calendar day, which is hereby agreed upon not as a penalty but as liquidated damages. The City shall notify the Design-Build Firm that it is incurring liquidated damages.

The Design-Build Firm shall also be notified of any approved exceptions or extensions. The total amount of liquidated damages shall not exceed the value of the applicable Contract Documents.

The City shall have the right to deduct liquidated damages assessments from any payment due or which may thereafter become due to the Design-Build Firm under any contract the Design-Build Firm has with the City. In case the amount, which may become due hereunder, shall be less than the amount of liquidated damages due the City, the Design-Build Firm shall pay the difference upon demand by the City. Should the Design-Build Firm fail to compensate the City for any liquidated damages, the City shall consider this as a form of indebtedness and may deny any future Work under the Contract or any other City contract until such indebtedness is paid in full to the City.

5. Schedule of Values

The Design-Build Firm must submit three copies of a Schedule of Values, which must be submitted within ten (10) calendar days of the issuance of the Notice of Award. The Schedule of Values shall indicate a complete breakdown of labor and material of all categories of Work on the Project. Design-Build Firm's overhead and profit should be as separate line items. Each line item shall be identified with the number and title of the major specification section or major components of the items. The Project Manager or Consultant may require further breakdown after review of the Design-Build Firm's submittal. The City reserves the right to require such information from the Design-Build Firm as may be necessary to determine the accuracy of the Schedule of Values. The combined total value for mobilization under the Schedules of Values shall not exceed 5% of the value of the Contract.

The approved schedule of values shall be updated through the submittal of the City's Design-Build Firm Payment Application Form.

6. Project Schedules

Design-Build Firm shall submit a proposed design-build Project schedule, with any sub-schedules of related activities that are essential to its progress, within ten (10) working days of the Notice of Award and such submittal shall be subject to the Project Manager and Consultant's review, comment, and acceptance. Subsequent to such review of said schedule the Design-Build Firm shall establish said schedule as the baseline schedule.

All Project Schedules shall be prepared in Microsoft Project 2003 or earlier unless otherwise approved by the Project Manager. At the time of submission of schedules Design-Build Firm shall submit a hard copy as well as an electronic version. Such electronic version shall not be submitted in a .pdf format and shall be capable of being incorporated in to the City's baseline schedules. Maximum sheet size shall be 24 x 36-inches.

The design build schedule shall be prepared in the form of a horizontal bar chart with separate horizontal bars for each design task, construction task in the critical path in chronological order. Provide horizontal time scale in weeks from the start of construction and identify the first work day of each month. Identify listings of any major equipment installation milestones.

A. Content of Schedules; show or indicate the following:

1. Complete sequence of design by activity reflecting the Subconsultant responsible for the activity.
2. Complete sequence of construction by activity reflecting the Design-Build Firm or Sub Design-Build Firm responsible for each activity
3. Dates for the beginning and completion of each major element of design and construction in no more than a two-week incremental scale.
4. Items of work that must be accomplished to achieve substantial completion.
 - a. Major disciplines or trades of work
 - b. Filter downtime
 - c. Time required for Design-Build Firm's submittals, fabrication and deliveries.
 - d. Time required by Design-Build Firm and the City to review all submittals.
 - e. Time required by City to support any pre-operational and start-up testing.
 - f. Time required for the relocation of utilities, if required.
 - g. Activities performed by Design-Build Firm.

5. Percentage of completion for each item as of the date the schedule was prepared.
6. Dates for Design-Build Firm's submittals.
7. Dates for any required City-furnished materials or equipment.
8. Dates accepted submittals will be required from the City.

In addition the Design-Build Firm shall provide:

1. Provide a list of all long lead items and their anticipated dates of delivery (equipment, materials, etc.) Monthly updates shall reflect actual versus projected, and any revised projections
2. Provide a projected dollar cash flow spend down for each month of construction. Monthly updates shall reflect any change orders as well as actual versus projected, and any revised projections.

All updates of schedules shall be tracked against the baseline schedule and shall be at a minimum submitted with each pay application together with any updates to the long lead items list and the dollar cash flow spend down.. An updated schedule against the baseline shall also be submitted upon execution of each change order that impacts the Contract Documents Time for completion. Failure to submit such schedules shall result in the rejection of any submitted payment application.

Subsequent to review of the initial schedule submission the Design-Build Firm shall establish the reviewed schedule as the "baseline schedule". Design-Build Firm shall then prepare and submit all updates to the schedules utilizing the tracking mode within Microsoft Project.

7. Release of Liens/Sub Design-Build Firm's Statement of Satisfaction

The Design-Build Firm warrants and guarantees that title to all Work, materials and equipment covered by an application for payment, whether incorporated in the Project(s) or not, will pass to the City upon the receipt of such payment by the Design-Build Firm, free and clear of all liens, claims, security interests or encumbrances and that no Work, materials or equipment will have been acquired by the Design-Build Firm or by any other person performing Work at the site or furnishing materials and equipment for the Project(s), subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Design-Build Firm or such other person.

The Design-Build Firm shall, beginning with the second request for payment, attach a Partial Release of Lien/Sub Design-Build Firm, Subconsultant Statement of Satisfaction for each application for payment. Failure to submit such documentation may delay payments. The City may, in its sole discretion withhold payments for Work performed by Sub Design-Build Firm, Subconsultant where no release of lien has been submitted. The Design-Build Firm shall submit with the final payment request, for any Project(s) where Sub Design-Build Firm, and/or Subconsultant have performed Work, a Final Release of Lien/Sub Design-Build Firm, and Subconsultant Statement of Satisfaction for each Sub Design-Build Firm, Subconsultant marked as a final. Failure to submit such documentation will result in delay in payment or the City withholding from the final payment such funds as necessary to satisfy any Sub Design-Build Firm, and/or Subconsultant claims.

Where the Design-Build Firm has submitted a Performance/Payment Bond the Design-Build Firm may, in lieu of the Release of Lien/Sub Design-Build Firm, Subconsultant Statement of Satisfaction, submit Consent of Surety to Requisition Payment.

8. Progress Meetings

The City shall conduct a pre-construction conference prior to the commencement of the Work. Design-Build Firm shall hold progress and coordination meetings as required by the Project Manager or Consultant, to provide for the timely completion of the Work.

Design-Build Firm shall arrange and conduct regular bi-weekly job site Project status meetings with the Project Manager and/or Consultant. Design-Build Firm shall use the job site meetings as a tool for the pre-planning of Work and enforcing schedules, and for establishing procedures, responsibilities, and identification of authority for all parties to clearly understand. During these meetings, Design-Build Firm shall identify the party or parties responsible for following up on any problems, delay items or questions, and Design-Build Firm shall note the action to be taken by such party or parties. Design-Build Firm shall revisit each pending item, including RFIs and Shop Drawing, at each subsequent meeting until resolution is achieved. Design-Build Firm shall attempt to obtain from all present any potential problems or delaying event known to them for appropriate attention and resolution. Design-Build Firm shall be responsible for keeping minutes of the meeting and distribution of the minutes to all parties in attendance.

The Design-Build Firm shall arrange for the participation of its Sub Design-Build Firm s, Subconsultants, and/or vendors when the Project Manager requires their presence.

The Design-Build Firm shall maintain minutes of the meeting and distribute copies of the minutes to all parties in attendance. The Design-Build Firm shall prepare and distribute to Project Manager and the Consultant an updated two-week look-ahead schedule of construction activities and submittals.

9. Request for Information

The Design-Build Firm shall submit a Request for Information (RFI) where the Design-Build Firm believes that the Contract Document's specifications or drawings are unclear or conflict. All requests must be submitted in a manner that clearly identifies the drawing and/or specification section where clarification or interpretation is being requested. As part of the RFI, Design-Build Firm shall include its recommendation for resolution. The Engineer and City shall respond in writing.

10. Project Site Facilities

The Design-Build Firm shall arrange for all Project(s) site facilities as maybe necessary to enable the Project Manager or Consultant to perform their respective duties and to accommodate any representatives of the City which the City may choose to have present at the Project(s).

Design-Build Firm's, Sub-Design-Build Firm's, supplier's, material persons 's personnel shall not use the City restrooms that may be available at the Project(s) site without the prior consent of the manager of the facility or the Project Manager where there is no manager of a facility. The Design-Build Firm shall provide and maintain at his own expense, in a sanitary condition, such accommodations for the use of his employees as is necessary to comply with the requirements including Chapter 46 of the Building Code and regulations of the State of Florida Department of Health and Rehabilitative Services or Dade County Health Department. The Design-Build Firm, his employees or his Sub

Design-Build Firm s or Subconsultants shall commit no public nuisance or use any facilities that have not been specifically provided for use by the Design-Build Firm.

The Design-Build Firm shall furnish an adequate supply of drinking water for its and its Sub-Design-Build Firms' employees.

There shall be adequate provisions made by the Design-Build Firm to ensure all disposable materials are properly disposed of and do not create a nuisance to the City or the public. The location of the temporary facilities shall be subject to the approval of the Project Manager or Consultant.

11. Temporary Facilities, Utilities, and Construction

Design-Build Firm is required to provide any necessary temporary utilities to the site, such as electric, water, and sanitary services to the site for new construction or additions to a facility. The Design-Build Firm shall make all arrangements with the local utility companies. The Design-Build Firm shall also be responsible for furnishing all materials and equipment necessary for the installation and maintenance of any temporary utilities. The Project Manager may authorize the use of existing utilities. Such decision will be made at the sole discretion of the Project Manager and the City.

Design-Build Firm shall furnish, install and maintain temporary facilities required for construction, and shall remove them upon completion of the Work. All facilities shall comply with the respective federal, state and local codes and regulations and with utility company requirements. Materials for temporary facilities may be new or used, but must be adequate in capacity for the required usage, must not create unsafe conditions, and must not violate requirements of applicable codes and standards.

The Design-Build Firm shall be required to obtain all necessary permits required for any Project(s) site facilities and utilities. Design-Build Firm shall also be responsible to maintain such facilities in a safe and working condition. Design-Build firm shall be responsible for payment for all fees and charges for the installation and use of all temporary facilities and utilities.

All such facilities and utilities remain the property of the Design-Build Firm and the Design-Build Firm shall be responsible for removal and disposal of such facilities prior to Final Acceptance.

Temporary fences: If, during the course of the Work, it is necessary to remove or disturb any fencing, the Design-Build Firm shall, at his own expense, provide a suitable temporary fence which shall be maintained until the permanent fence is replaced. The Project Manager will be solely responsible for the determination of the necessity for providing a temporary fence and the type of temporary fence to be used.

Responsibility for Temporary Structures: In accepting this Contract, the Design-Build Firm assumes full responsibility for the sufficiency and safety of all temporary structures or work and for any damage which may result from their failure or their improper construction, maintenance or operation and will indemnify and save harmless the City from all claims, suits or actions and damages or costs of every description arising by reason of failure to comply with the above provisions.

12. Project Laboratory Testing Services

The Design-Build Firm shall provide and pay for all Project Laboratory Testing Services to perform regulatory required testing, quality assurance, and quality control testing. The Design-Build Firm is also responsible for all re-testing where the Work or materials fail a test.

The City at its sole discretion may conduct separate independent testing for verification purposes. In instances where the City's testing does not verify the testing provided by the Design-Build Firm, the Design-Build Firm shall arrange for re-testing of the Work or replacement of the Work at its own cost. Where the Design-Build Firm has re-testing performed the City's Project Manager shall be notified in advance of such testing. Should such testing confirm the City's findings the Design-Build Firm shall replace or correct all Work necessary to ensure compliance with the Contract Documents. In such instances all re-testing, re-work, and delays are the sole responsibility of the Design-Build Firm. Any delays or costs to the Design-Build Firm for testing or re-work that may result shall not form the basis for any claim by the Design-Build Firm. Design-Build Firm shall be responsible for the costs associated with all testing by the City where the Work is found to not be in compliance with the Contract Documents. Costs for such retests shall be deducted from pending invoices.

13. Security

The site where the Work is to be performed may not be a secure site and the public may have access to the site. The Design-Build Firm shall have sole responsibility for the security of all Work materials, tools, equipment and Work at the Project(s) site. The City shall not be liable for any damage or loss to such materials, tools, equipment and Work and the Design-Build Firm shall be responsible for the repair or replacement of all Work such materials, tools, and equipment.

14. Construction Signage

Where required by the Contract Documents the Design-Build Firm shall provide construction signage.

The City shall provide the Design-Build Firm the wording and layout for the signs at the pre-construction conference. The Design-Build Firm shall furnish the two City signs at the Project(s) Site(s) as follows:

- The first sign must be 4 feet wide and 8 feet high and constructed of pressure sensitive 2 mil cast vinyl overmounted with 3 mil Mylar and mounted to 1 MDO with painted back. The sign shall be mounted on 4 inch square wood or perforated "U" channel metal posts painted white, and be readable at eye level. The colors to be used on the sign are as follows: the background shall be white with blue lettering; the seal shall be white and gold with blue lettering form.
- The second sign shall reflect other funding sources for the Project and shall reflect the Project information. The sign shall be 4 feet wide by 8 feet high by ¾ inch (thick) exterior plywood, suitably mounted and readable at eye level. The colors shall be blue and white. The background shall be white and all lettering shall be blue Helvetica. All paint shall be rated outdoor enamel. The City will provide the City Seal in decal form.
- The Design-Build Firm shall also post appropriate construction site warning signs at the Work Site. Such signs shall be posted to warn pedestrian and vehicle traffic. Signage shall also be placed waterside to alert boater to the construction zone, requiring idle speed and a minimum clearance distance. Design-Build Firm shall provide drawings for the signage, which shall be subject to approval by the Consultant.
- The Project Manager and the City shall approve the locations for all signage.

15. Lines and Grades

The Design-Build Firm shall, at its own expense, establish all working and construction lines and grades as required for the Project and shall be solely responsible for the accuracy thereof.

16. H2B Visa Report

The Design-Build Firm shall submit with each payment application a report on the number of its employees and the number of employees for each Subconsultant and Sub Design-Build Firm that is working under a HSB visa. Failure to provide this information with the payment application may result in a delay in processing the payment application.

17. Progress Photos

Prior to commencement of the Work the Design-Build Firm will take digital photographs to document existing conditions. Design-Build Firm shall submit these photos on CD-ROM and printed copy with its first payment application Design-Build Firm shall periodically take digital construction record photographs to document the progress, including final completion, of the Work and shall be submitted on CD-ROM and printed copy with each application for payment. All pictures must be digitally date and time stamped. Printed photo must be on 8"X10" high resolution glossy single weight color print paper.

Section 3 – Design Services

1. Design Responsibility

All Professional Services shall be provided by firms licensed to perform such services in accordance with all applicable Florida Statute and the requirements of the State of Florida Department of Professional Regulation. Design-Build firm shall be solely responsible for all aspects of the design of this Project and shall also be responsible for supervision and management of the firm(s) providing Professional Services under this Contract. Nothing contained in this Contract shall create any contractual or business relationship between the City and the Consultant. The Design-Build Firm acknowledges that Subconsultants are entirely under it's or the Consultants direction, control, supervision, retention and/or discharge.

2. Subconsultants

All services provided by the Subconsultants shall be performed pursuant to appropriate written agreements between the Consultant and the Subconsultants, which shall contain provisions that preserve and protect the rights of the City under this Contract. Nothing contained in this Contract shall create any contractual or business relationship between the City and the Subconsultants. The Consultant acknowledges that Subconsultants are entirely under its direction, control, supervision, retention and/or discharge

The Design-Build Firm shall not add, modify, or change the Consultant or any Subconsultant listed in Form A without prior written approval by the Director or designee, in response to a written request from the Design-Build Firm stating the reasons for any proposed substitution.

3. Ownership of Documents

All tracings, plans, drawings, specifications, maps, computer files, and/or reports prepared or obtained under this Contract, as well as all data collected, together with summaries and charts derived therefrom, including all electronic digital copies will be considered works made for hire and will, based on incremental transfer wherein the above shall become the property of the City upon payments made to the Design-Build Firm or termination of this

Contract without restriction or limitation on their use, and will be made available, on request, to City at any time during the performance of such services and/or upon completion or termination of this Contract. Consultant and/or the Design-Build Firm shall not copyright any material and products or patent any invention developed under this Contract. The City shall have the right to visit the site for inspection of the Work and the products of Consultant at any time. The Consultant shall be permitted to retain copies, including reproducible copies, solely for information and reference in connection with the City's use and occupancy of the Project.

4. Delivery upon Request or Cancellation

Failure of the Consultant to promptly deliver all such documents, both hard copy and digital, to the Director or designee within ten (10) days of cancellation, or within ten (10) days of request by the City, shall be just cause for the City to withhold payment of any fees due Consultant until Consultant delivers all such documents. Consultant shall have no recourse from these requirements.

5. Error and Omission Issues

Design-Build Firm is solely responsible for the coordination of the drawings and specifications and is solely responsible for all costs resulting from any errors and/or omissions in the drawings and specifications.

6. Design-Build Firm's Key Staff

The parties acknowledge that **Design-Build Firm** was selected by City, in part, on the basis of qualifications of particular staff identified in Design-Build Firm's response to City's solicitation, hereinafter referred to as "Key Staff". Design-Build Firm shall ensure that Key Staff, including Consultant and Subconsultant Key Staff are available for Work hereunder as long as said Key Staff is in Design-Build or Consultant's employ. Design-Build Firm will obtain prior written acceptance of Director or designee to change Key Staff. Design-Build Firm shall provide Director, or designee with such information as necessary to determine the suitability of proposed new Key Staff. Director will act reasonably in evaluating Key Staff qualifications. Such acceptance shall not constitute any responsibility or liability for the individual's ability to perform. Key Staff shall be listed Key Staff in Form B

7. Truth-In-Negotiation Certificate

By executing the Contract the Design-Build Firm certifies that wage rates and other factual unit costs supporting the cost of the Project are accurate, complete, and current at the time of Notice to Proceed. The original Project price and any addition thereto will be adjusted to exclude any significant sums by which the City determines the Contract Price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such price adjustments will be made within 1 year following the end of the Project.

8. Re-Use by City

It is understood that all Design-Build contract and/or Work Orders for new design Work will include the provision for the re-use of plans and specifications, including construction drawings, at the City's sole option, and by virtue of signing this Contract the Design-build Firm and the Consultant agrees to such re-use in accordance with this provision without the necessity of further approvals, compensation, fees or documents being required and without recourse for such re-use. The Design-Build Firm and Consultant will not be liable

for re-use by the City of plans, documents, studies, or other data for any purpose other than that intended by the terms and conditions of this Contract.

9. Scope of Services

The Design-Build Firm agrees to provide comprehensive professional services in accordance with all applicable law and building and environmental regulations, including the Florida Building Code, FDOT standards, and the City of Miami, Florida, Code of Ordinances, and as set forth in the Contract Documents. Design-Build Firm shall furnish, as Basic Services, comprehensive professional services for the Projects including, but not limited to those described in Article 10, Basic Services.

10. Basic Services

Design-Build Firm agrees to provide complete Professional Services as set forth in the tasks enumerated hereinafter, in accordance with the Florida Building Code, latest edition, all federal, state, county and City of Miami, Florida, Laws, Codes and Ordinances. Design-Build Firm shall maintain an adequate staff of qualified personnel on the Work at all times to ensure its performance as specified in the Contract.

Design-Build Firm shall submit at least one (1) electronic set of all documents and five (5) copies of documents required under this Article, without additional charge, for review and approval by City. Design-Build Firm shall not proceed with the next task of the design Work until the documents have been approved, in writing, by City, and an Authorization to Proceed with the next task has been issued by City.

These services, hereinafter referred to as "Basic Services" are summarized as follows:

10.1 DEVELOPMENT OF OBJECTIVES

10.1.1

Design-Build Firm shall confer with representatives of City, the Project Manager, and other jurisdictional agencies to develop several options for how the various elements of the project will be designed and constructed based on the scope of services.

10.2 CONSTRUCTION DOCUMENTS

Design-Build Firm shall produce 50%, 90% and Final Construction Documents (100%) for review and approval by City, which shall include the following:

1. Design-Build Firm shall not proceed with further construction document development until approval of the previously submitted documents is received in writing from City. Approval by City shall be for progress only and does not relieve Design-Build Firm of its responsibilities and liabilities relative to code compliance and to other covenants contained in this Contract. Design-Build Firm shall resolve all questions indicated on the documents and make all changes to the documents necessary in response to the review commentary. The previously submitted documents review (check) set shall be returned to City upon submission of subsequent submittal and Design-Build Firm shall provide an appropriate response to all review comments noted on these previously submitted documents.

Design-Build Firm shall submit four (2) full size copies of the drawings and specifications, and one digital copy in .pdf format, plot, and .dwg formats.

10.2.1 Permitting

The Design-Build Firm shall file and follow-up for building permits at the earliest practicable time during the performance of the Work, the necessary portions of the

Construction Documents for approval by City, County, State and/or Federal authorities having jurisdiction over the Project by law or contract with the City, and must coordinate in obtaining any such applicable certifications of permit approval by such authorities prior to approval by CITP of the final set and printing of the Construction Documents for the applicable portion of the Work. The Design-Build Firm shall promptly, at any time during the performance of the Work hereunder, advise the City of any substantial increases in costs set forth in the Statement of Probable Construction Cost that in the opinion of the Design-Build Firm is caused by the requirement(s) of such reviews by the permitting entities.

Upon completion of dry run permitting by the permitting entities shall provide two (2) full size sealed copies of the drawings and specifications. By the permitting entities shall also provide digital versions of the drawings in .dwg, and .pdf formats. The specification additional terms and conditions shall be provided in both .pdf and .doc formats.

10.3 ADMINISTRATION OF THE CONSTRUCTION CONTRACT

10.3.1

The Construction Phase will begin upon commencement of construction and will end when the Design-Build Firm has provided to the City all post construction services, including documents, As-Built drawings, Design-Build Firm's record drawings, warranties, guarantees, operational manuals, and Certificate(s) of Occupancy have been delivered to the City and the City approves the final payment to the Design-Build Firm. During this period, the Design-Build Firm shall provide administration of the construction contract as provided by this Contract, and as provided by law.

10.3.2

The Consultant, as the representative of the City during the Construction Phase, shall advise and consult with the City and shall have the authority to act on behalf of the City to the extent provided in the General Conditions and the Supplementary Conditions of the construction contract and their agreement with the City.

10.3.3

The City or its, respective representatives shall visit the site to conduct field observations, at a minimum on a weekly basis, and at all key construction events; to ascertain the progress of the Project and shall visit the site as appropriate to conduct field inspections to ascertain the progress of the Project and determine, in general, if the Work is proceeding in accordance with the Contract Documents. The Consultant shall provide any site visits necessary for certification if required by the authorities having jurisdiction. Threshold inspection shall be provided by the Design-Build Firm at no additional cost to the City. The City or its representatives shall report on the progress the Work, including any defects and deficiencies that may be observed in the Work. The Consultant will be responsible for writing minutes of all meetings and field inspections report, as well as the distribution of the minutes. Consultant and Subconsultants will not be held responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work.

10.3.4

The Project Manager shall furnish the City with a written report of all observations of the Work made by the Design Build Firm. The Consultant shall also note the general status and progress of the Work on forms furnished or approved by the City. The Consultant shall submit the reports by weekly. The Project Manager shall ascertain that the Work is acceptable to the City. The Project Manager will determine if the Work is being performed

in accordance with the scope of services. The Project Manager shall assist in ensuring that the Design-Build Firm is making timely, accurate, and complete notations on the "as-built" drawings. Copies of the field reports shall be submitted on a monthly basis. The Design – Build Firm's failure to provide written reports of all site visits or minutes of meeting shall result in the rejection of payment requests by the Design-Build Firm and may result in a proportional reduction in Construction Administration fees paid to the Design-Build Firm.

10.3.5

1. Based on observations at the site and consultation with the City, the Consultant shall determine the amount due the Design-Build Firm based on the approved schedule of values and shall recommend approval of such amount as appropriate. This recommendation shall constitute a representation by the Consultant to the City that, to the best of the Consultant's knowledge, information and belief, the Work has progressed to the point indicated and that, the quality of the Work is in accordance with the Contract and the Design-Build Firm is entitled to amount stated on the requisition subject to: a detailed evaluation of the Work for conformance with the contract upon substantial completion;
2. the results of any subsequent tests required by the contract;
3. minor deviations from the contract correctable prior to completion;
4. Any specific qualifications stated in the payment certificate and further that the Design-Build Firm is entitled to payment in the amount agreed upon at a requisition site meeting or as stated on the requisition.

Prior to recommending payment to the Design-Build Firm, the Consultant will prepare a written statement to the City on the status of the Work relative to the Construction Schedule, which shall be attached to the Design-Build Firm's payment application. Such statement shall be prepared immediately following the requisition field meeting. By recommending approval of a Payment Certificate, the Consultant shall not be deemed to represent that the Consultant has made any examination to ascertain how and for what purpose the Design-Build Firm has used money paid on account of the Construction Contract Price.

10.3.6

The Consultant shall be the interpreter of the requirements of the Contract Documents and the judge of the performance thereunder. The Consultant shall render interpretations necessary for the proper execution or progress of the Work upon written request of either the City or the Design-Build Firm, and shall render written decisions, within maximum of ten (10) calendar days, on all claims, disputes and other matters in question between the City and the Design-Build Firm relating to the execution or progress of the Work. Interpretations and decisions of the Consultant shall be consistent with the intent of and reasonably inferable from, the Contract Documents and shall be in written or graphic form.

10.3.7

The Consultant shall have the authority to recommend rejection of Work, which does not conform to the Contract Documents. The Project Manager has the authority to reject Work where such Work does not comply with the project specifications. Whenever, in his/her reasonable opinion, the Consultant considers it necessary or advisable to insure compliance with the Contract Documents, the Consultant will have the authority to recommend special inspection or testing of any Work deemed to be not in accordance with the Contract, whether or not such Work has been fabricated and/or delivered to the Project, or installed and completed.

10.3.8

The Consultant shall promptly review and approve, reject or take action on shop drawings, samples, RFIs and other submissions of the Design-Build Firm. Changes or substitutions to the construction documents shall not be authorized without concurrence of the City's Project Manager and/or Director of Capital Improvements. The Consultant shall upon receipt of shop drawings, samples, RFI's or other submittals by the Design-Build Firm, timely review and return the shop drawings or submittals to the Design-Build Firm with comments indicating either approval or disapproval, with a copy to the Project Manager. Consultant shall provide the Design-Build Firm and the Project Manager with a detailed written explanation as to the basis for rejection.

10.3.9

The Consultant shall initiate and prepare required documentation for changes as required by the Consultant's own observations or as requested by the City, and shall review and recommend action on proposed changes. Where the Design-Build Firm submits a request for Change Order or Change Proposal request, the Consultant shall, within ten (10) calendar days, review and submit to the City, his/her recommendation or proposed action along with an analysis and/or study supporting such recommendation.

10.3.10

The Consultant in conjunction with the City shall examine the Work upon receipt of the Design-Build Firm's request for substantial completion inspection of the Project and shall, prior to acceptance by the City, recommend execution of a "Certificate of Acceptance for Substantial Completion after first ascertaining that the Project is substantially complete in accordance with the contract requirements. The Consultant shall in conjunction with representatives of the City and the Design-Build Firm prepare a punch list of any defects and discrepancies in the Work required to be corrected by the Design-Build Firm in accordance with Florida Statute 218.735. Upon satisfactory completion of the punch list the Consultant shall recommend execution of a "Certificate of Final Acceptance" and final payment to the Design-Build Firm. Upon satisfactory completion of all items on the punch list all necessary closeout documentation shall be submitted by the Design-Build Firm, including but not limited to all guarantees, releases of liens/claims and such other documents and certificates as may be required by applicable codes, law, and the Contract before final acceptance shall be issued to the Design-Build Firm.

10.3.11

The Consultant shall review the Design-Build Firm's "as built" drawings and submit them to the City upon approval by the Consultant. The Design-Build Firm is responsible for preparing the "as built" drawings.

10.3.12

The Design-Build Firm shall furnish to the City the original documents, including drawings, revised to "as-built" conditions. In preparing the "Record Set" documents any certification required under this Contract including the contents of "as-built" documents is conditioned upon the accuracy of the information and documents provided by the Design-Build Firm. The original documents as well as the "Record Set" shall become the property of the City. A reproducible set of all other final documents will be furnished to the City free of charge by the Design-Build Firm. The Design-Build Firm shall furnish to the City one complete set of "Record Set Drawings", in Auto CADD Version 2000 or such other format acceptable to the City.

11. Basis of Design

It is imperative that the City understands the implications of design decisions made during the design process. Especially in the early stages of design, it is important that the Design-Build Firm provide insights into the implications of a given choice,

12. Additional Design Services

Additional design services shall be handled as a Change Order to the Contract. Additional Design Services shall be for the provision of Professional Services requested by the City that were not included in the approved design documents or within the Basic Services contained in the Contract. Upon request of the City the Design-Build Firm will prepare and submit a Change Order Proposal, which shall include the deliverables and costs. The breakdown of the costs shall be provided on the City' Work Order Form spreadsheet.

DRAFT

Section 6- Contract Execution Form

THIS Contract _____ (contract number) made this ___ day of _____ in the year 2012 by and between THE CITY OF MIAMI, FLORIDA, hereinafter called the "CITY," and (name of Design-Build Firm)

IN WITNESS WHEREOF, the parties have executed this Contract as of the day and year first above written.

WITNESS/ATTEST

(DESIGN-BUILD FIRM NAME)

Signature

Signature

Print Name, Title

Print Name, Title of Authorized Officer or Official

ATTEST:

(Corporate Seal)

DESIGN-BUILD FIRM Secretary
(Affirm DESIGN-BUILD FIRM Seal, if available)

ATTEST:

City of Miami, a municipal corporation of the State of Florida

Todd Hannon, City Clerk

Daniel J. Alfonso, City Manager

APPROVED AS TO INSURANCE REQUIREMENTS:

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

Ann-Marie Sharpe, Interim Director
Risk Management Department

Victoria Méndez
City Attorney

CORPORATE RESOLUTION

WHEREAS, _____, Inc. desires to enter into a contract with the City of Miami for the purpose of performing the work described in the contract to which this resolution is attached; and

WHEREAS, the Board of Directors at a duly held corporate meeting has considered the matter in accordance with the By-Laws of the corporation;

Now, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS that the _____,
(type title of officer)

_____, is hereby authorized
(type name of officer)

and instructed to enter into a contract, in the name and on behalf of this corporation, with the City of Miami upon the terms contained in the proposed contract to which this resolution is attached and to execute the corresponding performance bond.

DATED this _____ day of _____, 20_____.

Corporate Secretary

(Corporate Seal)

FORM OF PERFORMANCE BOND (Page 1 of 2)

BY THIS BOND, We _____, as Principal, hereinafter called Design-Build Firm, and _____, as Surety, are bound to the City of Miami, Florida, as Obligee, hereinafter called City, in the amount of _____ Dollars (\$_____) for the payment whereof Design-Build Firm and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, Design-Build Firm has by written agreement entered into a Contract, Bid No: 11-12-029, awarded the _____ day of _____, 20____, with City which Contract Documents are by reference incorporated herein and made a part hereof, and specifically include provision for liquidated damages, and other damages identified, and for the purposes of this Bond are hereafter referred to as the "Contract";

THE CONDITION OF THIS BOND is that if Design-Build Firm:

1. Performs the Contract between Design-Build Firm and City for construction of _____, the Contract being made a part of this Bond by reference, at the times and in the manner prescribed in the Contract; and
2. Pays City all losses, liquidated damages, expenses, costs and attorney's fees including appellate proceedings, that City sustains as a result of default by Design-Build Firm under the Contract; and
3. Performs the guarantee of all Work and materials furnished under the Contract for the time specified in the Contract; then THIS BOND IS VOID, OTHERWISE IT REMAINS IN FULL FORCE AND EFFECT.
4. Whenever Design-Build Firm shall be, and declared by City to be, in default under the Contract, City having performed City obligations hereunder, the Surety may promptly remedy the default, or shall promptly:
 - 4.1. Complete the Project in accordance with the terms and conditions of the Contract Documents; or

FORM OF PERFORMANCE BOND (Page 2 of 2)

4.2. Obtain a bid or bids for completing the Project in accordance with the terms and conditions of the Contract Documents, and upon determination by Surety of the lowest responsible Bidder, or, if City elects, upon determination by City and Surety jointly of the lowest responsible Bidder, arrange for a contract between such Bidder and City, and make available as Work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by City to Design-Build Firm under the Contract and any amendments thereto, less the amount properly paid by City to Design-Build Firm.

No right of action shall accrue on this bond to or for the use of any person or corporation other than City named herein.

The Surety hereby waives notice of and agrees that any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect Surety's obligation under this Bond.

Signed and sealed this _____ day of _____, 20_____.

WITNESSES:

(Name of Corporation)

Secretary
(CORPORATE SEAL)

By: _____
(Signature)

(Print Name and Title)

IN THE PRESENCE OF:

INSURANCE COMPANY:

By: _____
Agent and Attorney-in-Fact

Address: _____
(Street)

(City/State/Zip Code)

Telephone No.: _____

FORM OF PAYMENT BOND (Page 1 of 2)

BY THIS BOND, We _____, as Principal, hereinafter called Design-Build Firm, and _____, as Surety, are bound to the City of Miami, Florida, as Obligee, hereinafter called City, in the amount of _____ Dollars (\$_____) for the payment whereof Design-Build Firm and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, Design-Build Firm has by written agreement entered into a Contract, Bid/Contract No., awarded the _____ day of _____, 20____, with City which Contract Documents are by reference incorporated herein and made a part hereof, and specifically include provision for liquidated damages, and other damages identified, and for the purposes of this Bond are hereafter referred to as the "Contract";

THE CONDITION OF THIS BOND is that if Design-Build Firm:

1. Pays City all losses, liquidated damages, expenses, costs and attorney's fees including appellate proceedings, that City sustains because of default by Design-Build Firm under the Contract; and
2. Promptly makes payments to all claimants as defined by Florida Statute 255.05(1) for all labor, materials and supplies used directly or indirectly by Design-Build Firm in the performance of the Contract;

THEN DESIGN-BUILD FIRM'S OBLIGATION SHALL BE VOID; OTHERWISE, IT SHALL REMAIN IN FULL FORCE AND EFFECT SUBJECT, HOWEVER, TO THE FOLLOWING CONDITIONS:

- 2.1. A claimant, except a laborer, who is not in privity with Design-Build Firm and who has not received payment for its labor, materials, or supplies shall, within forty-five (45) days after beginning to furnish labor, materials, or supplies for the prosecution of the Work, furnish to Design-Build Firm a notice that he intends to look to the bond for protection.
- 2.2. A claimant who is not in privity with Design-Build Firm and who has not received payment for its labor, materials, or supplies shall, within ninety (90) days after performance of the labor or after complete delivery of the materials or supplies, deliver to Design-Build Firm and to the Surety, written notice of the performance of the labor or delivery of the materials or supplies and of the nonpayment.
- 2.3. No action for the labor, materials, or supplies may be instituted against Design-Build Firm or the Surety unless the notices stated under the preceding conditions (2.1) and (2.2) have been given.
- 2.4. Any action under this Bond must be instituted in accordance with the longer of the applicable Notice and Time Limitations provisions prescribed in Section 255.05(2), or Section 95-11, Florida Statutes.

FORM OF PAYMENT BOND (Page 2 of 2)

The Surety hereby waives notice of and agrees that any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect the Surety's obligation under this Bond.

Signed and sealed this _____ day of _____, 20____.

Design-Build Firm

ATTEST:

(Name of Corporation)

(Secretary)

By: _____
(Signature)

(Corporate Seal)

(Print Name and Title)

_____ day of _____, 20____.

IN THE PRESENCE OF:

INSURANCE COMPANY:

By: _____
Agent and Attorney-in-Fact

Address: _____
(Street)

(City/State/Zip Code)

Telephone No.: _____

PERFORMANCE AND PAYMENT GUARANTY FORM

UNCONDITIONAL/IRREVOCABLE LETTER OF CREDIT: (Page 1 of 2)

Date of Issue _____

Issuing Bank's No. _____

Beneficiary:

City of Miami
444 SW 2nd Avenue
Miami, Florida 33130

Applicant:

Amount: _____
in United States Funds

Expiry:
(Date)

Bid/Contract Number _____

We hereby authorize you to draw on _____

at _____ by order
(Bank, Issuer name)
(branch address)

of and for the account of _____
(Design-Build Firm, applicant, customer)

up to an aggregate amount, in United States Funds, of _____ available by your drafts at sight, accompanied by:

1. A signed statement from the City Manager or his authorized designee, that the drawing is due to default in performance of certain obligations on the part of _____ (Design-Build Firm, applicant, customer) agreed upon by and between the City of Miami, Florida and _____ (Design-Build Firm, applicant, customer), pursuant to Bid/Contract No. _____ for _____ (name of project) and Section 255.05, Florida Statutes.

Drafts must be drawn and negotiated not later than _____.
(expiration date)

PERFORMANCE AND PAYMENT GUARANTY FORM

UNCONDITIONAL/IRREVOCABLE LETTER OF CREDIT: (Page 2 of 2)

Drafts must bear the clause: "Drawn under Letter of Credit No. _____ (Number), of _____ (Bank name) dated _____.

This Letter of Credit shall be renewed for successive periods of one (1) year each unless we provide the City of Miami with written notice of our intent to terminate the credit herein extended, which notice must be provided at least thirty (30) days prior to the expiration date of the original term hereof or any renewed one (1) year term. Notification to the City that this Letter of Credit will expire prior to performance of the Design-Build Firm's obligations will be deemed a default.

This Letter of Credit sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified, or amplified by reference to any documents, instrument, or agreement referred to herein or to which this Letter of Credit is referred or this Letter of Credit relates, and any such reference shall not be deemed to incorporate herein by reference any document, instrument, or agreement.

We hereby agree with the drawers, endorsers, and bona fide holders of all drafts drawn under and in compliance with the terms of this credit that such drafts will be duly honored upon presentation to the drawee.

Obligations under this Letter of Credit shall be released one (1) year after the Final Completion of the Project by the _____.

(Design-Build Firm, applicant, customer)

This Credit is subject to the "Uniform Customs and Practice for Documentary Credits," International Chamber of Commerce (1993 revision), Publication No. 500 and to the provisions of Florida law. If a conflict between the Uniform Customs and Practice for Documentary Credits and Florida law should arise, Florida law shall prevail. If a conflict between the law of another state or country and Florida law should arise, Florida law shall prevail.

Authorized Signature

FORM A. - SUBCONSULTANTS

FIRM NAME	CONSULTING FIELD

DRAFT

