

BID NO. 09-10-010

**NW 14TH STREET MULTIMEDIA ENTERTAINMENT DISTRICT
STREETScape PROJECT**

CIP PROJECT NO. : B- 30394

Due Date: Monday, March 22, 2010

Due Time: 2:00 P.M.



Mayor Tomas P. Regalado

Commissioner Wilfredo (Willy) Gort, District 1

Commissioner Marc Sarnoff, District 2

Commissioner Frank Carollo, District 3

Commissioner Francis Suarez, District 4

Commissioner Richard P. Dunn, District 5

City Manager, Pedro G. Hernandez, P.E.

Issued By:

City of Miami

Capital Improvements Program

444 SW 2nd Avenue, 8th Floor

Miami, FL 33130

TABLE OF CONTENTS

NOTICE TO CONTRACTORS 6

Section 1 – Instructions for Submission 7

 1. **Intention of City..... 7**

 2. **Scope of Work..... 7**

 3. **Location of Project(s) 7**

 4. **Performance of the Work 7**

 5. **Examination of Contract Documents and Site 7**

 6. **Addendum 8**

 7. **Bid Submission..... 8**

 8. **Bid Guaranty 8**

 9. **Preparation of Bid..... 9**

 10. **Pre-Bid Conference..... 9**

 11. **Postponement of Bid Opening Date..... 9**

 12. **Acceptance or Rejection of Bids 9**

 13. **Environmental Regulations..... 10**

 14. **Bid Award 10**

 15. **Bid Protest 10**

 16. **Local, Small, and Disadvantaged Firm Participation 11**

 17. **First Source Hiring Agreements 11**

 18. **Subcontractor and Small Business Participation Reporting 12**

 19. **Cone of Silence 12**

 20. **Public Entity Crime 12**

 21. **Fraud and Misrepresentation 12**

 22. **Collusion..... 12**

 23. **Contractor in Arrears of Default 13**

 24. **Cancellation of Solicitation 13**

Section 2 – General Terms and Conditions 14

 1. **Definitions 14**

 2. **Time is of the Essence 16**

 3. **Contract Term 16**

 4. **Notices 16**

 5. **Priority of Provisions..... 17**

 6. **Indemnification..... 17**

 7. **Insurance 18**

 8. **Performance and Payment Bond..... 21**

 9. **Qualification of Surety..... 22**

 10. **General Requirements..... 23**

 11. **Method of Performing the Work..... 24**

 12. **Work Staging and Phasing..... 24**

 13. **Site Investigation and Representation 24**

 14. **Contractor to Check Plans, Specifications and Data 25**

 15. **Contractor's Responsibility for Damages and Accidents 25**

 16. **Accidents 26**

 17. **Safety Precautions 26**

 18. **Occupational Health and Safety 27**

 19. **Labor and Materials 27**

 20. **Rules, Regulations, and Licenses 27**

21. Consultant Services..... 27

22. Project Management..... 28

23. Superintendence and Supervision 28

24. Subcontractors..... 29

25. Authority of the Project Manager..... 29

26. Inspection of Work..... 30

27. Taxes..... 31

28. Separate Contracts 31

29. Lands of Work 31

30. Coordination of Work 32

31. Differing Site Conditions 32

32. Existing Utilities 32

33. Contractor’s Responsibility for Utility Properties and Service 33

34. Interfering Structures 33

35. Field Relocation 34

36. Contractor’s Use of Project Site(s)..... 34

37. Warranty of Materials and Equipment..... 34

38. Material and Equipment Shipment, Handling, Storage and Protection..... 34

39. Manufacturer’s Instructions 36

40. Manufacturer’s Warranty..... 37

41. Reference Standards 37

42. Submittals..... 37

43. Shop Drawings..... 38

44. Product Data..... 40

45. Samples 40

46. Record Set 40

47. Supplemental Drawings and Instructions..... 40

48. Contractor Furnished Drawings 40

49. Substitutions 41

50. City Furnished Drawings..... 42

51. Interpretation of Drawings and Documents..... 42

52. Product and Material Testing..... 42

53. Field Directives..... 43

54. Changes in the Work or Contract Documents..... 43

55. Continuing the Work..... 43

56. Change Orders 43

57. Change Order Procedure 44

58. No Oral Changes 45

59. Value of Change Order Work 45

60. Extra Work Directive 47

61. As-Built Drawings 48

62. Worker’s Identification 49

63. Removal of Unsatisfactory Personnel..... 49

64. Substantial Completion, Punch List, & Final Completion 49

65. Acceptance and Final Payment 50

66. NDPES Requirements..... 51

67. Force Majeure..... 51

68. Extension of Time 51

69. Notification of Claim 53

70. Extension of Time not Cumulative 53

71. Contractor’s Damages for Delay..... 53

72. Excusable Delay, Non-Compensable 54

73. Lines and Grades.....54

74. Defective Work.....54

75. Acceptance of Defective or Non-Conforming Work..... 54

76. Uncovering Finished Work..... 55

77. Correction of Work..... 55

78. Maintenance of Traffic and Public Streets..... 55

79. Location and Damage to Existing Facilities, Equipment or Utilities 57

80. Stop Work Order 57

81. Hurricane Preparedness..... 58

82. Use of Completed Portions 58

83. Cleaning Up; City’s Right to Clean Up 59

84. Removal of Equipment 59

85. Set-offs, Withholdings, and Deductions 59

86. Event of Default..... 59

87. Notice of Default-Opportunity to Cure 60

88. Termination for Default..... 60

89. Remedies in the Event of Termination for Default 62

90. Termination for Convenience..... 61

91. Resolution of Disputes 62

92. Mediation-Waiver of Jury Trial..... 63

93. City May Avail Itself of All Remedies..... 63

94. Permits, Licenses and Impact Fees..... 63

95. Compliance with Applicable Laws..... 64

96. Independent Contractor 64

97. Third Party Beneficiaries..... 64

98. Successors and Assigns..... 64

99. Materiality and Waiver of Breach..... 65

100. Severability..... 65

101. Applicable Law and Venue of Litigation 65

102. Amendments 65

103. Entire Agreement 65

104. Nondiscrimination, Equal Employment Opportunity, and Americans with Disabilities Act 66

105. Evaluation..... 66

106. Commodities manufactured, grown, or produced in the City of Miami, Miami -Dade County and the State of Florida.....66

107. Royalties and Patents..... 66

108. Continuation of the Work 66

109. Review of Records..... 66

110. No Interest 67

111. Payments Related to Guaranteed Obligations 67

112. Consent of City Required for Subletting or Assignment..... 67

113. Agreement Limiting Time in Which to Bring Action Against the City 67

114. Defense of Claims 68

115. Contingency Clause..... 68

116. Mutual Obligations..... 68

117. Contract Extension 68

118. Non-Exclusivity 68

119.	<u>Nature of the Agreement</u>	68
120.	<u>Contract Documents Contains all Terms</u>	69
121.	<u>Applicable Law and Venue of Litigation</u>	69
122.	<u>Survival</u>	69
Section 3 - Supplemental Terms and Conditions		70
1.	<u>Contract Time & Hours</u>	70
2.	<u>LEED Certification (Not Applicable)</u>	70
3.	<u>Progress Payments</u>	70
4.	<u>Liquidated Damages</u>	71
5.	<u>Schedule of Values</u>	71
6.	<u>Project Schedules</u>	72
7.	<u>Release of Liens/Subcontractor's Statement of Satisfaction</u>	73
8.	<u>Progress Meetings</u>	73
9.	<u>Request for Information</u>	73
10.	<u>Project Site Facilities</u>	74
11.	<u>Security</u>	75
12.	<u>Construction Signage</u>	75
13.	<u>Construction Photographs</u>	
14.	<u>City Furnished Property</u>	
Section 4 - Bid Forms		77
1.	<u>Affirmative Action Plan</u>	79
2.	<u>First Source Hiring</u>	79
3.	<u>Non-Collusion</u>	79
4.	<u>Drug Free Workplace</u>	79
5.	<u>Lobbying</u>	80
6.	<u>Debarment, Suspension and Other Responsibility Matters</u>	
	<u>Certification – Trench Safety Act</u>	81
7.	<u>Certificate of Authority</u>	85
8.	<u>Certificate of Authority (if joint venture)</u>	85
9.	<u>Certificate of Authority (if individual)</u>	85
Section 5- Attachments		85
BID BOND FORM		
(Page 1 of 3)		85
<u>CERTIFICATE AS TO CORPORATE PRINCIPAL</u>		89
<u>SUPPLEMENT TO BID FORM:</u>		88
<u>QUESTIONNAIRE</u>		88
<u>SUPPLEMENT TO BID FORM:</u>		94
<u>OFFICE LOCATION AFFIDAVIT (Page 1 of 2)</u>		94
<u>SUPPLEMENT TO BID FORM:</u>		95
Section 6 – Contract		99
<u>CORPORATE RESOLUTION</u>		97
<u>FORM OF PERFORMANCE BOND (Page 1of 2)</u>		98
<u>CERTIFICATE AS TO CORPORATE PRINCIPAL</u>		102
<u>PERFORMANCE AND PAYMENT GUARANTY FORM</u>		103
<u>UNCONDITIONAL/IRREVOCABLE LETTER OF CREDIT (Page 1 of 2)</u>		103
<u>PERFORMANCE AND PAYMENT GUARANTY FORM</u>		104
<u>JOINT VENTURE FORM</u>		106



INVITATION TO BID NO. 09-10-010

NOTICE TO CONTRACTORS

Sealed bids will be received by the **City of Miami, Office of the City Clerk, City Hall, 1st Floor, 3500 Pan American Drive, Miami, Florida 33133-5504** for:

NW 14th Street Multimedia Entertainment District Streetscape Project, B-30394

Bids Due: Monday, March 22, 2010, AT 2:00 P.M.

Scope of Work: The Work consists of furnishing all materials, labor, and equipment necessary to achieve the following:

Scope of work includes but is not limited to the installation of a 12 – inch ductile iron water main along NW/NE 14th street from the FEC railroad to NE 2nd Ave., new roadway reconstruction, new sidewalks, new storm water system, signing and pavement markings, landscape and hardscape. Along N 14 street from NE 2nd Ave to NE 1st Avenue the sidewalk will be constructed using the superblock Brick paver and design. The rest of the project will have standard patterned concrete sidewalk. N. Miami Avenue will be milled and resurfaced and sidewalk will be reconstructed from N 15th Street to the I-395 R/W line.

CIP has scheduled a non-mandatory pre-bid conference to be held at the following date, time and location:

Location: MRC Building, 10th Floor City Manager's Main Conference Room, 444 SW 2nd Avenue, Miami, Fl. 33130

Date/Time: Friday, March 5, 2010 at 10:00 AM

Minimum Requirements: Prospective Bidder shall hold a current valid certified license as a General Contractor from the State of Florida **and/or** a Miami-Dade County General Engineering License and must have a minimum of five (5) years experience under its current business name, in the construction of similar projects including five (5) separate project references of similar size, scope, and complexity, supported by references within the past five (5) years. The Bidder must self-perform at least thirty percent (30%) of the physical construction work.

The Bid documents can only be obtained by visiting the Capital Improvements Program's website; <http://www.miamigov.com/CapitalImprovements/pages/ProcurementOpportunities/Default.asp> on or after, **February 19, 2010**, from the City of Miami Capital Improvements Program (CIP), at 444 SW 2nd Avenue, 8th Floor, Miami, Florida 33130. Please contact Cecelia Wilson at cwilson@miamigov.com to obtain a CD ROM. **It is the sole responsibility of all firms to ensure the receipt of any addendum and it is recommended that firms periodically check the CIP webpage for updates and the issuance of addenda at:**

<http://www.miamigov.com/CapitalImprovements/pages/ProcurementOpportunities/Default.asp>

All bids shall be submitted in accordance with the Instructions to Bidders. Bids must be submitted in duplicate originals, at the time, date, and place above, bids will be publicly opened. **Any bids received after time and date specified will not be considered.** The responsibility for submitting a bid/proposal before the stated time and date is solely and strictly the responsibility of the bidder/Bidder. The City is not responsible for any delay no matter what the cause.

YOU ARE HEREBY ADVISED THAT THIS INVITATION TO BID IS SUBJECT TO THE "CONE OF SILENCE," IN ACCORDANCE WITH ORDINANCE NO. 12271.

Section 1 – Instructions for Submission

1. Intention of City

It is the intention of City to describe in this Invitation to Bid (“ITB”) the Project(s) to be completed in accordance with all codes and regulations governing all the Work to be performed under this Contract(s). Any work, labor, materials and/or equipment that may reasonably be inferred from the Contract as being required to produce the intended results shall be supplied by Contractor whether or not specifically called for in the Contract Documents. Where words, which have well-known technical or trade meanings are used to describe Work, materials or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals, or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or laws or regulations in effect at the time of opening of Bids and Contractor shall comply therewith. City shall have no duties other than those duties and obligations expressly set forth within the Contract Documents.

2. Scope of Work

The Work specified in this Bid consists of furnishing all labor, machinery, tools, means of transportation, supplies, equipment, materials, and services, and incidentals necessary to perform the following Work at a rate of progress that will ensure completion of the Work within the stipulated Contract Time.

Scope of work includes but is not limited to the installation of a 12 – inch ductile iron water main along NW/NE 14th street from the FEC railroad to NE 2nd Ave., new roadway reconstruction, new sidewalks, new storm water system, signing and pavement markings, landscape and hardscape. Along N 14 street from NE 2nd Ave to NE 1st Avenue the sidewalk will be constructed using the superblock Brick paver and design. The rest of the project will have standard patterned concrete sidewalk. N. Miami Avenue will be milled and resurfaced and sidewalk will be reconstructed from N 15th Street to the I-395 R/W line.

3. Location of Project(s)

NW 14th Street from NE 2nd Avenue to FEC Track. North Miami Avenue from NW 15th Street to I-395 right-of-way line.)

4. Performance of the Work

Bidder must be capable of self- performing at least thirty percent (30%) of the physical construction Work. By submitting a Bid the Bidder certifies that it will utilize its own employees to meet this requirement. As part of the Bid, the Bidder must include the form entitled “Questionnaire”. Failure to complete and submit this form or to meet this requirement shall result in the Bid being deemed non-responsive. Where the City determines that the Contractor is not meeting the minimum self-performance requirement during the performance of the Work, then the Contractor shall be deemed in default of the Contract and the City reserves the right to take any necessary and appropriate action permitted by law or by the Contract Documents.

5. Examination of Contract Documents and Site

It is the responsibility of each Bidder, before submitting a response to this ITB to:

- Carefully review the ITB, including any Addendum and notify the City of all conflicts, errors or discrepancies.
- Visit the site(s) or structure(s) to become familiar with conditions that may affect costs, progress, performance or furnishing of the Work.
- Take into account federal, state and local (City and Miami-Dade County including, without limitation the City Purchasing Ordinance and Florida Building Code) laws, regulations, ordinances that may affect a Bidder's ability to perform the Work.
- Study and carefully correlate Contractor's observations with the requirements of the ITB.

The submission of a Bid in response to this solicitation shall constitute an incontrovertible representation by Bidder that it will comply with the requirements of the Contract Documents and that without exception, the response is premised upon performing and furnishing Work required under the Contract Documents and that the Contract Documents are sufficient in detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

6. Addendum

Only questions answered by written Addendum will be binding. Oral and other interpretations or clarifications will be without legal binding effect and should not be relied upon in preparations of a Bid response. All questions about the meaning or intent of the Contract Documents are to be directed to the City's Capital Improvements Program (CIP) in writing, to the attention of Cecelia Wilson, cwilson@miamigov.com.

Interpretations or clarifications considered necessary by CIP in response to such questions will be issued by the City by means of Addendum posted on the CIP webpage. **Written questions should be received no less than ten (10) calendar days prior to the date Bids are due.** There shall be no obligation on the part of CIP to respond to questions received less than ten (10) calendar days prior to Bid opening.

7. Bid Submission

All Bids must be received by the City of Miami, City Clerk's office located at City Hall, First Floor, 3500 Pan American Drive, Miami, Fla. 33133, before the time and date specified for bid opening, enclosed in a sealed envelope, legibly marked on the outside:

BID NO.: 09-10-010
BIDS FOR: NW 14th Street Multimedia Entertainment District Streetscape Project, B-30394

Bidders must submit **two** originals. Failure to submit two originals may result in the rejection of the Bid as non-responsive.

NOTE: This Bid requires the submission of City Form SU, which is available on the CIP webpage, identified in the ITB. **Failure to submit City Form SU with the Bid will result in the Bid being rejected as non-responsive.**

8. Bid Guaranty

All Bids shall be accompanied by either an original Bid bond executed by a Surety meeting the requirements of the City, or by cash, money order, certified check, cashier's check, Unconditional/Irrevocable Letter of Credit, Bid Bond Voucher (for projects less than \$200,000) issued to City of Miami's Purchasing Department, treasurer's check or bank draft of any national or state bank (United States), in the amount of five percent 5% of the total Bid amount, payable to City of Miami, Florida, and conditioned upon the successful Bidder executing the Contract and providing the required Performance Bond and Payment Bond and evidence of required insurance within fifteen (15) calendar days after notification of award of the Contract. The time for execution of the Contract and provision of the

Performance Bond, Payment Bond and Certificate(s) of Insurance may be extended by the City's Capital Improvements Program at its sole discretion. Bid Securities of the unsuccessful Bidders will be returned after award of Contract. A PERSONAL CHECK OR A COMPANY CHECK OF A BIDDER SHALL NOT BE DEEMED A VALID BID SECURITY. Security of the successful Bidder shall be forfeited to the City as liquidated damages, not as a penalty, for the cost and expense incurred should said Bidder fail to execute the Contract, and provide the required Performance Bond.

9. Preparation of Bid

The Bid Forms contain one Project and the Bidder must provide a Unit Price Grand Total Amount to perform the Work required for the Project.

All Bids must be made upon the City forms available on the CIP website. The Bid must be signed and acknowledged by the Bidder in accordance with the directions on the ITB. Failure to utilize the City's forms, or fully complete said forms will result in a determination that the Bid is non-responsive

A Bid will be considered non-responsive if it is conditioned on modifications, changes, or revisions to the terms and conditions of the ITB.

The Bid is to include the furnishing of all labor, materials, overhead expense and profit, equipment including, but not limited to, tools, services, permit fees, applicable taxes, overhead and profit for the completion of the Work except as may be otherwise expressly provided in the Contract Documents.

Joint venture firms must complete and submit with their Bid the form titled "Information for Determining Joint Venture Eligibility", (**Form A**) and submit a copy of the formal agreement between all joint-venture parties. This joint venture agreement must indicate their respective roles, responsibilities and levels of participation for the Project. Failure to timely submit Form A, along with an attached written copy of the joint venture agreement may result in disqualification of the Bid. All joint venture firms must meet the requirements stipulated in the Florida Statutes.

10. Pre-Bid Conference (Site Visit to follow)

A non-mandatory conference and site visit will be held on Friday, March 5, 2010 @ 10:00 a.m., at the MRC Building, 10th Floor City Manager's Main Conference Room, 444 SW 2nd Avenue, Miami, FL 33130 to discuss this solicitation. Since space is limited, it is recommended that one representative of each firm attend in order to become familiar with the Solicitation and conditions of usage. Attendees are requested to bring this Solicitation package to the conference. Copies of the solicitation will not be available at the pre-bid conference.

11. Postponement of Bid Opening Date

The City reserves the right to postpone the date for receipt and opening of submissions and will make a reasonable effort to give prospective Bidders at least five (5) calendar days notice of any such postponement.

The City shall make reasonable efforts to issue addenda within five (5) calendar days prior to the due date.

12. Acceptance or Rejection of Bids

The City reserves the right to reject any or all Bids prior to award.

Reasonable efforts will be made to either award the Contract or reject all Bids within ninety (90) calendar days after Bid opening date. A Bidder may not withdraw its Bid unilaterally nor change the Contract Price before the expiration of one hundred twenty (120) calendar days from the date of bid opening. A Bidder may withdraw its Bid after the expiration of one hundred twenty (120) calendar days from the date of Bid opening by delivering written

notice of withdrawal to the Capital Improvements Program prior to award of the Contract by the City Commission. Once the City Commission makes the award, the Bid cannot be withdrawn under this Article.

13. Environmental Regulations

The City reserves the right to consider a Bidder's history of citations and/or violations of environmental regulations in investigating a Bidder's responsibility, and further reserves the right to declare a Bidder not responsible if the history of violations warrant such determination in the opinion of the City. Bidder shall submit with its Bid, a complete history of all citations and/or violations, notices and dispositions thereof. The failure to submit any such documentation shall be deemed to be an affirmation by the Bidder that there are no citations or violations. Bidders shall notify the City immediately upon receipt of any notice of any such citation or violation which Bidder may receive after the Submittal opening date and during performance of the Work under this Contract.

14. Bid Award

The City will issue the award of the Contract to the lowest responsive and responsible Bidder. The City may require demonstration of competency and, at its sole discretion, conduct site visits, require the Bidder to furnish documentation and/or require the contractor to attend a meeting to determine the Bidder's qualifications and ability to meet the terms and conditions of this Contract. The City shall consider, but not be limited to, such factors as financial capability, labor force, equipment, experience, knowledge of the trade work to be performed, the quantity of Work being performed by the Contractor and past performance on City projects.

City Code Section 18-85, states that the City may offer to a responsible and responsive bidder/proposer, who maintains a local office, the opportunity of accepting a bid at the low bid amount, if the original bid amount submitted by the local vendor is not more than ten percent (10%) in excess of the lowest other responsible and responsive bidder/proposer. A Post Office box or working from a private residence will not be considered as maintaining a local office, unless the owner of the private residence possesses a City of Miami Occupation Licenses for the business at the address of the private residence.

Where the solicitation contains multiple line items for separate projects or where the solicitation requires a Bidder to submit detailed price information or multiple line item pricing a Bid may be rejected as an unbalanced bid.

The Bidder must be able to demonstrate a good record of performance and have sufficient financial resources to ensure that it can satisfactorily provide the goods and/or services required herein.

The City, in its sole discretion, may determine a Bidder to be non-responsible where the Bidder has failed to perform in accordance with any other contracts with the City, past or current, or any other public entity or any other contract for construction services.

Any Bidder who at the time of submission is involved in an ongoing bankruptcy as a debtor, or in a reorganization, liquidation, or dissolution proceeding, or if a trustee or receiver has been appointed over all or a substantial portion of the property of the Bidder, under federal bankruptcy law or any state insolvency, the Bidder may be declared non-responsive.

Any Bidder who has filed a lawsuit against the City or where the City has filed a lawsuit or won a court judgment against a Bidder, such Bidder may be declared non-responsive.

15. Bid Protest

Any actual or prospective contractual party who feels aggrieved in connection with the solicitation or award of a contract may protest in writing to the Director of Purchasing/Chief Procurement Officer who shall have the authority, subject to the approval of the City Manager and the City Attorney, to settle and resolve a protest with final approval by the City

Commission. Bidders are alerted to Section 18-104 of the City's Code describing the protest procedures. Protests failing to meet the requirements for filing shall **NOT** be accepted. Failure of a party to timely file shall constitute a forfeiture of such party's right to file a protest. **NO EXCEPTIONS.**

16. Local, Small, and Disadvantaged Firm Participation

The City strongly encourages Contractors to secure the participation of small businesses, Community Small Business Enterprises (CSBE), and/or Disadvantaged Business Enterprises (DBE) that are currently registered with and/or certified by other governmental agencies within Florida, such as under programs in effect for the Florida Department of Transportation, Miami-Dade or Broward Counties, and the Miami Dade County Public Schools. Similarly, the City also strongly encourages Contractors to secure the participation of firms located within the City's jurisdictional limits. Forms are provided for this purpose.

17. First Source Hiring Agreements

Section 18-110 of the City Code states:

(a) The City Commission approves implementation of the first-source hiring agreement policy and requires as a condition precedent to the execution of service contracts for facilities, services, and/or receipt of grants and loans, for projects of a nature that create new jobs, the successful negotiation of first source hiring agreements between the organization or individual receiving said contract and the Authorized Representative unless such an agreement is found infeasible by the City Manager and such finding approved by the City Commission at a public hearing.

b) For the purpose of this section, the following terms, phrases, words and their derivations shall have the following meanings:

Authorized Representative means the Private Industry Council of South Florida/South Florida Employment and Training Consortium, or its successor as local recipient of federal and state training and employment funds.

Facilities means all publicly financed projects, including but without limitation, unified development projects, municipal public works, and municipal improvements to the extent they are financed through public money or services or the use of publicly owned property

Grants and loans means, without limitation, urban development action grants (UDAG), economic development agency construction loans, loans from Miami Capital Development, Incorporated, and all federal and state grants administered by the City.

Service contracts means contracts for the procurement of services by the City which include professional services.

Services include, without limitation, public works improvements, facilities, professional services, commodities, supplies, materials and equipment.

(c) The Authorized Representative shall negotiate each first source hiring agreement

(d) The primary beneficiaries of the first-source hiring agreement shall be participants of the City training and employment programs, and other residents of the City.

Contractors are strongly encouraged to identify opportunities to hire qualified City residents if a Contract is awarded, and are expected to secure the cooperation of subcontractors in this effort as well. Approved community agencies are available to assist with recruitment and screening of job applicants, and may periodically monitor contractors' employment

records during the term of the Contract. Resident job applicants are not expected to receive special consideration by the prospective employer, and must meet all hiring requirements normally imposed by the employer. During the term of the Contract, if awarded, the City may require the Contractor and its subcontractors to periodically review its manpower needs and resubmit First Source Hiring forms.

18. Subcontractor and Small Business Participation Reporting

The City is collecting data on the participation of local small business. Based on this ongoing effort the City requires that with the submission of the first payment requisition the Contractor shall submit a report, using the CIP form available on its webpage, on the use of Subcontractors. Such report shall include information on local and small business participation. Failure to submit the report may delay the issuance of payment to the Contractor. Contractor shall submit an updated report when a Subcontractor has been added or changed.

19. Cone of Silence

Pursuant to Section 18-74 of the City of Miami (“City Code”) and City of Miami Ordinance No. 12271, a “Cone of Silence” is imposed upon this ITB after advertisement and terminates at the time the City Manager issues a written recommendation to the Miami City Commission. The Cone of Silence prohibits any verbal communications regarding this ITB.

Any communication concerning this ITB must be submitted in writing to CIP and Bidders must file a copy of such written communications with the Office of the City Clerk. Written communications may be in the form of e-mail, with a copy to the Office of the City Clerk at marcia@miamigov.com.

This language is only an overview of the requirements of the Cone of Silence. Please review Section 18-74 of the City Code or City of Miami Ordinance No. 12271 for a complete and thorough description of the Cone of Silence. You may also contact the City Clerk at (305)-250-5360, to obtain a copy.

20. Public Entity Crime

Any person, individual, corporation, entity, or affiliate who has been placed on the convicted Bidder list following a conviction for a public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity, may not submit a Response on a contract with a public entity for the construction or repair of a public building or public works project, may not submit a response on a lease of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or Consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 of Florida Statutes for Category Two for a period of 36 months from the date of being placed on the convicted Bidder / Bidder list.

21. Fraud and Misrepresentation

Any person, individual, corporation, entity, or affiliate that attempts to meet its contractual obligations with the City through fraud, misrepresentation or material misstatement, may be debarred for up to five (5) years in accordance with the applicable provisions of the City Code. The City as a further sanction may terminate or cancel any other contracts with such individual, corporation or entity. Such individual or entity shall be responsible for all direct or indirect costs associated with termination or cancellation.

22. Collusion

Where two (2) or more related parties, as defined in this Article, each submit a response to an ITB, such submissions shall be presumed to be collusive. The foregoing presumption may be rebutted by the presentation of evidence as to the extent of ownership, control and management of such related parties in preparation and submission under such ITB.

Related parties shall mean employees, officers or the principals thereof which have a direct or indirect ownership interest in another firm or in which a parent company or the principals thereof of one Contractor have a direct or indirect ownership interest in another Contractor for the same project(s). ITB responses found to be collusive shall be rejected.

23. Contractor in Arrears of Default

The Contractor represents and warrants that the Contractor is not in arrears to the City and is not a defaulter as a surety or otherwise upon any obligation to the City. In addition the contractor warrants that the Contractor has not been declared “not responsible” or “disqualified” by or debarred from doing business with any state or local government entity in the State of Florida, the Federal Government or any other State/local governmental entity in the United States of America, nor is there any proceeding pending pertaining to the Contractor’s responsibility or qualification to receive public agreements. The Contractor considers this warrant as stated in this Article to be a continual obligation and shall inform the City of any change during the term of the Contract.

The City shall not consider and will deem as non-responsible Bids submitted by Bidders where the City has determined that the Bidder is in monetary arrears to the City or otherwise in debt or default to the City at the time and date Bids are due.

24. Cancellation of Solicitation

The City reserves the right to cancel, in whole or in part, any solicitation when it is in the best interest of the City. This determination will be at the discretion of the City and there will be no recourse from such cancellation.

Section 2 – General Terms and Conditions

1. Definitions

Basis of Design means a specific manufacturer's product that is named; including the make or model number or other designation, establishing the significant qualities related to type, function, dimension, in-service performance, physical properties, appearance, and other characteristics for purposes of evaluating comparable products of other manufacturers.

Bid means the response submitted by a bidder to this solicitation, which includes the price, authorized signature and all other information or documentation required by the Contract Documents at the time of submittal.

Bidder means any individual, firm, incorporated or unincorporated business entity, or corporation tendering a Submittal, acting directly or through a duly authorized representative.

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.

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

Consultant means a firm that has entered into a separate agreement with the City for the provision of design/engineering services for a Project.

Contract means the Invitation to Bid (ITB) solicitation and the Bid documents that have been executed by the Bidder and the City subsequent to approval of award by the City.

Contractor 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 through the award of an ITB.

Contract Documents means the Contract as may be amended from time to time, the plans and drawing, all addendum, clarifications, directives, change orders, payments and other such documents issued under or relating to the Project(s).

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.

Consultant means the Architect or Engineer of Record contracted by the City to prepare the plans and specifications for the Projects. Consultant may also be referred to as Architect or Engineer of Record.

Cure means the action taken by the Contractor 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 Contractor 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.

Design Documents means the construction plans and specifications included as part of this Bid prepared by the Consultant for this Project(s) under a separate Agreement with the City.

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

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.

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

Final Completion means the date subsequent to the date of Substantial Completion at which time the Contractor has completed all the Work in accordance with the Agreement as certified by the Consultant and/or the City and submitted all documentation required by the Contract Documents.

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

Materials mean goods or equipment incorporated in a Project(s), or used or consumed in the performance of the Work.

Notice of Award means the written letter to the Contractor notify the Contractor 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 Contractor may begin Work on the Project(s).

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

Project Or Work as used herein refers to all reasonably necessary and inferable 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 Contractor to fulfill 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 CIP to manage the Project(s).

Request For Information (RFI) means a request from the Contractor 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 Contractor's interpretation or understanding of the document(s) in question, along with the reason for such understanding.

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.

Specifications mean all of the definitions, instructions, descriptions, directions, requirements, provisions and standards (and all written supplements thereto) pertaining to the methods, (or manner) of performing and actual performance of the Work, or quantities and quality of accepted materials to be furnished under the Contract Documents.

Subcontractor means a person, firm or corporation having a direct contract with Contractor 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 Bidder to pre-qualify under this solicitation.

Substantial Completion means that point at which the Work is at a level of completion in substantial compliance with the Agreement 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.

2. **Time is of the Essence**

Contractor 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 Documents. 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 Documents.

All dates and periods of time set forth in the Contract Documents, 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.

Contractor acknowledges and recognizes that the City is entitled to full and beneficial occupancy and use of the completed Project 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 72, Excusable Delays, the Contractor understands that, except and only to the extent provided otherwise in the Contract Documents, the occurrence of events of delay within the Contractor's control, the Work shall not excuse the Contractor from its obligation to achieve full completion of the Work within the Contract Documents Time, and shall not entitle the Contractor to an adjustment. All parties under the control or contract with the Contractor shall include but are not limited to materialmen, Subcontractors, suppliers, and laborers.

The Contractor acknowledges that the City is purchasing the right to have the Contractor continuously working at the Project(s) site(s) for the full duration of the Project(s) 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. Gary Fabrikant,
Assistant Director
Capital Improvements Program
City of Miami
444 S.W. 2nd Avenue, - 8th Floor
Miami, Florida 33130

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

For Contractor:
(To Be Determined)

During the Work the Contractor shall maintain continuing communications with Consultant and the Project Manager. The Contractor 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 Consultant, or provision of the Contract Documents the following order of precedence shall apply:

In the event of conflicts in the Contract Documents the priorities stated below shall govern;

- Revisions and Change Orders to the Contract shall govern over the Contract
- The Contract Documents shall govern over the Contract
- Addendum to an ITB shall govern over an ITB

In the event of conflicts within the Contract Documents the priorities stated below shall govern:

- Scope of Work and Specifications shall govern over plans and drawings
- Schedules, when identified as such shall govern over all other portions of the plans
- Specific notes shall govern over all other notes, and all other portions of the plans, unless specifically stated otherwise
- Larger scale drawings shall govern over smaller scale drawings
- Figured or numerical dimensions shall govern over dimensions obtained by scaling
- Where provisions of codes, manufacturer's specifications or industry standards are in conflict, the more restrictive or higher quality shall govern

6. Indemnification

Contractor shall indemnify and hold harmless City, its officers, agents, directors, and employees, from liabilities, damages, losses, judgments, and costs, including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Contractor and persons employed or utilized by Contractor in the performance of this Contract. 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, Contractor shall, upon written notice from City, resist and defend such action or proceeding by counsel satisfactory to City. The Contractor expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City or its officers, employees, agents and instrumentalities as herein provided.

The indemnification provided above shall obligate Contractor to defend, at its own expense, to and through 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 Contractor, or persons employed or utilized by Contractor.

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 interpretation, which conforms to the limitations of §725.06 and/or §725.08, Fla. Statutes, as applicable.

Contractor shall require all Sub-Contractor agreements to include a provision that they will indemnify the City.

The Contractor agrees and recognizes that the City shall not be held liable or responsible for any claims which may result from any actions or omissions of the Contractor in which the City participated either through review or concurrence of the Contractor's actions. In reviewing, approving or rejecting any submissions by the Contractor or other acts of the Contractor, the City in no way assumes or shares any responsibility or liability of the Contractor or Sub-Contractor, 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 Contractor.

7. **Insurance**

Without limiting any of the other obligations or liabilities of Contractor, Contractor 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 coverage's set forth herein. Applicable coverage's are in **bold** and underlined.

7.1. **Workers' Compensation** insurance is to apply for all employees in compliance with the Statutory "Workers' Compensation Law" of the State of Florida and all applicable federal laws. In addition, the policy(ies) must include:

- Waiver of subrogation
- Statutory State of Florida
- Limits of Liability

7.2. **Employers' Liability** with a limit of **One Million Dollars (\$1,000,000.00)** Dollars each bodily injury caused by an accident, each accident. **One Million Dollars (\$1,000,000.00)** Dollars each bodily injury caused by disease, each employee. **One Million Dollars (\$1,000,000.00)** Dollars each bodily injury caused by disease, policy limit.

7.3. Commercial General Liability (CGL) (Primary & Non Contributory) with minimum limits of **One Million Dollars (\$1,000,000.00)** each occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability, with a general aggregate limit of **Two Million Dollars (\$2,000,000.00)**. Coverage must be afforded on a primary and non contributory basis and with a coverage form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

- Products and/or Completed Operations for contracts with an Aggregate Limit of **One Million Dollars (\$1,000,000.00)** per project. Contractor shall maintain in force until at least three years after completion of all Work required under the Contract, coverage for Products and Completed Operations, including Broad Form Property Damage.
- Personal and Advertising Injury with an aggregate limit of **One Million Dollars (\$1,000,000)**.
- CGL Required Endorsements
 - Employees included as insured
 - Contingent Liability/Independent Contractors Coverage
 - Contractual Liability
 - Waiver of Subrogation
 - Premises and/or Operations
 - Explosion, Collapse and Underground Hazards
 - Loading and Unloading
 - Mobile Equipment (Contractor's Equipment) whether owned, leased, borrowed or rented by Contractor or employees of the Contractor.

City is to be expressly included as an **Additional Insured** pursuant to endorsement number CG 2010 11/85 or its equivalence.

7.4. Business Automobile Liability with minimum limits of **One Million Dollars (\$1,000,000.00)** per occurrence combined single limit for Bodily Injury and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

- Auto/All Owned Autos/Scheduled.
- Hired, Borrowed, and Non-Owned Vehicles.
- Employers' Non-Ownership.
- Employees included as insured
- City of Miami as Additional Insured

7.5. Umbrella Policy

(Excess Following Form/True Excess Following Form/True Umbrella)

- Bodily injury and property damage liability with limits of **Five Million Dollars (\$5,000,000)** each occurrence and an aggregate limit of **Five Million Dollars (\$5,000,000)**.

Excess coverage over the policies as follows:

- Commercial General Liability
- Business Automobile Liability
- Employer's Liability

City shall be listed as an additional insured.

7. 6. Installation Floater

Required for the installation of machinery and/or equipment into an existing structure is required. The coverage shall be "All Risk" Specific Coverage Project Location coverage including installation and transit for 100 percent of the "installed replacement cost value," covering City as a named insured, with a deductible of not more than Two Thousand Five Hundred (\$2,500.00) each claim.

7.7 Owners & Contractor's Protective

Each Occurrence	\$1,000,000
General Aggregate	\$1,000,000

7. 8 Flood Insurance

When the machinery or equipment is located within an identified special flood hazard area, flood insurance must be afforded for the lesser of the total insurable value of such buildings or structure, or, the maximum amount of flood insurance coverage available under the National Flood Program.

7.9 Builder's Risk

Causes of loss: All Risk-Specific Coverage Project Location

Valuation: Replacement Cost Deductible: \$2,500, All other Perils 5% maximum on Wind, City of Miami included as an Additional Insured.

- A. Limit/Value at Location or Site \$4, 400,000
- B. Coverage Extensions:

- Materials, supplies and similar property owned by others for which you are responsible.
- Full coverage up to policy limits for equipment breakdown.
- Temporary storage/transit coverage.
- Full coverage up to policy limits for site preparation, re-excavation, re-preparation and re-grade in the event of a loss.
- Fences, scaffolding, construction forms coverage and signs
- Valuable papers coverage for blueprints, site plans and similar documents.
- Trees, shrubs, sod, plants while at premises.
- Flood, including inundation, rain, seepage and water damage.
- Earthquake
- Business Interruption
- Subsidence
- New ordinance or law; reimbursement for any resulting loss of value to the undamaged portion, and required demolition expenses, including construction necessary to repair, rebuild or re-construct damaged parts.
- Escalation clause in the event of a total loss up to 5% of policy limit.
- Temporary structures, cribbing and false work built or erected at construction site.
- Unintentional errors and omissions in reporting clause

- Full coverage up to policy limits for testing including physical loss caused by pneumatic and hydrostatic testing.
- Debris Removal.

The above policies shall provide the City with written notice of cancellation or material change from the insurer not less than (30) days prior to any such cancellation or material change. If the initial insurance expires prior to the completion of the Work, renewal copies of policies shall be furnished at least thirty (30) days prior to the date of their expiration.

Notice of Cancellation and/or Restriction--The policy (ies) must be endorsed to provide the City with at least thirty (30) days notice of cancellation and/or restriction.

Contractor shall furnish to the Capital Improvement Program the Certificates of Insurance or endorsements evidencing the insurance coverage specified above within fifteen (15) calendar days after notification of award of the Contract. The required Certificates of Insurance shall name the types of policies provided, refer specifically to this Contract, and state that such insurance is as required by this Contract.

The official title of the Owner is the City of Miami, Florida. This official title shall be used in all insurance documentation.

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 V" 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.

The Risk Administrator or his/her authorized designee reserves the right to require modifications, increases, or changes in the required insurance requirements, coverage, deductibles or other insurance obligations by providing a thirty (30) day written notice to the Contractor in accordance with Section 2, General Conditions, Article 4, Notices. Contractor shall comply with such requests unless the insurance coverage is not then readily available in the national market. An additive or deductive change order will be issued to adjust the contract value as necessary. For insurance bonding issues and decisions, the City shall act through its Risk Administrator (unless otherwise stated).

8. Performance and Payment Bond

Where required by the Contract Documents, the Contractor shall within fifteen (15) calendar days of being notified of award, furnish a Performance/Payment Bond ("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 subcontractors 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 Contractor 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 amended from time to time, Contractor shall ensure that the Bond(s) referenced above shall be recorded in the public records and provide City with evidence of such recording.

Alternate Form of Security:

In lieu of a Performance/Payment Bond, Contractor may furnish alternate forms of security, which may be in the form of cash, money order, certified check, cashier's check or unconditional letter of credit in the form attached. Such alternate forms of security shall be subject to the prior approval of City and for same purpose and shall be subject to the same conditions as those applicable above and shall be held by City for one year after completion and acceptance of the Work.

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, 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:

<u>Policy- Amount of Bond</u>	<u>Financial 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	Class ... III
5,000,001 to 10,000,000	A	Class ...IV
10,000,001 to 25,000,000	A	ClassV
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 Bid. If there are no more stringent requirements, the provisions of this section shall apply.

10. General Requirements

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

The Contractor agrees that the Contractor 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 Contractor 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 Contractor 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 Contractor represents that its personnel and Subcontractors 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 Contractor 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 Contractor 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.

The Contractor 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.

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 Contractor at its own expense shall reconstruct all portions damaged.

Contractor shall bear all losses incurred on account of the amount or character of the Work, or the character of the ground, being different from what he anticipated.

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

Contractor is to take necessary precautions and use caution when working in or around overhead transmission lines and underground utilities.

Contractor is responsible to control dust and prevent it from becoming a public nuisance or causing off-site damage. Contractor shall take all necessary and prudent measure to control dust.

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 best practices are to prevail and only

materials and workmanship of the best quality are to be used in the performance of the Work.

11. Method of Performing the Work

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.

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

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 or Consultant, the Contractor 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 Manager or Consultant, the Project Manager or the Consultant shall have the right to order the Contractor 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 Contractor shall immediately comply with such orders at no additional cost to the City. (3) The City at its sole option may also have Work performed by a third party contractor and deduct such cost from any monies due the Contractor.

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 Contractor and any damaged curbing, grass areas, sidewalks or other areas shall be repaired at the expense of the Contractor to the satisfaction of the Project Manager or Consultant.

The Contractor shall furnish to the Project Manager and the Consultant a complete listing of 24-hour telephone numbers at which responsible representatives of the Contractor and all of the Contractor's Subcontractor 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 or 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 Contractor 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 Contractor 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 Contractor 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.

Contractor should examine the soil conditions at the Project site to determine if any special shoring, sheeting, or other procedures necessary to protect adjacent property during excavation of subsoil materials or during filling of any area(s), or for any operation that may be required during the performance of the Work.

Any failure by the Contractor to acquaint itself with all the provided information and information obtained by visiting the Project(s) site(s) will not relieve Contractor 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 Contractor shall notify the City and this Contract Documents amount may be adjusted up or down depending on the conditions.

14. Contractor to Check Plans, Specifications and Data

Contractor shall verify all dimensions, quantities and details shown on the plans, specifications or other data received from Project Manager or Consultant as part of a 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. Contractor will not be allowed to take advantage of any error, omission or discrepancy, as full instructions will be furnished the Project Manager or by Consultant. Contractor shall not be liable for damages resulting from errors, omissions or discrepancies in the Contract Documents unless Contractor recognized such error, omission or discrepancy and knowingly failed to report it to Project Manager or Consultant.

15. Contractor's Responsibility for Damages and Accidents

Contractor 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.

Contractor 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, and to the satisfaction of the Project Manager, any Work, materials, equipment, or supplies damaged, lost, stolen, or destroyed from any cause whatsoever.

Lawn Areas - All lawn areas disturbed by construction shall be replaced with like kind to a condition similar or equal to that existing before construction. Where sod is to be removed, it shall be carefully removed, and the same re-sodded, or the area where sod has been removed shall be restored with new sod in the manner described in the applicable section. Fences - Any fence, or part thereof, that is damaged or removed during the course of the work shall be replaced or repaired by the Contractor, and shall be left in as good a condition as before the starting of the work.

Where fencing, walls, shrubbery, grass strips or area must be removed or destroyed incident to the construction operation, the Contractor shall, after completion of the work,

replace or restore to the original condition all such destroyed or damaged landscaping and improvements.

16. Accidents

The Contractor 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 Contractor shall also comply with the OSHA requirements as defined in the United States Labor Code 29 CFR 1926.50.

In addition, the Contractor must report immediately to the Project Manager and Consultant 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

Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor 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.

Contractor 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 Contractor's superintendent unless otherwise designated in writing by Contractor to Project Manager.

Contractor 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. Contractor 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 Contractor, any Subcontractor 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 Contractor. Contractor'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 or Consultant has issued the Contractor a notice of Final Acceptance.

Contractor 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 Contractor shall comply with all codes, ordinances, rules, orders and other legal requirements of public authorities (including OSHA, EPA, DERM, the City, Miami-Dade County, State of Florida, and Florida Building Code), which bear on the performance of the Work.

The Contractor 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.

All open trenches or holes shall be properly marked and barricaded to assure the safety of both vehicular and pedestrian traffic. No open trenches or holes are to be left open during nighttime or non-working hours without the prior written approval of the Project Manager.

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

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, Contractor 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.

Contractor shall at all times enforce strict discipline and good order among its employees and Subcontractors 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

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

21. Consultant Services

The City, at its sole discretion may hire a Consultant who shall serve as the City's Representative for the Project(s) to be performed under the Contract Documents. The Contract Documents will state that an City's representative has been contracted with for the management of the Work under the Contract Documents and who will be the lead point of contact, the Consultant or the Project Manager. Where a Consultant has been identified,

the Consultant and the Project Manager will have authority to act on behalf of the City to the extent provided in the Contract Documents and as outlined in Article 25, Authority of the Project Manager, of the General Terms and Conditions.

On the basis of the on-site observations, the Consultant will keep the Project Manager informed of the progress of the Work. In the capacity of interpreter, the Consultant will exercise the best efforts to ensure faithful performance by both the Project Manager and the Contractor and will not show partiality to either.

The Project Manager will assist the Consultant in conducting inspections to determine the date or dates of Substantial Completion and Final Acceptance and will receive and review written warranties and related documents required by the Contract and the Contract Documents. The Consultant will be responsible for receiving all documentation for review and acceptance. Upon acceptance such documentation will be forwarded to the Project Manager. The Project Manager in conjunction with the Consultant will approve Schedules of Values, Project Schedules, Subcontractors and invoices.

The City may contract for additional consultant services, including but not limited to construction examination and observation services. Such services are intended to be additional services and are not intended to and shall not be construed to supplant or alter the role and responsibilities of the Consultant.

In case of the termination of employment of the Consultant, the City may, at its sole discretion, appoint another Consultant, whose status under the Contract shall be as that of the former Consultant.

22. Project Management

Where a Contractor is awarded Work, the Contractor 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 comply with all City requirements; performing the Work in accordance with the Contract Documents to the satisfaction of the Project Manager; paying all Subcontractors; obtaining release of liens/claims fees; and obtaining temporary and final Certificates of Occupancy or Completion.

23. Superintendence and Supervision

The orders of the City are given through Consultant or Project Manager, which instructions are to be strictly and promptly followed in every case. Contractor shall keep on the Project during its progress, a full-time competent English speaking superintendent and any necessary assistants, all satisfactory to Project Manager or Consultant. The superintendent shall not be changed except with the written consent of Project Manager or Consultant, unless the superintendent proves to be unsatisfactory to Contractor and ceases to be in its employ. The superintendent shall represent Contractor and all directions given to the superintendent shall be as binding as if given to Contractor and will be confirmed in writing by Project Manager or Consultant upon the written request of Contractor. Contractor shall give efficient supervision to the Work, using its best skill and attention. The Project Manager and the Consultant 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.

On Projects in excess on thirty (30) calendar days the Contractor'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 Subcontractors at the Project(s) site(s); visitors to the Project site, including

representatives of the City, Consultant, 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 and Consultant.

The Project Manager, Contractor 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 Contractor shall publish, keep, and distribute minutes and any comments thereto of each such meeting.

If Contractor, 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 Contractor's duty to immediately inform Project Manager and Consultant, in writing, and Project Manager or Consultant, will promptly review the same. Any Work done after such discovery, until authorized, will be done at Contractor's sole risk.

Contractor 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 and Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of construction.

All Work, including trade Work shall be performed and supervised by properly licensed for the Work being performed.

24. Subcontractors

Contractor is solely responsible for all acts and omissions of its Subcontractors Nothing in the Contract Documents shall create any contractual relationship between any Subcontractor and the City. Contractor is responsible for the timely payment of its Subcontractors and suppliers as required by Florida Statute. Failure to comply with these payment requirements will place the Contractor in default of the Contract.

Contractor shall not employ any subcontractor against whom City and or Program Manager may have a reasonable objection. Contractor shall not be required to employ any subcontractor against whom Contractor has a reasonable objection.

Contractor shall utilize the Subcontractors identified in its Bid submission. The replacement, addition, or deletion of any Subcontractor(s) shall be subject to the prior written approval of the Project Manager. With the submission of its pay application the Contractor must identify the number of personnel they and the Subcontractor(s) are using who are working under H2B visas. Third tier subcontracting is only permitted with the prior written approval of the Project Manager.

25. Authority of the Project Manager

The Director hereby authorizes the Project Manager and the Consultant 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 Contractor 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 Contractor 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 Documents, unless otherwise modified in writing by the City. All instructions to the Contractor shall be issued in writing. All instructions to the Contractor shall be issued through the Director, Project Manager or the Consultant.

The Project Manager and/or Consultant shall have access to the Project(s) Site(s) at all times. The Contractor 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 and Consultant 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 Contractor'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 Contractor, any subcontractor, 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 and Consultant will not be responsible for the acts or omissions of the Contractor, any Subcontractor, or any of their agents or employees, or any other persons performing any of the Work.

26. Inspection of Work

The Project Manager, Consultant, Inspectors, and other City representatives shall at all times have access to the Work during normal work hours, and Contractor 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, Contractor 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 a City of contracted firm, 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 and/or Consultant, be uncovered for examination and properly restored at Contractor's expense.

Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals. The Contractor shall give the City and the Consultant timely notice of when and where tests and inspections are to be made so that the City and Consultant may be present for such procedures. All testing reports are to be sent directly to the Project Manager by the testing firm, with a copy to the Contractor.

Re-examination of any of the Work may be ordered by the Project Manager and Consultant, and if so ordered, the Work must be uncovered by Contractor. 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, Contractor shall pay such cost.

The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the City or separate contractors caused by the Contractor'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 and 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 Contractor to any Inspector, directly or indirectly, is strictly prohibited, and any such act on the part of the Contractor will constitute a breach of this Contract.

27. Taxes

Contractor shall pay all applicable sales, consumer, use and other taxes required by law. Contractor is responsible for reviewing the pertinent state statutes involving state taxes and complying with all requirements.

28. Separate Contracts

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

If any part of Contractor's Work depends for proper execution or results upon the work of any other persons, Contractor 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. Contractor'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 Contractor's Work, except as to defects which may develop in other contractor's work after the execution of Contractor's Work.

Contractor 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 contractor on the site. Should such interference or impact occur, Contractor shall be liable to the affected contractor for the cost of such interference or impact.

To ensure the proper execution of subsequent Work, Contractor 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.

29. 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 Contractor.

Contractor shall provide, at Contractor'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. Contractor shall furnish to City copies of written permission obtained by Contractor from the owners of such facilities.

30. Coordination of Work

The Project Site(s) may be occupied and may operate on a twenty-four hour seven day a week schedule. Contractor 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 and the Consultant to minimize interference to regular and emergency operations of the facility.

During progress of Work under this Contract, it may be necessary for other contractor's and persons employed by the City to Work in or about the Project. The City reserves the right to put such other contractors 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 another Contractor(s), it will be necessary for Contractor to plan its Work and cooperate with other contractors insofar as possible to prevent any interference and delay.

The Contractor is required to coordinate the Work with other contractors performing work at the Project(s) site. The Contractor shall not impede or interfere with the work of other contractors engaged in or about the Work and shall so arrange and conduct its Work that such other contractors may complete their work at the earliest date possible.

31. Differing Site Conditions

In the event that during the course of the Work Contractor encounters subsurface or concealed conditions at the Project(s) site(s) which differ materially from those shown in the Contract Documents and from those ordinarily encountered and generally recognized as inherent in work of the character called for in the Contract Documents; or unknown physical conditions of the Project(s) site(s), of an unusual nature, which differ materially from that ordinarily encountered and generally recognized as inherent in work of the character called for in the Contract Documents, Contractor, without disturbing the conditions and before performing any Work affected by such conditions, shall, within twenty-four (24) hours of their discovery, notify the Project Manager and Consultant in writing of the existence of the aforesaid conditions. Project Manager and the Consultant shall, within two (2) business days after receipt of Contractor's written notice, investigate the site conditions identified by Contractor. If, in the sole opinion of Project Manager or the Consultant, the conditions do materially so differ and cause an increase or decrease in Contractor's cost of, or the time required for, the performance of any part of the Work, whether or not charged as a result of the conditions, Project Manager or Consultant shall recommend an equitable adjustment to the Contract Documents Price or Contract Documents Time, or both. If the Project Manager and Contractor cannot agree on an adjustment in the Contract Price or Contract Time, the adjustment shall be referred to the Director for determination. Should the Director determine that the conditions of the Project(s) site(s) are not so materially different to justify a change in the terms of the Contract Documents, the Director shall so notify the Project Manager, Consultant, and Contractor in writing, stating the reasons, and such determination shall be final and binding upon the parties hereto.

No request by Contractor for an equitable adjustment to the Contract Documents under this provision shall be allowed unless Contractor has given written notice in strict accordance with the provisions of this Article. No request for an equitable adjustment or change to the Contract price or Contract Time for differing site conditions shall be allowed if made after the date certified by Consultant or Project Manager as the date of substantial completion.

32. Existing Utilities

Known utilities and structures adjacent to or encountered in the Work may be shown on the Drawings. 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 Contractor 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 Contractor shall explore sufficiently ahead of the Work to allow time for any necessary adjustments. The Contractor 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 Contractor commences any digging.

33. Contractor's Responsibility for Utility Properties and Service

Where the Contractor's operations could cause damage or inconvenience to railway, telephone, fiber optic, television, electrical power, oil, gas, water, sewer, or irrigation systems, the Contractor 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 Contractor and his Subcontractors 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 Contractor for damages as a result of the Contractor'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 Contractor 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 Contractor's expense and as approved by the Project Manager or Consultant.

Replace, with material approved by the Project Manager or Consultant, at Contractor'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 Contractor's expense, any existing utilities damaged during the Work.

34. 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 Contractor shall field verify all locations. Contractor 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.

35. 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 and Consultant at the Contractor's expense. If existing structures are encountered that will prevent construction as shown, the Contractor 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 Contractor fails to notify the Project Manager or Consultant when an existing structure is encountered, and proceeds with the Work despite this interference, the Contractor does so at his own risk.

36. Contractor's Use of Project Site(s)

Limitations may be placed on the Contractor'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 Contractor at his sole discretion based on availability of space. The Contractor shall also coordinate and schedule deliveries so as to minimize disruptions to City day-to-day operations.

The Contractor 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 Contractor shall:
 - Confine operations at the Project(s) site(s) to the areas permitted by the Project Manager or Consultant; 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.

37 Warranty of Materials and Equipment

Contractor warrants to City that all materials and equipment furnished under the Contract Documents will be new unless otherwise specified and that all of the Work will be of good quality, free from faults and defects and in conformance with the Contract Documents and Contract/Documents. 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, Contractor 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.

38. 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 Contractor 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 Contractor 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 Contractor 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 Contractor-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 Contractor 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 Contractor 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 Contractor 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 Contractor'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 Contractor 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

The contractor shall 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 Contractor at his own expense, where directed by the Project Manager or Consultant, and shall remain the property of the City. All other material shall be disposed of by the Contractor at his own expense.

39. Manufacturer's Instructions

The Contractor shall:

Comply with manufacturer's requirements for the handling, delivery and storage of all materials. Where required by the Contract Documents, Contractor 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 Contractor and the Project Manager or Consultant a written report of field observations.

40. Manufacturer's Warranty

Contractor 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 Contractor against factory defects and workmanship. At no expense to the City, the Contractor 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).

41. Reference Standards

Reference to the standards of any technical society, organization or body shall be construed to mean the latest standard adopted and published at the date of request for qualifications, even though reference may have been made to an earlier standard. Such reference is hereby made a part of the Contract Documents the same as if herein repeated in full and in the event of any conflict between any of these standards and those specified, the most stringent shall govern unless otherwise stated.

42. Submittals

Contractor 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 and Consultant.

Contractor 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 Contractor shall advise the Project Manager and Consultant in writing of any deviations from the Contract Documents. Failure of the Contractor to advise the Project Manager or Consultant of any deviations shall make the Contractor solely responsible for any costs incurred to correct, add or modify any portion of the Work to comply with the Contract Documents.

Each 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 Contractor and Subcontractor (if any) submitting drawings
 - Name of Project, Building or Facility, and Owner's Project number
 - Specification Section title and number
 - Contractor's Stamp of approval, signed by the Contractor 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

Contractor 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. Submittals submitted without the stamp and signature shall be rejected and it will be considered that the Contractor has not complied with the requirements of the Contract Documents. Contractor 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 and/or Consultant has returned approved submittals to the Contractor.

Contractor shall submit six (6) originals of each Submittal to the City. The City will return three marked/reviewed sets to the Contractor. A Contractor's letter of transmittal cover sheet must be attached to all Submittals' packages being transmitted to the City and Consultant. The Contractor's letters of transmittal shall properly list and identify all Submittal packages with number and description of each Submittal within the letter of transmittal.

When catalogs, product data, diagrams or charts are submitted with more than one type of product manufactured, clearly identify the particular item being submitted, including options that are intended for use in that particular work or portion of work.

Contractor shall note in submittals/shop drawings to make references to Drawings, drawings details, Specifications Sections, or any of the Contract Documents, as necessary for clarity.

Project Manager and/or Consultant shall make every effort to review Submittals within fourteen (14) calendar days from the date of receipt by the Project Manager and/or Consultant. Project Manager and/or Consultant'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 and/or Consultant shall return the reviewed Submittal to the Contractor for their use and distribution.

Acceptance of any submittal by the City or Consultant shall not relieve the Contractor of any responsibility for any deviations from the requirements of the Contract Documents unless the Contractor has given written notice to the Project Manager and/or Consultant of the specific deviations and the Consultant has issued written approval of such deviations.

By approving and submitting shop drawings, product data and samples, the Contractor 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.

Contractor 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 limited to; job site file, record documents file, Subcontractor, suppliers, and other affected parties or entities that require the information.

The Contractor shall also provide copies of all plans approved and permitted by the required governing authorities.

The Contractor 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 Contractor warrants the adequacy for the purpose intended of any shop drawings or portion of a Submittal that alters, modifies or adds to the requirements of the Contract Documents.

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

43. Shop Drawings

Contractor shall submit Shop Drawings as required by the Contract Documents. The purpose of the Shop Drawings is to show, in detail, the suitability, efficiency, technique of manufacture, installation requirements, details of the item, and evidence of its compliance or noncompliance with this Contract Documents.

Within five (5) calendar days after City's award of the Contract, Contractor shall submit to Project Manager or Consultant a complete list and submittal log of items for which Shop Drawings are to be submitted and shall identify the critical items and all submittal dates. Approval of this list by Project Manager or Consultant shall in no way relieve the Contractor from submitting complete Shop Drawings and providing materials, equipment, etc., fully in

accordance with the Contract Documents. This procedure is required in order to expedite final approval of Shop Drawings.

After the approval of the list of items required in above, Contractor shall promptly request Shop Drawings from the various manufacturers, fabricators, and suppliers.

Contractor shall thoroughly review and check the Shop Drawings and each and every copy shall show its approval thereon. Contractor shall submit three (3) sets of shop drawings.

Some shop drawings as either denoted in the Contract Documents or by the Florida Building Code (Code) or Florida Statute, such as structural drawings, require that they be prepared by a licensed engineer. It is the sole responsibility of the Contractor to ensure that the Shop Drawings meet all Code requirements.

In addition to all shop drawings required by the Contract Documents the Contractor must provide shop drawings for; all drainage structures including catch basins, drainage pipe, ballast rock, and exfiltration trench filter fabric.

If the Shop Drawings show or indicate departures from the Contract Documents, Contractor shall make specific mention thereof in its letter of transmittal. Failure to point out such departures shall not relieve Contractor from its responsibility to comply with the Contract and Documents.

Project Manager or Consultant shall review and accept or reject with comments, Shop Drawings within fourteen (14) calendar days from the date received. Project Manager's or Consultant's approval of Shop Drawings will be general and shall not relieve Contractor of responsibility for the accuracy of such Shop Drawings, nor for the proper fitting and construction of the Work, nor for the furnishing of materials or Work required by the Contract Documents and not indicated on the Shop Drawings. No Work called for by Shop Drawings shall be performed until said Shop Drawings have been approved by Project Manager and/or Consultant. Approval shall not relieve Contractor from responsibility for errors or omissions of any sort on the Shop Drawings.

No approval will be given to partial submittals of Shop Drawings for items which interconnect and/or are interdependent where necessary to properly evaluate the design. It is Contractor's responsibility to assemble the Shop Drawings for all such interconnecting and/or interdependent items, check them and then make one submittal to Project Manager and/or Consultant along with its comments as to compliance, noncompliance, or features requiring special attention.

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 and/or Consultant are entitled to rely upon the accuracy and completeness of such calculations and certifications submitted by the Contractor. Calculations, when required, shall be submitted in a neat clear and easy format to follow.

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

44. Product Data

Contractor shall submit four (4) copies of product data, warranty information and operating and maintenance manuals. Each copy must be marked to identify applicable products, models, options and other data. Contractor shall supplement manufacturer's standard data to provide information unique to the Work.

Contractor 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.

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

45. Samples

Contractor shall submit samples to illustrate the functional characteristics of the product(s). Submittals shall be coordinated for different categories of interfacing Work. Contractor shall include identification on each sample and provide full information.

46. Record Set

Contractor shall maintain in a safe place at the Project(s) site(s) one record copy and one permit set of the Contract Documents, including, but not limited to, all Drawings, Specifications, shop drawings, amendments, Change Orders, RFIs, and Field Directives, 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 Contractor 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. Contractor shall certify the accuracy of the updated record documents. As a condition precedent to City's obligation to pay Contractor, the Contractor shall provide evidence, satisfactory to the Project Manager and the Consultant, that Contractor 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 and the Consultant for reference. Upon completion of the Work and as a condition precedent to Contractor's entitlement to final payment, the record documents shall be delivered to the Project Manager or Consultant by the Contractor. The Record Set of Drawing shall be submitted in both hard copy and as electronic plot files.

47. Supplemental Drawings and Instructions

The Project Manager or Consultant 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 Consultant 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.

48. Contractor Furnished Drawings

The Contract Documents may require the Contractor 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 Consultant prior to resubmission to the permitting agency.

Acceptance by the City shall not relieve the Contractor from responsibility for errors and omissions in the drawings.

49. Substitutions

Substitutions will only be considered after the award of the Contract. 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 Project Manager if sufficient information is submitted by Contractor to allow City and Consultant 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 Consultant from anyone other than Contractor.

If Contractor wishes to furnish or use a substitute item of material or equipment, Contractor shall make application to the Consultant 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 Contractor'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 contractors affected by the resulting change, all of which shall be considered by the Project Manager and the Consultant in evaluating the proposed substitute. The Project Manager or Consultant may require the Contractor to furnish at Contractor'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, Contractor may furnish or utilize a substitute means, method, technique, sequence or procedure of construction acceptable to the City's Project Manager and/or Consultant, if the Contractor submits sufficient information to allow the Manager and/or Consultant 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 Manager and/or Consultant shall be the same as those provided herein for substitute materials and equipment.

The Manager and/or Consultant shall be allowed a reasonable time within which to evaluate each proposed substitute. The Manager and/or Consultant 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 Consultant's prior written acceptance which shall be evidenced by either a Change Order or an approved submittal. The City and the Manager and/or Consultant may require the Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute. If the City and the Manager and/or Consultant reject the proposed substitute, at their discretion, the City may require the Contractor to reimburse the City for the charges of the Manager and/or Consultant for evaluating the proposed substitute.

Contractor 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.

50. City Furnished Drawings

The City, at its sole discretion, may furnish design drawings. It shall be the sole responsibility of the Contractor to bring to the immediate attention of the Project Manager and the Consultant any discrepancies between the drawings and existing conditions, excluding hidden or unforeseen conditions, discovered prior to commencing and during the Work. The Contractor shall be solely responsible for verifying the accuracy of the drawings prior to commencing the Work, and shall be responsible for any errors or revisions of the Work, which might have been avoided by notifying the City prior to commencement. This shall also apply to any revisions or omissions identified by the Contractor. The Contractor shall submit all requests for information entitled Request for Information (RFI). The City shall respond to all RFI's in writing.

The Contractor shall have no basis for any claim for additional costs resulting from their failure to identify any required revisions, omissions and/or errors, not identified in writing to the Project Manager or Consultant prior to commencing the Work.

51. 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 Contractor agrees to abide by the Project Manager's or Consultants interpretation and perform the Work in accordance with the decision of the Project Manager or the Consultant. In such event, the Contractor will be held to have included in its Contract Price the best materials suitable for the purpose and/or methods of construction.

The drawings are to be addressed as a complete set and should not be used in parts. Contractor is responsible to coordinate the set of drawings with all trades to ensure that the Work will be performed correctly and coordinated among the trades. Contractor shall not scale the drawings.

52. Product and Material Testing

All tests shall be performed by the Contractor, except where otherwise specifically stated in the Contract Documents. All costs for testing performed by the Contractor shall be at the Contractor's expense. All reports are to be sent directly to the City's Project Manager with a copy to the Contractor. The City may, in its sole and absolute discretion, test materials and products at its own cost. However, should such materials or products fail to pass the

test and/or meet the requirements of the Contract Documents, the Contractor shall reimburse the City for the cost of such tests and repair or replace said materials or products. In such instances the City may deduct such cost from any payments pending to the Contractor. The City may require that the Contractor provide the name and qualification of the company(ies) providing the testing services, inclusive of the testing laboratory(ies). The City, in its sole discretion, may accept or reject the use of any company or laboratory that it determines does not possess the required licenses or expertise to perform their portion of the Work.

53. Field Directives

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

54. 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.

55. Continuing the Work

Contractor 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.

56. 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 91, Resolution of Disputes. During the pendency of the dispute, and upon receipt of a Change

Order approved by City, Contractor shall promptly proceed with the change in the Work involved and advise the Project Manager, Consultant, and Director in writing within seven (7) calendar days of Contractor'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, Contractor 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 City, Change Orders may be issued unilaterally by 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 or Consultant 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 or Consultant may direct, order or require the Contractor to perform any Work including that which the Contractor deems to be Extra Work. The Contractor 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.

57. 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 Contractor outlining the proposed Extra Work. Upon receipt of the notice to proceed with the Extra Work, the Contractor is required to immediately start the Extra Work. The Contractor is required to obtain permission for an extension to start the Extra Work if it is beyond the Contractor's ability to start within the allotted timeframe.

The Contractor is required to provide the Project Manager with a detailed Change Proposal Request, using City Forms CPR Parts A-C (available on the CIP webpage), which shall include requested revisions to the Contract, including but not limited to adjustments in this Contract Price and Contract Time. The Contractor 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 Contractor 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 Contractor's Change Proposal Request. The Contractor'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 Contractor fails to notify the Project Manager or Consultant of the schedule changes associated with the Extra Work, it will be deemed to be an acknowledgment by Contractor that the proposed Extra Work will not have any scheduling consequences. The Contractor agrees the Change Proposal Request will in no event include a combined profit and overhead rate in excess of ten (10%) 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 Contractor 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 Contractor of the Change Order shall serve as a release of the City from all claims and liability to the Contractor 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 Contractor shall, within five (5) business days submit a revised Project schedule reflecting the changes against the baseline schedule.

58. 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.

59. 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 Contractor 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 Contractor'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 Contractor 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 Contractor in the performance of the Work described in the Change Proposal Request under schedules of job classifications agreed upon by Project Manager and Contractor. 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 Contractor unless City deposits funds with Contractor 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 Contractor shall make provisions so that they may be obtained. Rentals of all construction equipment and machinery and the parts thereof whether rented from Contractor 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, Contractor shall obtain competitive bids for the Change Order Work. Contractor shall deliver such competitive bids to the City who will determine which bids will be accepted. If the Subcontractor is to be paid on the basis of cost of the Work plus a fee, the Subcontractor's cost of the Work shall be determined in the same manner as Contractor's cost of the Work. All Subcontractors 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, architects, 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 Contractor'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 Contractor.
- Sales, use, or similar taxes related to the Work, and for which Contractor is liable, imposed by any governmental authority.
- Deposits lost for causes other than Contractor'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 Contractor's officers, executives, principals (of partnership and sole proprietorships), general managers, consultants, architects, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by Contractor 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 Contractor's fee.
- Expenses of Contractor's principal and branch offices other than Contractor's office at the site.
- Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- Cost of premiums for all Bonds and for all insurance whether or not Contractor 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 Contractor, any Subcontractors, 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.

Contractor's fee allowed to Contractor 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 Contractor self-performs the Work, Contractor's fee shall not exceed ten percent (10%).
- Where a sub-contractor performs the Work, Contractor'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 Subcontractor 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.

Contractor's overhead is considered to cover all indirect costs and shall also include the costs of insurance and bonds.

The amount of credit to be allowed by Contractor 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, Contractor 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, Contractor will submit in a form acceptable to Project Manager or Consultant 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 may 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, Contractor shall submit an initial cost estimate acceptable to the Project Manager or Consultant.

- Breakdown shall list the quantities and unit prices for materials, labor, equipment and other items of cost.
- Whenever a change involves Contractor and one or more Subcontractors and the change is an increase in the Contract Price, overhead and profit percentage for Contractor and each Subcontractor 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."

60. 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 Contractor to do the proposed Extra Work. Immediately upon receipt of the Extra Work Directive, the Contractor shall be obligated to proceed with the Work set forth in that directive.

Except as provided below, the Contractor shall be entitled to initiate a dispute pursuant to the Article 91, 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 Contractor disputes. Such dispute must relate to specific matters raised or specific matters reserved by the Contractor 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 Contractor's claim including the manner that the disputed item was specified in the Contractor's proposal. During the pendency of any dispute hereunder, the Contractor 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 Contractor will be paid in accordance with the following paragraph. This payment(s) will be in full satisfaction of the Contractor'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 Contractor 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 Contractor or his subcontractor. 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 Contractor 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 Contractor shall at the end of each day furnish to the City such documentation as the City may require to support all the costs of the Extra Work. If payments on account are desired as the Extra Work progresses, the Contractor 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 Contractor 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 Contractor is ordered to perform Work under this Article, which in the opinion of the Project Manager, it is impracticable to have performed by the Contractor's own employees, the Contractor will, subject to the approval of the Project Manager, be paid the actual cost to Contractor of such Work, and in addition thereto five (5%) percent to cover the Contractor'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.

61. As-Built Drawings

During the Work, Contractor shall maintain records of all deviations from the Drawings and Specifications as approved by the Project Manager or Consultant 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 Contractor 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 Contractor'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.

62. Worker's Identification

The Contractor's employees, who include any Subcontractor, shall wear an identification card provided by the Contractor. The identification card shall bear the employee's picture, name, title and name of the employer. Failure by a Contractor'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 Contractor to submit a claim for an extension of time.

63. Removal of Unsatisfactory Personnel

The City may make written request to the Contractor for the prompt removal and replacement of any personnel employed or retained by the Contractor, or any or Sub-Contractor engaged by the Contractor to provide and perform services or Work pursuant to the requirements of the Contract Documents. The Contractor 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 Contractor agrees that the removal of any of its employees does not require the termination or demotion of employee(s).

64. Substantial Completion, Punch List, & Final Completion

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 Contractor shall sign the Substantial Completion Inspection Form. The signing of this form shall not relieve the Contractor from its obligation to complete the Project.

When the Contractor believes that the Work is substantially complete, the Contractor shall request in writing that the Project Manager or Consultant inspect the Work to determine if Substantial Completion has been achieved. No request for Substantial Completion inspection is to be submitted until the Contractor has obtained a Certificate(s) of Occupancy, Certificate of Completion or Use, or a Temporary Certificate of Occupancy or any other approvals from agencies having jurisdiction over the Work. The Project Manager or Consultant shall schedule the date and time for any inspection and notify the Contractor 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 Punch List shall be signed by the Project Manager and/or Consultant, and the Contractor confirming that the Punch List contains the item(s) necessary to complete the Work. The failure or refusal of the Contractor to sign the Project Substantial Completion Inspection Form or Punch List shall not relieve the Contractor 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 or Consultant determines, on the appropriate form that the Work is not substantially complete, the Project Manager or Consultant shall provide a list of all open items necessary to achieve Substantial Completion. Upon completion of such Work, the Contractor shall request another Substantial Completion inspection.

The Project Manager or Consultant, and the Contractor shall agree on the time reasonably required to complete all remaining Work included in the Punch List.

Upon the receipt of all documentation, resolution of any outstanding issues and issuance of final payment, the Project Manager or Consultant shall notify the Contractor in writing of the closeout of the Project.

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 Contractor 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.

65. Acceptance and Final Payment

Upon receipt of written notice from Contractor 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, Contractor shall deliver to the Project Manager or Consultant a final release of all liens arising out of the Contract Documents, receipts in full in lieu thereof; an affidavit certifying that all suppliers and Subcontractors 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. Contractor shall deliver the written Contractor's warranty and all Manufacturer's warranties prior to issuance of the Final Certificate for Payment.

Prior to approval of final payment the Project Manager shall provide written confirmation to the Contractor that any and all training required by the Contract Documents has been provided to the satisfaction of the Project Manager.

If, after the Work has been substantially completed, full completion thereof is materially delayed through no fault of Contractor, and Project Manager or Consultant so certifies, City shall, upon such certification of Consultant, and without terminating the Contract Documents, 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 Contractor, except those previously made in strict accordance with the provisions of the Contract and identified by Contractor as unsettled at the time of the application for final payment.

66. NDPES Requirements

Contractor 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/>. Contractor is responsible for obtaining, completing and paying for any required NPDES application or permits that may be required.

67. Force Majeure

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

If the Contractor is delayed in performing any obligation under the Contract Documents due to a force majeure condition, the Contractor 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 Contractor for extra compensation unless additional services are required. **Do Not Include** inclement weather except as permitted by Florida law and may not include the acts or omissions of Sub-contractors.

68. Extension of Time

Any reference in this section to the Contractor shall be deemed to include suppliers, and permitted Sub-Contractors, whether or not in privity of contract with the Contractor for the purpose of this Article.

If the Contractor 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 Contractor by reasonable investigation before proceeding with the Work;
- The Contractor 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 shall only consider weather related delays where adverse weather directly impacts the critical path of the Project Schedule. However, the City will also factor in other factor in considering an extension of time, including the length of the weather delay, and the adverse weather conditions as they relate to typical weather patterns during the period the Work is being performed.

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 Contractor 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 Contractor 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 Contractor.

The request for an Excusable Delay shall be made within ten (10) calendar days after the time when the Contractor 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 Contractor to furnish such additional information or documentation, as the Project Manager shall reasonably deem necessary or helpful in considering the requested extension.

The Contractor shall not be entitled to an extension of time unless the Contractor affirmatively demonstrates that it is entitled to such extension.

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

With regard to an injunction, strike or interference of public origin which may delay the Project, the Contractor 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 Contractor 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 Contractor, the issuance of any Change Order, shall not waiver the City's rights under the Contract, including but not limited to the assessment of liquidated damages or declaring Contractor in default.

69. Notification of Claim

Any claim for a change in the Contract Time or Contract Price shall be made by written notice by Contractor to the Project Manager and to Consultant 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 or Consultant allows an additional period of time to ascertain more accurate data in support of the claim and such notice shall be accompanied by Contractor's written notarized statement that the adjustment claimed is the entire adjustment to which the Contractor 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 or Consultant in accordance with Article 71, Contractor's Damages for Delay hereof, if City and Contractor 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 Contractor 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 contractor employed by City, fires, floods, labor disputes, epidemics, abnormal weather conditions or acts of God.

70. Extension of Time not Cumulative

In case the Contractor shall be delayed for any period of time by two or more of the causes mentioned in Article 72, Excusable, Delays, the Contractor 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.

71. Contractor'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. Contractor 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 Contractor for actual delays due solely to fraud, bad faith or active interference on the part of City or its Consultant. Otherwise, Contractor 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.

Except as may be otherwise specifically provided for in the Contract Documents, the Contractor 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 Contractor agrees that any such claim shall be compensated solely by an extension of time to complete performance of the Work. In this regard, the Contractor 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. Contractor shall not receive monetary compensation for City delay. Time extensions may be authorized by the City in certain situations.

72. Excusable Delay, Non-Compensable

Excusable Delay is (i) caused by circumstances beyond the control of Contractor, its Subcontractors, 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 Contractor or its Subcontractors, suppliers or vendors and by the City or Consultant. Then Contractor shall be entitled only to a time extension and no compensation for the delay.

Contractor is entitled to a time extension of the Contract time for each day the Work is delayed due to Excusable Delay. Contractor shall document its claim for any time extension as provided in Article 69, Notification of Claim, hereof.

Failure of Contractor to comply with Article 69, 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.

73. Lines and Grades

The Contractor shall, at its own expense, establish all working and construction lines and grades as required from the Project control points set by the City, and shall be solely responsible for the accuracy thereof.

74. Defective 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 by Project Manager or Consultant, Contractor shall promptly either correct all defective Work or remove such defective Work and replace it with non-defective Work. Contractor shall bear all direct, indirect and consequential costs of such removal or corrections including cost of testing laboratories and personnel.

Should Contractor fail or refuse to remove or correct any defective Work or to make any necessary repairs in accordance with the requirements of the Contract Documents within the time indicated in writing by Project Manager or Consultant, City shall have the authority to cause the defective Work to be removed or corrected, or make such repairs as may be necessary at Contractor's expense. Any expense incurred by City in making such removals, corrections or repairs, shall be paid for out of any monies due or which may become due to Contractor, or may be charged against the Performance Bond,. In the event of failure of Contractor to make all necessary repairs promptly and fully, City may declare Contractor in default.

If, within one (1) year after the date of Substantial Completion or such longer period of time as may be prescribed by the terms of any applicable special warranty required by the Contract Documents, or by any specific provision of the Contract, any of the Work is found to be defective or not in accordance with the Contract Documents, Contractor, after receipt of written notice from City, shall promptly correct such defective or nonconforming Work within the time specified by City without cost to City, to do so. Nothing contained herein shall be construed to establish a period of limitation with respect to any other obligation which Contractor might have under the Contract Documents including but not limited to any claim regarding latent defects.

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.

75. 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 Contractor.

76. Uncovering Finished Work

The Project Manager's, Inspector's and/or Consultant's right to make inspections shall include the right to order the Contractor to uncover or take down portions of finished Work. The Project Manager /or Consultant shall notify the Contractor 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 Contractor. 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.

77. Correction of Work

The Contractor 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 Contractor shall bear all cost of correcting such rejected Work, including the cost of the City's additional services thereby made necessary.

The Contractor further agrees that after being notified in writing by the Project Manager or Consultant of any Work not in accordance with the requirements of the Contract Documents or any defects in the Work, the Contractor 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 or Consultant, and in the event of failure to so comply, the Contractor does hereby authorize the City to proceed to have such Work done at the Contractor's expense and that the Contractor will pay the cost thereof upon demand. The City shall be entitled to all costs, including reasonable attorneys' fees, necessarily incurred upon the Contractor'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 Contractor's expense, without prior notice, all Work necessary to correct such hazardous condition when it was caused by Work of the Contractor 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 Contractor 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.

All such defective or non-conforming Work shall be removed from the site if necessary and the Work shall be corrected to comply with the Contract Documents without cost to the City.

78. Maintenance of Traffic and Public Streets

Scope of Work

The Contractor 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 Contractor'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 Contractor 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 Contractor 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 or Consultant, Traffic Division or FDOT or as otherwise authorized by the Project Manager or Consultant, the Contractor 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 Contractor 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 Contractor 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 Contractor shall provide necessary access to all adjacent property during construction.
- The Contractor 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 Contractor shall be responsible for providing the Consultant 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 Contractor 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 (Phone No. 305-592-3470).
- Where applicable, the Contractor 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 Contractor 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.

79. 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 Contractor’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 Contractor because of discrepancies in actual and plan location of utilities, and damages suffered as a result thereof.

The Contractor 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 Contractor shall be paid by the Contractor. All charges by utility companies for temporary support of its utilities shall be paid for by the Contractor. 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 Contractor for utility relocations, whether or not said relocation is necessary to avoid conflict with other lines.

The Contractor shall schedule the Work in such a manner that the Work is not delayed by the utility providers relocating or supporting their utilities. The Contractor 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 Contractor 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 Contractor. All such repairs made by the Contractor 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

80. Stop Work Order

The City may, at any time, by written order to the Contractor, require the Contractor 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 Contractor, 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 Contractor, 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 90, 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 Contractor shall resume the Work without compensation to the Contractor for such suspension other than extending the time for Substantial Completion to the extent that, in the opinion of the Project Manager or Consultant, the Contractor 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 Contractor's defective or incorrect Work, unsafe Work conditions caused by the Contractor or any other reason caused by Contractor's fault or omission, the Contractor shall not be entitled to an extension of time as a result of the issuance of a Stop Work Order.

81. Hurricane Preparedness

During such periods of time as are designated by the United States Weather Bureau as being a hurricane warning, the Contractor, 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 or Consultant 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 Contractor to additional Contract time as non-compensable, excusable delay, and shall not give rise to a claim for compensable delay.

82. 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, Contractor shall be entitled to reasonable extra compensation, or reasonable extension of time or both, as determined by Project Manager or Consultant.

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 Contractor in writing at least thirty (30) calendar days prior to City's intended occupancy of a designated area.
- Contractor 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 or Consultant.
- Upon Project Manager or Consultant'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.
- Contractor shall complete all items noted on the Certificate of Substantial Completion within the time specified by Project Manager or Consultant 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 or Consultant 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 Contractor 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 Contractor and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.

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

Contractor shall at all times keep the premises free from accumulation of waste materials or rubbish caused by its operations. At the completion of a Project(s), Contractor 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 Contractor 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 Contractor. If a dispute arises between Contractor and separate contractors as to their responsibility for cleaning up, City may clean up and charge the cost thereof to the contractors 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.

84. Removal of Equipment

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

85. Set-offs, Withholdings, and Deductions

The City may set-off, deduct or withhold from any payment due the Contractor, 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;
- Any Liquidated Damages, and/or;
- Any unpaid legally enforceable debt owed by the Contractor to the City.

The City shall notify the Contractor in writing of any such withholdings.

Any withholding, which is ultimately held to have been wrongful, shall be paid to the Contractor in accordance with the Local Government Prompt Payment Act.

86. Event of Default

An event of default shall mean a breach of the Contract or by the Contractor. 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 Contractor has not performed the Work in a timely manner;
- The Contractor 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 Contractor has failed to make prompt payment to Subcontractors or suppliers for any services or materials they have provided;
- The Contractor has become insolvent or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of

any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;

- The Contractor has failed to obtain the approval of the City where required by the Contract Documents;
- The Contractor 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 Contractor's ability to perform the Work, the City shall notify the Contractor 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 Contractor's ability to perform in accordance with the terms of the Contract Documents. In the event that the Contractor 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 Contractor shall have no further recourse of any nature for wrongful termination.

87. Notice of Default-Opportunity to Cure

In the event that the City determines that the Contractor is in default of their obligations under the Contract, the City may at its sole discretion notify the Contractor, specifying the basis for such default, and advising the Contractor 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 contractor and any such costs incurred will be deducted from any sums due the Contractor under any contract with the City.

88. Termination for Default

If Contractor fails to comply with any term or condition of the Contract Documents, or fails to perform any of its obligations hereunder, then Contractor 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 Contractor, terminate this Contract whereupon any advances for which Work has not been performed, paid by the City to Contractor while Contractor 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. Contractor understands and agrees that termination of this Contract under this Article shall not release Contractor from any obligation accruing prior to the effective date of termination.

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

- Contractor fails to obtain the insurance or bonding herein required by the Contract.
- Contractor 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.

- Contractor 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.

If this Contract is terminated for default and the City has satisfied its obligations under the Contract Documents the City is granted by the Contractor full use of the Work and any Work Product in connection with the City's completion and occupancy of the Project.

Where it has been determined that the Contractor has been erroneously terminated under this Article, such termination shall be deemed to have been occurred under Article 90, Termination for Convenience. The City in its sole discretion may terminate the Contract without providing the Contractor a written Notice to Cure.

89. Remedies in the Event of Termination for Default

If a Termination for Default occurs, the Contractor 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 Contractor 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 Contractor's failure to remove such items from the Project(s) site(s) as required.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default.

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

90. Termination for Convenience

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

The Contractor 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 Contractor until all documentation is delivered to the City.

In the event that the City exercises its right to terminate the Contract pursuant to the Contract Documents, the City will pay the Contractor:

- 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 Contractor.
- All payments pursuant to this Article shall be accepted by the Contractor 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 Contractor.
- Contractor 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 Contractor under this Article the Contractor grants the City full use of the Work and any Work Product to complete the Project and subsequently occupy the Project.

91. Resolution of Disputes

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

The initial step shall be for the Contractor 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 Contractor and the Project Manager fail to resolve the dispute the Contractor 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 Contractor and the Assistant Director-Contracts fail to resolve the dispute the Contractor 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 Contractor. Upon receipt of said notification the Director shall review the issues relative to the claim or dispute and issue a written finding.

Contractor 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 Contractor. Appeal to the City Manager for his/her resolution, is required prior to Contractor 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. Contractor 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.

92. 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 Contractor agrees to include such similar contract provisions with all Sub-Contractors 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.

93. 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.

94. Permits, Licenses and Impact Fees

Pursuant to the Public Bid Disclosure Act, each license, permit or fee **REQUIRED BY THE CITY AND PAYABLE TO THE CITY** by virtue of this construction as part of the Contract is waived as follows:

City's Master Permit Fee and applicable Major Trade Permit fees (i.e. Mech., Plumbing, Elec., & Fire) are waived. Any other permit fees not directly related to the actual construction of the Project(s) (i.e. Permits for dumpsters, job trailers) are not waived"...Licenses, permits and fees which may be required by Miami-Dade County, the State of Florida, or other governmental entities are not waivable."

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 Contractor pursuant to the Contract Documents shall be secured and paid for by Contractor. It is Contractor'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.

Impact fees levied by the City and/or Miami-Dade County shall be paid by Contractor. Contractor shall be reimbursed only for the actual amount of the impact fee levied by the public entity as evidenced by an invoice or other acceptable documentation issued by the public entity. Reimbursement to Contractor in no event shall include profit or overhead of Contractor.

95. Compliance with Applicable Laws

The Contractor shall comply with the most recent editions and requirements of 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 Contractor 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 Contractor and Sub-Contractor doing business anywhere in the City.

96. Independent Contractor

The Contractor is engaged as an independent business and agrees to perform Work as an independent contractor. In accordance with the status of an independent contractor, the Contractor covenants and agrees that the Contractor will conduct business in a manner consistent with that status, that the Contractor 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 Contractor's staff shall not be employees of the City, and the Contractor 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 Contractor's acts, omissions, liabilities or obligations of those of any person, firm, company, agency association, corporation, or organization engaged by the Contractor as a subcontractor, expert, consultant, independent contractors, 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 Contractor 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.

97. Third Party Beneficiaries

Neither Contractor 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

98. Successors and Assigns

The performance of this Contract shall not be transferred pledged, sold, delegated or assigned, in whole or in part, by the Contractor without the written consent of the City. It is understood that a sale of the majority of the stock or partnership shares of the Contractor, 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 Contractor 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 Contractor 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 Agreement.

99. Materiality and Waiver of Breach

City and Contractor 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.

100. 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.

101. 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.

102. 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.

103. Entire Agreement

The Contract Documents, as they may be amended from time to time, represent the entire and integrated Contract between the City and the Contractor 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.

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

Contractor 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 Agreement. Contractor 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, Contractor shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

Contractor'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.

105. Evaluation

Contractor 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 Contractor. The performance evaluations will be kept in City files for evaluation on future solicitations.

106. 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.

107. 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.

108. 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 contractor, continue until completion at the same prices, terms and conditions.

109. Review of Records

City shall have the right to inspect and copy, at City's expense, the books and records and accounts of Contractor which relate in any way to the Project(s), and to any claim for additional compensation made by Contractor, and to conduct an audit of the financial and accounting records of Contractor which relate to a Project(s) and to any claim for additional compensation made by Contractor 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 Contractor 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 Contractor agrees to maintain an accounting system that provides for accounting records that are supported with adequate documentation and adequate procedures for determining allowable costs.

Contractors shall develop the proper forms and reports acceptable to the City for the administration and management of the Contract Documents.

110. No Interest

Any monies not paid by City when claimed to be due to Contractor 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.

111. 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 Contractor an amount equal to its cost incurred on account of the Contractor's failure to fully perform its obligations under the Contract.

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

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

112. Consent of City Required for Subletting or Assignment

If the Contractor assigns, transfers, sublets or otherwise disposes of the Contract or its right, title or interest in or to the same or any part thereof 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 Contractor to assign monies due to, or to become due or be construed to hinder, prevent or affect any assignment by the Contractor for the benefit of its creditors, made pursuant to applicable law.

113. Agreement Limiting Time in Which to Bring Action Against the City

In the event the Contractor may be deemed to have a cause of action against the City, no action shall lie or be maintained by the Contractor 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.

114. 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 Contractor shall diligently render to the City, after additional compensation is mutually agreed upon, any and all assistance which the City may require of the Contractor.

115. 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.

116. Mutual Obligations

This document, change order, field directive, and written clarifications issued under the Contract, and the Contractor'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 Contractor, 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 Contractor fails to diligently defend such claim, and thereafter seek indemnity for such cost from the Contractor.

117. 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 Contractors in writing of such extensions.

118. Non-Exclusivity

It is the intent of the City to enter into a Contract with all successful Bidders 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 contractor, or perform the Work with its own employees.

119. Nature of the Agreement

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

The Contractor 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 Contractor shall perform the same as though they were specifically mentioned, described and delineated.

The Contractor 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.

120. 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.

121. 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.

122. 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 Contractor 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.

Section 3 - Supplemental Terms and Conditions

1. Contract Time & Hours

The Contractor shall furnish all labor, materials, equipment, tools, services, and incidentals to complete all Work at a rate of progress that will ensure completion of the Work within the Contract Time.

Contractor shall have 270 calendar days to achieve Substantial Completion from the date of the Notice to Proceed is issued. Contractor shall have an additional 60 calendar days for Final Completion of the Contract.

Work shall be performed in accordance with Code of the City of Miami. Any Work to be performed outside of these times must be requested in writing to the Project Manager 48 hours prior to the requested change. The Project Manager will notify the Contractor in writing of any changes in approved Work hours.

2. LEED Certification (Not Applicable)

3. Progress Payments

Contractor 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 Contractor shall only use the City's most current Contractor Payment Requisition Form. This form is available on the CIP webpage. 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 Contractor 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 5 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 Contractor within thirty (30) days after approval of Contractor's application for payment.

Ten percent (10%) of all monies earned by Contractor 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 Contractor or City because of Contractor's performance.
- Failure of Contractor to make payments properly to Subcontractors or for material or labor.
- Damage to another contractor not remedied.
- Liquidated damages and costs incurred by City and/or Consultant for extended construction administration.
- Failure of Contractor to provide any and all documents required by the Contract Documents.

In instances where multiple Project are awarded the Contractor shall submit separate Applications for Payment for each Project.

When the above grounds are removed or resolved satisfactory to the Project Manager, payment shall be made in whole or in part.

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

Contractor 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 Contractor 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.

Contractor retains sole liability to replace such stored materials or equipment as a result of damage or loss for any reason.

4. Liquidated Damages

The Contractor is obligated and guarantees to complete the Project in the time set forth in the Contract Documents or any approved extension of time. Where the Contractor fails to do so, the Contractor 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 Contractor 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 Contractor shall pay to the City for each and every calendar day of unexcused delay, the sum of five hundred fifty dollars (\$500.00) per calendar day, which is hereby agreed upon not as a penalty but as liquidated damages. The Contractor will 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 Contractor under any contract the Contractor 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 Contractor shall pay the difference upon demand by the City. Should the Contractor 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.

The City shall notify the Contractor that it is incurring liquidated damages.

5. Schedule of Values

The Contractor 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. Contractor'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 Contractor's submittal. The City reserves the right to require such information from the Contractor 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 Contractor Payment Application Form.

6. Project Schedules

Contractor shall submit a proposed Project schedule ("Schedule") as follows:

- a. Schedule identifying all tasks within the critical path. The proposed Project schedule shall be submitted within ten (10) calendar days of the Notice of Award and such submittal shall be subject to the Project Manager and Consultant's review. Subsequent to such review of said Schedule the Contractor shall establish said schedule as the baseline Schedule.
- b. The 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.
- c. All updates of Schedules shall be tracked against the baseline schedule and shall be at a minimum submitted with each pay application. An updated Schedule against the baseline shall also be submitted upon execution of each change order that impacts the Contract Time for completion. Failure to submit such Schedules shall result in the rejection of any submitted payment application.
- d. All Schedules shall be prepared in Microsoft Project 2003 or earlier unless otherwise approved by the Project Manager. At the time of submission of Schedules, Contractor 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 into the City's master Project schedule.
- e. Subsequent to review of the initial Schedule submission the Contractor shall establish the reviewed Schedule as the "Baseline Schedule". Contractor shall then prepare and submit all updates to the Schedules utilizing the tracking mode within Microsoft Project.

At a minimum the contents of the Baseline Schedule shall show or indicate the following:

- a. Complete sequence of design by activity reflecting the Subconsultant responsible for the activity.
- b. Complete sequence of construction by activity reflecting the Contractor or Subcontractor(s) responsible for each activity
- c. Dates for the beginning and completion of each major element of design and construction in no more than a two-week incremental scale.
- d. Items of work that must be accomplished to achieve substantial completion.
 - 1). Major disciplines or trades of work
 - 2). Filter downtime
 - 3). Time required for Contractor's submittals, fabrication and deliveries.
 - 4). Time required by the City to review all submittals.
 - 5). Time required by City to support any pre-operational and start-up testing.
 - 6). Time required for the relocation of utilities, if required.
5. Percentage of completion for each item as of the date the schedule was prepared.
6. Dates for Contractor'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 Contractor shall provide:

- a. 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
- b. 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.

7. Release of Liens/Subcontractor's Statement of Satisfaction

The Contractor 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 Contractor, free and clear of all liens, claims, security interests or encumbrances and that no Work, materials or equipment will have been acquired by the Contractor 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 Contractor or such other person.

The Contractor shall, beginning with the second request for payment, attach a Partial Release of Lien/Subcontractor's 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 Subcontractor where no release of lien has been submitted. The Contractor shall submit with the final payment request, for any Project(s) where subcontractors have performed Work, a Final Release of Lien/Subcontractor's Statement of Satisfaction for each Subcontractor 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 Subcontractor claims.

Where the Contractor has submitted a Performance/Payment Bond the Contractor may, in lieu of the Release of Lien/Subcontractor's Statement of Satisfaction, submit a Consent of Surety to Requisition Payment.

8. Progress Meetings

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

Contractor shall arrange and conduct regular bi-weekly job site Project status meetings with the Project Manager and/or Consultant. Contractor 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, Contractor shall identify the party or parties responsible for following up on any problems, delay items or questions, and Contractor shall note the action to be taken by such party or parties. Contractor shall revisit each pending item at each subsequent meeting until resolution is achieved. Contractor shall attempt to obtain from all present any potential problems or delaying event known to them for appropriate attention and resolution. Contractor shall be responsible for keeping minutes of the meeting and distribution of the minutes to all parties in attendance.

The Contractor shall arrange for the participation of its subcontractors and/or vendors when the Project Manager requires their presence.

The Contractor shall maintain minutes of the meeting and distribute copies of the minutes to all parties in attendance. The Contractor 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 Contractor shall submit a Request for Information (RFI) where the Contractor 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, Contractor shall include its recommendation for resolution. The Architect and City shall respond in writing.

10. Project Site Facilities

The Contractor 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).

Contractor's, Subcontractor's, supplier's, materialmen'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 Contractor 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 Contractor, his employees or his Sub-Contractors shall commit no public nuisance or use any facilities that have not been specifically provided for use by the Contractor.

The Contractor shall furnish an adequate supply of drinking water for its and its Sub-Contractors' employees.

There shall be adequate provisions made by the Contractor 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

Contractor 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, or those that are necessary for the performance of the Work. Contractor shall make all arrangements with the local utility companies. The Contractor 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.

Contractor 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 Contractor shall be required to obtain all necessary permits required for any Project(s) site facilities and utilities. Contractor shall also be responsible to maintain such facilities in a safe and working condition. Contractor 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 Contractor and the Contractor 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 Contractor 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 Contractor 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. 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 Contractor 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 Contractor shall be responsible for the repair or replacement of all Work such materials, tools, and equipment.

13. Construction Signage

Contractor will typically be expected to furnish and install a minimum of two signs in addition to construction related signs such as warning signs.

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

- The first sign must be manufactured by Image 2000, 45 East 9th Court, Hialeah, Florida (305) 884-2240 or approved equal. The sign shall 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 Contractor 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. Contractor 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.

14. Construction Photographs

Prior to commencement of the Work the Contractor will take digital photographs to document existing conditions and submit copies as required herein prior to the commencement of Work. Contractor shall submit with each application for payment photographs that accurately reflect the progress of all aspects the Work. The number of photographs to be taken will be based on the magnitude of Work being performed. Contractor shall submit one copy of each photograph in print and digitally. The photographs shall be printed on 8"X10" high resolution glossy commercial grade and weight color photographic print paper. Each photograph shall be imprinted on its face with the title

of the Project, the date, and time the picture was taken. Digital photographs shall be taken using .jpeg format and will be submitted on a CD-ROM clearly identifying the name of the Project, the name of the Contractor, and the timeframe in which the pictures were taken. Initial set up prints, unless otherwise allowed by the Project Manager will be submitted in a three ring binder with each picture protected by a clear plastic sleeve. Subsequent prints are to be submitted in clear plastic sleeves that can be added to the binder. The three ring binder shall be of such size to be able to hold all print pictures.

15. City Furnished Property

Where noted by the Contract Documents or as directed by the Project Manager the Contractor may be required to preserve all signage, street signs, parking meters, benches, traffic control signs, etc, and shall reinstall or provide them to the City as directed.

Section 4 - BID FORM

Submitted: _____
Date

City of Miami, Florida
Office of the City Clerk
City Hall, 1st Floor
3500 Pan American Drive
Miami, Florida 33133-5504

The undersigned, as Bidder, hereby declares that the only persons interested in this Bid as principal are named herein and that no person other than herein mentioned has any interest in this bid or in the Contract to be entered into; that this Bid is made without connection with any other person, firm, or parties making a Bid; and that it is, in all respects, made fairly and in good faith without collusion or fraud.

The Bidder further declares that it has examined the site of the Work and informed itself fully of all conditions pertaining to the place where the Work is to be done; that it has examined the Contract Documents and all addenda thereto furnished before the opening of the bids, as acknowledged below; and that it has satisfied itself about the Work to be performed; and that it has submitted the required Bid Guaranty; and all other required information with the Bid; and that this Bid is submitted voluntarily and willingly.

The Bidder agrees, if this Bid is accepted, to contract with the City, a political subdivision of the State of Florida, pursuant to the terms and conditions of the Contract Documents and to furnish all necessary materials, equipment, machinery, tools, apparatus, means of transportation, and all labor necessary to construct and complete within the time limits specified the Work covered by the Contract Documents for the Project(s) entitled:

Bid No: **09-10-010**
Title: **NW 14th Street Multimedia Entertainment District Streetscape Project B- 30394**

The Bidder also agrees to furnish the required Performance Bond and Payment Bond or alternative form of security, if permitted by the City, each for not less than the total Bid price plus alternates, if any, and to furnish the required Certificate(s) of Insurance.

The undersigned further agrees that the Bid guaranty accompanying the Bid shall be forfeited if Bidder fails to execute said Contract, or fails to furnish the required Performance Bond and Payment Bond or fails to furnish the required Certificate(s) of Insurance within fifteen (15) calendar days after being notified of the award of the Contract.

In the event of arithmetical errors, the Bidder agrees that these errors are errors which may be corrected by the City. In the event of a discrepancy between the price Bid in figures and the price Bid in words, the price in words shall govern. Bidder agrees that any unit price listed in the Bid is to be multiplied by the stated quantity requirements in order to arrive at the total.

BID FORM: (Page 2 of 8)

Note: Bidders are bidding on a Total Bid Price basis for the purpose of determining the lowest responsive and responsible Bidder. The Total Bid Price is the sum of the line item breakdown. **Bidders must download the MS Excel version of the bid Form.**

City Form SU must also be submitted with your bid to be considered responsive.

Both forms are available for download at:

<http://www.miamigov.com/CapitalImprovements/pages/ProcurementOpportunities/Default.asp>.

Failure to submit the Spreadsheet and SU Form may result in the Bid being determined to be non-responsive.

Our **TOTAL BID PRICE** includes the total cost for the Work specified in this solicitation, consisting of furnishing all materials, labor, equipment, supervision, mobilization, overhead & profit required, in accordance with the Bid Specifications.

Total Bid Price: \$ _____

Written Amount

Intentionally Left Blank

DIRECTIONS: COMPLETE PART III (if applicable).

Part I: By submitting this Bid the Contractor acknowledges and certifies that it has obtained, reviewed, and incorporated all aspects of any and all Addenda into its Bid price contained in the Bid submittal.

Part II; Certifications

The Bidder, by virtue of signing the Bid Form, affirms that the Bidder is aware of the following, and shall comply with all the stated requirements.

1. Affirmative Action Plan

Successful bidder(s) shall establish an Affirmative Action Plan or an Affirmative Action Policy pursuant to Ordinance #10062 as amended. Effective date of implementation must be indicated on the policy: and

2. First Source Hiring

Bidder certifies that it has read and understood the provisions of City of Miami Ordinance Section 18-110, pertaining to the implementation of a "First Source Hiring Agreement". Evaluation of bidder's responsiveness to Ordinance Section 18-110 may be a consideration in the award of a contract.

3. Non-Collusion

Bidder certifies that the only persons interested in this Bid are named herein; that no other person has any interest in this Bid or in the Contract to which this Bid pertains; that this Bid is made without connection or arrangement with any other person; and

4. Drug Free Workplace

The undersigned Bidder hereby certifies that it will provide a drug-free workplace program by:

(1) Publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Bidder's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establishing a continuing drug-free awareness program to inform its employees about:

(i) The dangers of drug abuse in the workplace;

BID FORM: (Page 4 of 8

- (ii) The Bidder's policy of maintaining a drug-free workplace;
 - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (3) Giving all employees engaged in performance of the Contract a copy of the statement required by subparagraph (1);
- (4) Notifying all employees, in writing, of the statement required by subparagraph (1), that as a condition of employment on a covered Contract, the employee shall:
- (i) Abide by the terms of the statement; and
 - (ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than five (5) calendar days after such conviction;
- (5) Notifying the City in writing within ten (10) calendar days after receiving notice under subdivision (4) (ii) above, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
- (6) Within thirty (30) calendar days after receiving notice under subparagraph (4) of a conviction, taking one of the following actions with respect to an employee who is convicted of a drug abuse violation occurring in the workplace:
- (i) Taking appropriate personnel action against such employee, up to and including termination; or
 - (ii) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency; and
- (7) Making a good faith effort to maintain a drug-free workplace program through implementation of subparagraphs(1) through (6); and

5. Lobbying

The undersigned certifies to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid, or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

BID FORM: (Page 5 of 8)

(3) This undersigned shall require that the language of this certification be included in the award documents for "All" sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a pre-requisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure; and

* Note: In these instances, "All" in the Final Rule is expected to be clarified to show that it applies to covered contract/grant transactions over \$100,000 (per QMB).

6. **Debarment, Suspension and Other Responsibility Matters**

The Bidder certifies to the best of its knowledge and belief, that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.
- b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or falsification or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph 1.b of this certification; and
- d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

Where the prospective Bidder is unable to certify to any of the statements in this certification, such Bidder shall submit an explanation to the City of Miami.

Part III; Certification – Trench Safety Act

The Bidder, by virtue of signing the Bid Form, affirms that the Bidder is aware of the Trench Safety Act, and will comply with all applicable trench safety standards. Such assurance shall be legally binding on all persons employed by the Bidder and subcontractors.

The Bidder is also obligated to identify the anticipated method and cost of compliance with the applicable trench safety standards.

Bidder acknowledges that included in the various items of the proposal and in the total Bid price are costs for complying with the Florida Trench Safety Act. These items are a breakout of the respective items involving trenching and will not be paid separately. They are not to be confused with bid items in the schedule of prices, nor be considered additional Work.

BID FORM: (Page 6 of 8)

The Bidder further identifies the costs and methods summarized below:

Description	Unit	Quantity Price	Unit Price	Extended .	Method
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
Total \$ _____					

Attached is a Bid Bond [], Cash [], Money Order [], Unconditional/Irrevocable Letter of Credit [], Treasurer's Check [], Bank Draft [], Cashier's Check [], Bid Bond Voucher [] or Certified Check [] No. _____ Bank of _____ for the sum of _____ Dollars (\$_____).

The Bidder shall acknowledge this Bid and certifies to the above stated in Part III and IV by signing and completing the spaces provided below.

Firm's Name: _____

Signature: _____

Printed Name/Title: _____

City/State/Zip: _____

Telephone No.: _____

Facsimile No.: _____ E-Mail Address: _____

Social Security No. or Federal I.D.No.: _____

Dun and Bradstreet No.: _____ (if applicable)

If a partnership, names and addresses of partners:

BID FORM: (Page 7 of 8)

CERTIFICATE OF AUTHORITY

(IF CORPORATION)

I HEREBY CERTIFY that at a meeting of the Board of Directors of _____, a corporation organized and existing under the laws of the State of _____, held on the ___ day of _____, _____, a resolution was duly passed and adopted authorizing (Name) _____ as (Title) _____ of the corporation to execute bids on behalf of the corporation and providing that his/her execution thereof, attested by the secretary of the corporation, shall be the official act and deed of the corporation. I further certify that said resolution remains in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this _____, day of _____, 20____.

Secretary: _____
Print: _____

CERTIFICATE OF AUTHORITY

(IF PARTNERSHIP)

I HEREBY CERTIFY that at a meeting of the Board of Directors of _____, a partnership organized and existing under the laws of the State of _____, held on the ___ day of _____, _____, a resolution was duly passed and adopted authorizing (Name) _____ as (Title) _____ of the to execute bids on behalf of the partnership and provides that his/her execution thereof, attested by a partner, shall be the official act and deed of the partnership.

I further certify that said partnership agreement remains in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this _____, day of _____, 20____.

Partner: _____
Print: _____

CERTIFICATE OF AUTHORITY

IF JOINT VENTURE)

Joint ventures must submit a joint venture agreement indicating that the person signing this Bid is authorized to sign Bid documents on behalf of the joint venture. If there is no joint venture agreement each member of the joint venture must sign the Bid and submit the appropriate Certificate of Authority (corporate, partnership, or individual).

CERTIFICATE OF AUTHORITY

(IF INDIVIDUAL)

I HEREBY CERTIFY that, I (Name) _____, individually and doing business as (d/b/a) _____ (If Applicable) have executed and am bound by the terms of the Bid to which this attestation is attached.

IN WITNESS WHEREOF, I have hereunto set my hand this _____, day of _____, 20____.

Signed: _____

Print: _____

NOTARIZATION

STATE OF _____)

_____) SS:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
20____, by _____, who is personally known to me or who has produced
_____ as identification and who (did / did not) take an oath.

SIGNATURE OF NOTARY PUBLIC
STATE OF FLORIDA

PRINTED, STAMPED OR TYPED
NAME OF NOTARY PUBLIC

Section 5- Attachments

BID BOND FORM (Page 1 of 3)

State of Florida)
County of Dade) SS
City of Miami)

KNOWN ALL PERSONS BY THESE PRESENTS, that _____ as
Principal, _____ as Surety,
are held and firmly bound unto The City of Miami, in the penal sum of _____
Dollars (\$_____) lawful money of the United States, for the payment of which sum
well and truly to be made, we bind ourselves, our heirs, executors, administrators and
successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has
submitted the accompanying Bid, dated _____, 20____, for:

NW 14th Street Multimedia Entertainment District Streetscape Project, CIP Project No. B-30394

NOW THEREFORE:

- (a) If the principal shall not withdraw said Bid within one hundred twenty (120) days after date of opening the same, and shall within ten (10) days after the prescribed forms are presented to him for signature, enter into a written contract with the City, in accordance with the bid as accepted, and give bond with good and sufficient Surety or Sureties, as may be required, for the faithful performance and proper fulfillment of such contract; or,
- (b) In the event if the withdrawal of said Bid within the period specified, or the failure to enter into such contract and give such bond within the time specified, if the principal shall pay the City the difference between the amount specified in said Bid and the amount for which the City may procure the required Work and supplies, if the latter amount be in excess of the former, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

BID BOND FORM (Page 2 of 3)

IN WITNESS WHEREOF, the above bound parties have executed this instrument under their several seals, this _____ day of _____, A. D., 20____, the name and corporate seal of each party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

WITNESS: (If Sole Ownership, Partnership, or Joint Venture, two (2) Witnesses are required. If Corporation, Secretary only will attest and affix seal.)

Surety Secretary

PRINCIPAL:

(Name of Firm) Affix Seal

(Signature of authorized officer)

(Title)

(Business Address)

City State Zip
Surety:

(Corporate Surety) Affix Seal

(Signature of Authorized Officer)

(Title)

(Business Address)

City State Zip

BID BOND FORM (Page 3 of 3)

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the Secretary of the Corporation named as Principal in the within bond; that _____ of said corporation; that I know his signature, and the signature hereto is genuine; and that said bond was duly signed, sealed and attested for and in behalf of said corporation by authority of its governing body.

_____(Corporate Seal)

STATE OF FLORIDA)
COUNTY OF DADE) SS
City OF MIAMI)

Before me, a Notary Public duly commissioned, and qualified, personally appeared _____ to me well known, who being by me first duly sworn upon oath, says that he/she is the attorney-in-fact, for the _____ and that he/she has been authorized by _____ to execute the foregoing bond on behalf of the Contractor named therein in favor of The City of Miami, Florida.

Subscribed and sworn to before me this _____ day of _____ A. D., 20____.

INSTRUCTIONS: Bid Bonds must be accompanied by a Power of Attorney, in compliance with Instructions to Bidders

Notary Public, State of Florida at Large

My Commission Expires:

SUPPLEMENT TO BID FORM:

QUESTIONNAIRE

This Completed Form ***Must*** Be Submitted With The Bid, The City May, At Its Sole Discretion, Require That The Bidder Submit **Additional** Information Not Included In The Submitted Form. Such Information Must Be Submitted Within Seven (7) Calendar Days Of The City's Request. Failure To Submit The Form Or Additional Information Upon Request By The City Shall Result In The Rejection Of The Bid As Non-Responsive. Additional Pages May Be Used Following The Same Format And Numbering.

By submitting its Bid the Bidder certifies the truth and accuracy of all information contained herein.

A. Business Information

1. How many years has your company been in business under its current name and ownership?

a. Professional Licenses/Certifications (include name and number)* Issuance Date

_____	_____
_____	_____
_____	_____

(*include active certifications of small or disadvantage business & name of certifying entity)

b. Date company licensed by Dept. Of Professional Regulation: _____

c. Qualified Business License: Yes No If Yes, Date Issued: _____

c. What is your primary business? _____
(This answer should be specific. For example; paving, drainage, schools, interior renovations, etc.)

d. Name of Qualifier, license number, and relationship to company:

e. Names of previous Qualifiers during the past five (5) years including, license numbers, relationship to company and years as qualifier for the company

2. Name and Licenses of any prior companies

Name of Company	License No.	Issuance Date

3. Type of Company:

Corporation "S" Corporation LLC Sole Proprietorship Other: _____
(Corporations will be required to provide a copy of their corporate resolution prior to executing a contract)

4. Company Ownership

a. identify all owners of the company

Name	Title	% of ownership

b. Is any owner identified above an owner in another company? Yes No
 If yes, identify the name of the owner, other company names, and % ownership

c. identify all individuals authorized to sign for the company, indicating the level of their authority (check applicable boxes and for other provide specific levels of authority)

Name	Title	Signatory Authority			
		All	Cost	No-Cost	Other
_____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Explanation for Other: _____

(Note: "All" refers to any type of document including but not limited to contracts, amendment, change proposal requests (CPR), change orders (CO), notices, claims, disputes, etc. "Cost" refers to CPRs, COs. No-cost refers to RFIs, Notices, and other similar documents)

5. Employee Information

Total No. of Employees: _____ Number of Managerial/Admin. Employees: _____

Number of Trades Personnel and total number per classification:

(Apprentices must be listed separately for each classification)

How many employees are working under H2B visas? _____

6. Has any owner or employee of the company ever been convicted of a federal offense or moral turpitude: If yes, please explain:

7. Insurance & Bond Information

a. Insurance Carrier name & address: _____

b. Insurance Contact Name, telephone, & e-mail: _____

c. Insurance Experience Modification Rating (EMR): _____
(if no EMR rating please explain why)

d. Number of Insurance Claims paid out in last 5 years & value: _____

e. Bond Carrier name & address: _____

f. Bond Carrier Contact Name, telephone, & e-mail: _____

g. Number of Bond Claims paid out in last 5 years & value: _____

8. Have any claims lawsuits been file against your company in the past 5 years, If yes, identify all where your company has either settle or an adverse judgment has been issued against your company. Identify the year basis for the claim or judgment & settlement unless the value of the settlement is covered by a written confidentiality agreement.

9. To the best of your knowledge is your company or any officers of your company currently under investigation by any law enforcement agency or public entity. If yes, provide details:

10. Has your company been assessed liquidated damages or defaulted on a project in the past five (5) years? Yes No (If yes, provide an attachment that provides an explanation of the project and an explanation.

11. Has your company been cited for any OSHA violations in the past five (5) years. If yes, please provide an attachment including all details on each citation,

12. Provide an attachment listing all of the equipment, with a value of \$5,000 or greater, owned by your company.

B. Project Management & Subcontract Details

1. Project Manager for this Project:

a. Name: _____

b. Years with Company: _____

c Licenses/Certifications: _____

d. Last 3 projects with the company including role, scope of work, & value of project:

2. Subcontractors:

Name	Trade	% of Work	License No.	Certification*
------	-------	-----------	-------------	----------------

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

(*active certifications of small or disadvantaged business & name of certifying entity)

3. Scope of actual construction work to be performed by your company and the corresponding percentage of the work: (This does not include such items as insurance * bonds, dumpsters, trailers, and other similar non-construction work items)

C. Current and Prior Experience:

1. Current Experience including projects currently under construction, recently awarded, or pending award (Provide an attachment to this questionnaire that lists all such projects, including the owner's name, title and value of project, scope of work, projected or actual start date, projected completion date, and number of company trades personnel assigned to the project)

2. Prior Projects of a similar size, scope and : Provide an attachment to this Questionnaire that includes projects the Proposer considers of a similar, size, scope and complexity that the City should consider in determining the Bidders responsiveness and responsibility. This attachment must include the project that meets the minimum number of projects identified by the bid solicitation. Information provided must include the owner's name , address and contract person, including telephone & e-mail, title of project, location of project, scope, initial value and final cost of the project, projected and

final timeframes for completion in calendar days and the number of company trades personnel, by classification, that were assigned to the project. The delivery method, including, but not limited to; design-build, CM@Risk, Design-Bid-Build, etc. is to be identified for each Project. If there is a difference between the initial and final cost or initial and actual timeframe provide details on why the differences exist. A reference letter is to be completed by the owner of the Project and submitted as part of the Bid submission.

D. Bidder's References

Bidders are to include a minimum of five (5) references from projects listed in C.2 above. The attached form is to be used and is to be included with the Bid submission. The City, at its sole discretion may allow the Bidder to submit the references after the specified date for Bid submission.

City of Miami



PEDRO G. HERNANDEZ, P.E.
City Manager

To Whom it May Concern

Subject: Reference Letter

Name of Bidder:

The above referenced contractor is submitting on a bid solicitation that has been issued by the City of Miami. We require that the Bidder provide written references with their Bid submission and by providing you with this document the Contractor is requesting that you provide the following reference information. We would appreciate you providing the information requested below as well as any other information your feel is pertinent:

Name of Project:

Scope of work: _____

Value of project: \$_____ Date Completed: _____

Was project completed on time & within budget: Yes No

If no, was the contractor at fault or contribute to the delay(s) or increased cost? Yes No

If yes, please provide details:

Comments:

Thank you for your assistance in helping us in evaluating our bid solicitation.

Name of individual completing this form: _____ Date: _____

Signature: _____ Title: _____

Telephone: _____ E-mail: _____

Sincerely,

Gary Fabrikant
Assistant Director

**SUPPLEMENT TO BID FORM:
OFFICE LOCATION AFFIDAVIT (Page 1 of 2)**

Please type or print clearly. This Affidavit must be completed in full, signed and notarized **ONLY IF YOU MAINTAIN AN OFFICE WITHIN THE CORPORATE LIMITS OF THE CITY OF MIAMI.**

Legal Name of Firm:

Entity Type: (Check One) Partnership Sole Proprietorship Corporation

Corporation Document No:

Date Established

Occupational License No:

Date of Issuance

Office Location (Establishment of the bidder/Bidder):

PRESENT

Street Address:

City:

State:

How long at this location:

PREVIOUS

Street Address:

City:

State

How long at this location:

According to Section 18-85 of the City of Miami Code, as amended:

The "City Commission may offer to a responsible and responsive local bidder, who maintains an office in the City of Miami, the opportunity of accepting a Bid at the low bid amount, if the original bid amount submitted by the local bidder does not exceed 110 percent of the lowest other responsible and responsive bidder."

The intention of this section is to benefit local bona fide bidders/Bidders to promote economic development within the corporate limits of the City of Miami.

I (we) certify, under penalty of perjury, that the office location of our firm has not been established with the sole purpose of obtaining the advantage granted bona fide local bidders/Bidders by this section.

**SUPPLEMENT TO BID FORM:
OFFICE LOCATION AFFIDAVIT (Page 2 of 2)**

_____	_____
Authorize Signature	Authorized Signature
_____	_____
Print Name	Print Name
_____	_____
(Corporate Seal) Title	Title
_____	_____
Authorized Signature	Authorized Signature

(Must be signed by the corporate secretary of a Corporation or one general partner of a partnership or the proprietor of a sole proprietorship or all partners of a joint venture.)

NOTARIZATION

STATE OF FLORIDA, COUNTY OF DADE

That: _____ personally appeared before me and acknowledged the foregoing instrument as his/her act and deed.

That he/she has produced _____ as identification.

NOTARY PUBLIC: _____

My Commission Expires: _____

Please submit with your Bid copies of Occupational License, professional and/or trade License to verify local status. The City of Miami also reserves the right to request a copy of the corporate charter, corporate income tax filing return and any other documents(s) to verify the location of the firm's office.

Section 6- Contract Execution Form

This Contract _____(contract number) made this ____ day of _____ in the year 2010 in the amount of \$_____by and between the City of Miami, Florida, hereinafter called the "City," and (name of Contractor)

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

WITNESS/ATTEST

(CONTRACTOR NAME)

Signature

Signature

Print Name, Title

Print Name, Title of Authorized Officer or Official

ATTEST:

(Corporate Seal)

CONTRACTOR Secretary
(Affirm CONTRACTOR Seal, if available)

ATTEST:

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

Priscilla Thompson, City Clerk

Pedro G. Hernandez, P.E., City Manager

APPROVED AS TO INSURANCE REQUIREMENTS:

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

LeAnn Brehm, Director
Risk Management Department

Julio O. Bru, 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 Contractor, 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 Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, Contractor has by written agreement entered into a Contract, Bid/Contract No: **09-10-010**, 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 Contractor:

1. Performs the Contract between Contractor 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 Contractor 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 Contractor 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 Contractor under the Contract and any amendments thereto, less the amount properly paid by City to Contractor.

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 Contractor, 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 Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, Contractor 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 Contractor:

1. Pays City all losses, liquidated damages, expenses, costs and attorney's fees including appellate proceedings, that City sustains because of default by Contractor 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 Contractor in the performance of the Contract;

THEN CONTRACTOR'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 Contractor 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 Contractor a notice that he intends to look to the bond for protection.
- 2.2. A claimant who is not in privity with Contractor 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 Contractor 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 Contractor 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____.

Contractor

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.: _____

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the Secretary of the corporation named as Principal in the foregoing Performance and Payment Bond (Performance Bond and Payment Bond); that _____, who signed the Bond(s) on behalf of the Principal, was then _____ of said corporation; that I know his/her signature; and his/her signature thereto is genuine; and that said Bond(s) was (were) duly signed, sealed and attested to on behalf of said corporation by authority of its governing body.

Secretary (on behalf of) (SEAL)

Corporation

STATE OF FLORIDA)
) SS
COUNTY OF MIAMI-DADE)

Before me, a Notary Public duly commissioned, qualified and acting personally, appeared _____ to me well known, who being by me first duly sworn upon oath says that he/she has been authorized to execute the foregoing Performance and Payment Bond (Performance Bond and Payment Bond) on behalf of Contractor named therein in favor of City.

Subscribed and Sworn to before me this ____ day of _____, 20____.
My commission expires:

Notary Public, State of Florida at Large

Bonded by_____

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

of and for the account of _____
(contractor, 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 _____ (contractor, applicant, customer) agreed upon by and between the City of Miami, Florida and _____ (contractor, 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 Contractor'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 _____.

(contractor, 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

INFORMATION FOR DETERMINING JOINT VENTURE ELIGIBILITY

If the Proposer is submitting as a joint venture, please be advised that this form (3 pages) **MUST** be completed and the REQUESTED written joint-venture agreement **MUST** be attached and submitted with this form.

1. Name of joint venture: _____

2. Address of joint venture: _____

3. Phone number of joint venture: _____

4. Identify the firms that comprise the joint venture: _____

5. Describe the role of the MBE firm (if applicable) in the joint venture:

6. Provide a copy of the joint venture's written contractual agreement.

7. Control of and participation in this Agreement. Identify by name, race, sex, and "firm" those individuals (and their titles) who are responsible for day-to-day management and policy decision making, including, but not limited to, those with prime responsibility for:

(a) Financial decisions: _____

(b) Management decisions, such as: _____

(1) Estimating: _____

(2) Marketing and sales: _____

(3) Hiring and firing of management personnel: _____

(4) Purchasing of major items or supplies: _____

(c) Supervision of field operations: _____

NOTE: If, after filing this form and before the completion of the joint venture's work on the subject Contract, there is any significant change in the information submitted, the joint venture must inform the County in writing.

AFFIDAVIT

"The undersigned swear or affirm that the foregoing statements are correct and include all material information necessary to identify and explain the terms and operation of our joint venture and the intended participation by each joint venturer in the undertaking. Further, the undersigned covenant and agree to provide to the County current, complete and accurate information regarding actual joint venture work and the payment therefore and any proposed changes in any of the joint venturer relevant to the joint venture, by authorized representatives of the County. Any material misrepresentation will be grounds for terminating any Contract which may be awarded and for initiating action under Federal or State laws concerning false statements."

Name of Firm: _____	Name of Firm: _____
Signature: _____	Signature: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Form A