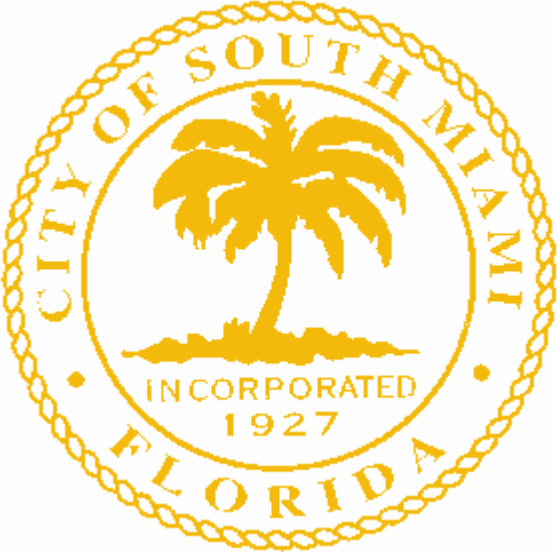


**CITY OF SOUTH MIAMI**



**REQUEST FOR PROPOSALS  
FOR  
DESIGN / BUILD  
OF  
MURRAY PARK COMMUNITY POOL**

**Public Works and Engineering Department**

\* \* \* \* \*

\*CITY OF SOUTH MIAMI \*6130 SUNNSET DRIVE \*SOUTH MIAMI \*FLORIDA \*33143\*



## Murray Park Community Pool

Sealed proposals will be received at the City Clerk Office, City of South Miami 6130 Sunset Drive, South Miami, Florida 33143, until **10:00 a.m., Friday, September 3, 2010** for Murray Park Community Pool to be located at 5800 SW 66th Street, South Miami, Florida 33143.

### RFP NO. SM –PW2010-10

**The City's objective is to hire a qualified and competent independent Proponent to provide all necessary professional design services and all labor, materials and equipment necessary to construct the Murray Park Community Pool which is located at Murray Park, 5800 SW 66th Street, South Miami, Florida 33143.**

The work involved with the project shall include, but may not be limited to, the furnishing of all labor, materials, tools, equipment, machinery, superintendence and services necessary for the complete in place construction of the project.

A **mandatory** Pre-Bid Conference will be held at the site at **10:00 a.m on August 20, 2010**. The conference shall be held regardless of weather conditions.

The Proposal Packages are on file at the Issuing Office of:

City of South Miami  
City Clerk Office  
Between 9:00 AM to 4:00 PM  
6130 Sunset Drive  
South Miami, Florida 33143  
(305) 663-6340

Copies of the Proposal Package may be obtained from the Issuing Office upon the payment of ten U.S. dollars (\$10) to the City of South Miami.

The City of South Miami reserves the right to award the bid to the lowest, most responsive, responsible proponent, as determined by the City Commission, subject to the right of the City to reject any and all bids, to waive any irregularity in the bids or bidding procedure and subject also to the right of the City to award bid and contract to proponents other than the low proponent.

This project in part will be federally assisted through the Miami-Dade County Department of Housing and Community Development with HOME funds and as such bidder must comply with Presidential Executive Order 11246, as amended; by Executive Order 11375: Title VII of the Civil Right Act of 1964 as amended; the Davis Bacon Act of 1968, as amended; the Copeland Anti-Kickback Act; the Contract Work Hours and Safety Standards Act and all other applicable federal, state and local ordinance.

Note that bidder is required to pay workers on this project the minimum wages as determined in the Wage Determination Decision included in the Bidder's package: and that the contractor must ensure that employees are not discriminated because of race, color, religion, sex or national origin.

This project is also a Section 3 covered activity. Section 3 requires that job training employment and contracting opportunities be directed to low and very-low income persons or business owners who live in the project's area.

Lissette Rivera  
Purchasing Manager

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## **I.0 INSTRUCTIONS TO PROPONENTS**

### **Murray Park Community Pool**

**IT IS THE RESPONSIBILITY OF THE PROPONENT TO ENSURE THAT THE PROPOSAL REACHES THE CITY CLERK OFFICE ON OR BEFORE THE CLOSING HOUR AND DATE STATED ON THE REQUEST FOR PROPOSAL FORM.**

1. Purpose of This RFP: The City of South Miami is requesting proposals (RFP) for the design and construction of Murray Park Community Pool for the lowest and most responsive price. The City reserves the right to award the project to the firm considered the best to serve the City's interests.
2. Any questions concerning the RFP or any required need for clarification must be made to the Purchasing Manager in writing, at least five (5) days prior to the Proposal due date. Interpretations or clarifications considered necessary by the City in response to such questions will be issued by an addenda mailed or delivered to all parties listed on the official Proponent's list as having received the RFP documents. Only questions answered by written addenda shall be binding. Oral interpretations or clarifications shall be without legal effect. No plea of ignorance or delay or required need of additional information shall exempt a Proponent from submitting a response to the RFP on the required date and time as publicly noted.
3. Cone of Silence: You are hereby advised that this RFP is subject to the "Cone of Silence," in accordance with Miami-Dade County Ordinance Nos. 98106 and 99-1. From the time of advertising until the City Manager issues his recommendation, there is a prohibition on communication with the City's professional staff. The Cone of Silence does not apply to oral communications at pre-bid conferences, oral presentations before evaluation committees, contract discussions during any duly noticed public meeting, public presentations made to the City Commission during any duly notice public meeting, contract negotiations with the staff following the award of an RFP, RFQ, RFLI or bid by the City Commission, or communications in writing at any time with any City employee, official or member of the City Commission unless specifically prohibited. A copy of all written communications must be filed with the City Manager. Violation of these provisions by any particular proponent shall render any RFP award, RFQ award, RFLI award, or bid award to said proponent void, and said proponent shall not be considered for any RFP, RFQ, RFLI or bid for a contract for the provision of goods or services for a period of one year.
4. Proponents warrant that the prices, terms and conditions submitted will be firm for a period of 90 days from the date of the proposal due date unless otherwise stated in the Price Proposal Form. Incomplete, unresponsive, irresponsible, vague, or ambiguous responses to the RFP will be cause for rejection, as determined by the City.
5. Pursuant to the provisions of paragraph (2)(a) of Section 287.133, Florida Statutes – "a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a response to the RFP on a contract to provide any goods or services to a public entity, may not submit a response to the RFP on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded to 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 287.107, for category two for a period of 36 months from the date of being placed on the convicted vendor list".
6. Proponents shall use the Form(s) furnished by the City. Failure to do so may cause the rejection of the submittal. Removal of any of the response to the RFP may invalidate the submittal. Proponents shall deliver to the City:
  - a) The RFP and Instructions to Proponents.
  - b) A copy of all issued addendum.
  - c) Five (5) copies of the RFP response Form completely executed.
  - d) Bid Security, (Bid Bond or cashiers check) attached to the Bid Form.
  - e) Certificates of Competencies, State, County and City Licenses.
  - f) Certificate of Insurance and or Letter of Insurability.

The entire Bid Package shall be placed in an opaque envelope and clearly marked with the PROPONENT'S

name and "SEALED BID MURRAY PARK COMMUNITY POOL."

- 6.1. Bids having an erasure or corrections must be initialed by the PROPONENT in ink. Bids shall be signed in ink; all quotations shall be typewritten or printed and filled in with ink.
- 6.2. Guaranties: No guarantee or warranty is given or implied by the City as to the total amount that may or may not be purchased from any resulting Contract or Award. These quantities are for bidding purposes only and will be used for tabulation and presentation of the Bid proposal. The City reserves the right to reasonably increase or decrease quantities as required. The prices offered herein and the percentage rate of discount applies to other representative items not listed in this RFP.
7. Delivery: All items shall be delivered F.O.B. destination (i.e. at a specific City of South Miami address), and delivery costs and charges (if any) will be included in the Bid Price. Exceptions shall be noted. When practical, the City may make pick-ups at the vendors place of business.
8. Mistake: If there is a discrepancy in the unit and extended prices, the unit price(s) will prevail and the extensions adjusted to coincide. PROPONENTS are responsible for checking their calculations. Failure to do so will be at the PROPONENT'S risk, and errors will not release the PROPONENT from their responsibility as noted herein.
9. Brand Names: If a brand name, make, of any "or equal" manufacturer trade name, or vendor catalog is mentioned whether or not followed by the words "approved equal" it is for the purpose of establishing a grade or quality of material only. Vendor may offer equals with appropriate identification, samples and/or specifications on such item(s). The City shall be the sole judge concerning the merits of items Bid as equals.
10. Material: Material(s) delivered to the City under this proposal shall remain the property of the seller until accepted to the satisfaction of the City. In the event materials supplied to the City are found to be defective or do not conform to specifications, the City reserves the right to return the product(s) to the seller at the seller's expense.
11. Pricing: Prices should be stated in units of quantity specified in the Bid Form. In case of a discrepancy, the City reserves the right to make the final determination at the lowest net cost to the City.
12. Safety Standards: The PROPONENT warrants that the product(s) supplied to the City conform in all respects to the standards set forth in the Occupational Safety and Health Act (OSHA) and its amendments. Bids must be accompanied by a Materials Data Safety Sheet (M.S.D.S) when applicable.
13. Payments: Payment will be made after commodities/services have been received, accepted, and properly invoiced as indicated in the contract and/or purchase order. Invoices must bear the purchase order number.
14. Liability, Insurance, Licenses & Permits: Where PROPONENTS are required to enter onto City of South Miami property to deliver materials or to perform work or services as a result of a Bid Award, the PROPONENT will assume the full duty, obligation, and expense of obtaining all necessary licenses, permits, inspections, and insurance required. The PROPONENT shall be liable for any damages or loss to the City occasioned by negligence of the PROPONENT (or its agent) or any person the PROPONENT has designated in the completion of their contract as a result of the Bid. Contractor shall be required to furnish a certified copy of all licenses, Certificates of Competency or other licenser requirements necessary to practice their profession as required by Florida State Statute, Florida Building Code, Miami-Dade County or City of South Miami Code. Contractors shall include current Miami-Dade County Certificates of Competency. These documents shall be furnished to the City along with the Bid response. Failure to furnish these documents or to have required licenses will be grounds for rejecting the Bid and forfeiture of the Bid Bond.
15. PROPONENT shall furnish to the City Manager, Certificate(s) of Insurance which indicate that insurance coverage has been obtained from an insurance company authorized to do business in the State of Florida or otherwise secured in a manner satisfactory to the City, for those coverage types and amounts listed in Article 5 of the General Conditions, in an amount equal to 100% of the requirements and shall be presented to the City prior to issuance of any Contract(s) or Award(s) Document(s). The City of South Miami and Miami Dade County shall be named as "additional insured" with respect to this coverage.
16. At the time of the Bid submission the PROPONENT must submit Certificates of Insurance, or evidence of insurability in the form of a letter from PROPONENT'S insurance carriers demonstrating the ability to obtain coverage outlined in Article 5 of the General Conditions. All required insurances shall name the City of South Miami and Miami Dade County as additional insured.

17. All insurance shall be issued by companies rated A:7 or better per A.M. Best's Key Rating Guide, latest edition and authorized to issue insurance in the State of Florida. It shall be the responsibility of the PROPONENT and insurer to notify the City Manager of cancellation, lapse or material modification of any insurance policies insuring the PROPONENT, which relate to the activities of such vendor and the City of South Miami. Such notification shall be in writing, and shall be submitted to the City Manager thirty (30) days prior to cancellation of such policies. This requirement shall be reflected on the Certificate of Insurance.
18. Failure to fully and satisfactorily comply with the City's insurance and bonding requirements set forth herein shall authorize the City Manager to implement a rescission of the Bid Award without further City Commission action. The PROPONENT hereby holds the City harmless and agrees to indemnify City and covenants not to sue the City by virtue of such rescission.
19. Copy rights and/or Patent Rights: PROPONENT warrants that there has been no violation of copyrights or patent rights in manufacturing, producing or selling of goods shipped or ordered, as a result of this Bid. The seller agrees to indemnify City from any and all liability, loss or expense occasioned by any such violation.
20. Warranty/Guarantee: Successful PROPONENT shall act as agent for the City in the follow-up and compliance of all items under Warranty/Guarantee and complete all forms for Warranty/Guarantee coverage under this Contract. PROPONENT warrants by signature on the Bid Form that prices quoted here are in conformity with the latest Federal Price Guidelines.
21. Samples: Samples of items, when required, must be furnished by the PROPONENT free of charge to the City. Each individual sample must be labeled with the PROPONENT'S name and manufacturer's brand name and delivered by them within ten (10) calendar days of the Bid opening unless schedule indicates a different time. If samples are requested subsequent to the Bid opening, they should be delivered within ten (10) calendar days of the request. The City will not be responsible for returning samples.
22. Governmental Restrictions: In the event any governmental restrictions may be imposed which would necessitate alteration of the material quality, workmanship, or performance of the items offered on this Bid prior to their delivery, it shall be the responsibility of the successful PROPONENT to notify the City at once, indicating in its letter the specific regulation which required an alteration. The City of South Miami reserves the right to accept any such alteration, including any price adjustments occasioned thereby, or to cancel at no further expense to the City.
23. Assignment: The CONTRACTOR shall not transfer or assign the performance required by this Bid without prior written consent of the City Manager. Any award issued pursuant to the Invitation to Bid and monies, which may be due hereunder, are not assignable except with prior written approval of the City Manager.
24. Award of Bids: The City of South Miami reserves the right to award the bid to the lowest, most responsive, responsible PROPONENT, as determined by the City Commission, subject to the right of the City to reject any and all bids, to waive any irregularity in the bids or bidding procedure and subject also to the right of the City to award bid and contract to PROPONENTS other than the low PROPONENT.
25. Evaluation of Bids: The City, at it's sole discretion, reserves the right to inspect any/all PROPONENT'S facilities to determine its capability of meeting the requirements for the Contract. Also, price, responsibility and responsiveness of the PROPONENT, the financial position, experience, staffing, equipment, materials, references, and past history of service to the City and/or with other units of state, and/or local governments in Florida, or comparable private entities, will be taken into consideration in the Award of the Contract.
26. Identical (Tie Bids): Shall be awarded by the City in compliance with Florida State Statutes providing for a drug free workplace. That is, in the event of an identical Tie Bid, a preference shall be given to a business having a drug free workplace under Florida Statute Section 287.087, as amended. Failure to provide proof of compliance when requested shall be cause for rejection of the Bid as determined by the City.
27. Hold Harmless: All PROPONENTS shall hold the City, it's officials and employees and Miami Dade County harmless and covenant not to sue the City, it's officials and employees in reference to its decisions to reject, award, or not award a Bid, as applicable.
28. Cancellation: Failure on the part of the PROPONENT to comply with the conditions, specifications, requirements, and terms as determined by the City, shall be just cause for cancellation of the Award.
29. Disputes: If any dispute concerning a question of fact arises under the Contract, other than termination for default or convenience, the CONTRACTOR and the City department responsible for the administration of the Contract shall make a good faith effort to resolve the dispute. If the dispute cannot be resolved by agreement,

then the department with the advice of the City Attorney, shall resolve the dispute and send a written copy of its decision to the CONTRACTOR, which shall be binding on both parties.

30. Non-conformance to Contract: The City of South Miami may withhold acceptance of, or reject items which are found upon examination, not to meet the specification requirements. Upon written notification of rejection, items shall be removed within five (5) calendar days by the vendor at its own expense and redelivered at its expense. Rejected goods left longer than thirty (30) calendar days will be regarded as abandoned and the City shall have the right to dispose of them as it's own property. Rejection for non-conformance, or failure to meet delivery schedules may result in the Contract being found in default.
  - 30.1. Default Provision: In case of default by the PROPONENT or CONTRACTOR, the City of South Miami may procure the articles or services from other sources and hold the PROPONENT or CONTRACTOR responsible for any excess costs occasioned or incurred thereby.
  - 30.2. Indemnification: The CONTRACTOR shall indemnify, save harmless, and defend the City of South Miami it's officers, agents and employees and Miami Dade County from and against any claims, demands or causes of action of whatsoever kind or nature arising out of error, omission, negligent act, conduct, or misconduct of the CONTRACTOR, its agents, servants or employees in the provision of goods or the performance of services pursuant to this Bid and/or from any procurement decision of the CITY including without limitation, awarding the Contract to the CONTRACTOR.
  - 30.3. Secondary/Other Vendors: The CITY reserves the right in the event the primary vendor cannot provide an item(s) or service(s) in a timely manner as requested, to seek other sources without violating the intent of the Contract.
  - 30.4. Plans for Construction: The successful PROPONENT will be furnished four sets of Contract Documents without charge. Any additional copies required will be furnished to the PROPONENT at reproduction cost.
31. Bonding Requirements: The PROPONENT, in submitting this Bid, shall include a Bid Bond in the amount of 5% of the total amount of the base Bid on the Bid Bond Form included herein. A company or personal check shall not be deemed a valid Bid Security.
32. Performance and Payment Bond: The City of South Miami shall require the successful PROPONENT to furnish a Performance Bond and Payment Bond, each, in the amount of 100% of the total Bid Price, including Alternates if any, with the City of South Miami as the obligee, as security for the faithful performance of the Contract and for the payment of all persons performing labor or furnishing materials in connection herewith. The bonds shall be with a surety company authorized to do business in the State of Florida.
33. Bid Guarantee: The successful PROPONENT shall execute the Contract (Agreement) and provide the required Performance Bond, Payment Bond and Certificates of Insurance within ten (10) calendar days of Notice of Award by the City. The PROPONENT who has the Contract awarded to him and who fails to execute the Contract and furnish the Performance and Payment Bonds and Insurance Certificates within the specified time shall forfeit the Bid Security that accompanied his Bid, and the Bid Security shall be retained as liquidated damages by the City, and it is agreed that this sum is a fair estimate of the amount of damages the City will sustain in case the PROPONENT fails to enter into the Contract and furnish the Bonds as herein before provided. Bid Security deposited in the form of a cashier's check drawn on a local bank in good standing shall be subject to the same requirements as a Bid Bond.
34. Pre-proposal Conference Site Visits: It is mandatory that all Proponents attend a pre-bid conference if required, and tour all areas contained in the specifications. Proposals will not be accepted from PROPONENTS who did not attend the pre-proposal conference. No pleas of ignorance by the PROPONENT of conditions that exist, or that may hereinafter exist as a result of failure to make the necessary examinations or investigations or failure to fulfill in every detail the requirements of the contract documents, will be accepted as basis for varying the requirements of the City of South Miami or the compensation of the PROPONENT.
35. Time of Completion: The time of completion of the work to be performed under this contract is the essence of the contract. Delays and extensions of time may be allowed only in accordance with the provisions stated in the appropriate section of the General Conditions. The time allowed for the completion of the work shall be as stated in the Bid Form. There shall be a \$1,500 a day liquidated damages for every calendar day that the project is not completed per the agreed upon schedule.

36. Terrorist Policy: Resolution #41-10-13075 adopted February 10, 2010, the Mayor and City Commission of the City of South Miami, Florida declaring that it is the policy of the City of South Miami to not do business with any vendors doing business with Iran or Sudan or any terrorist country or group.
37. The City of South Miami will hire a consultant to operate the pool as well as advise the design/build team on the most economical design which will benefit the City. The selected design/build team must cooperate with the pool consultant in order to achieve the goal of the City.
38. This project in part will be federally assisted through the Miami-Dade County Department of Housing and Community Development with HOME funds and as such bidder must comply with Presidential Executive Order 11246, as amended; by Executive Order 11375: Title VII of the Civil Right Act of 1964 as amended; the Davis Bacon Act of 1968, as amended; the Copeland Anti-Kickback Act; the Contract Work Hours and Safety Standards Act and all other applicable federal, state and local ordinance.

Note that bidder is required to pay workers on this project the minimum wages as determined in the Wage Determination Decision included in the Bidder's package: and that the contractor must ensure that employees are not discriminated because of race, color, religion, sex or national origin.

This project is also a Section 3 covered activity. Section 3 requires tat job training employment and contracting opportunities be directed to low and very-low income persons or business owners who live in the project's area.

## 2.0 EVALUATION AND SELECTION

### 2.1. EVALUATION TEAM

The evaluation of Proposals will be undertaken on behalf of the City by the Evaluation Team. The Evaluation Team may consult with others including City staff members, third party consultants and references, as the Evaluation Team may in its discretion decide is required. The Evaluation Team will give a written recommendation for the selection of a Preferred Proponent or Preferred Proponents to the City.

### 2.2. EVALUATION CRITERIA

The Evaluation Team will compare and evaluate all Proposals to determine the Proponent's strength and ability to provide the Services in order to determine the Proposal which is most advantageous to the City, using the following criteria:

- (a) **EXPERIENCE**  
The Evaluation Team will consider the Proponent's organization and proposed project team past experience in undertaking similar construction projects in type, scope, budget and complexity;
- (b) **FINANCIAL ABILITY AND RESOURCES**  
The Evaluation Team will consider the Proponent's organization financial ability and resources to carry out the project;
- (c) **COST AND QUALITY CONTROL**  
The Evaluation Team will consider the Proponent's organization internal processes to implement cost containment strategies, value engineering and high standard of quality control for the project;
- (d) **SCHEDULE**  
The Evaluation Team will consider the Proponent's organization proposed project timeline inclusive of mobilization, construction schedule, milestones, closeout and completion;
- (e) **PRICE PROPOSAL**  
The Evaluation Team will consider the Proponent's price proposal in terms of accuracy, completeness, value, local market and substantiated industry standards.

The Evaluation Team will consider the Proponent's responses to attached questionnaires and all other forms and documents being a part of this RFP.

### 2.3 DETAILED CRITERIA SUBMITALS:

#### A. **CRITERIA I: RESPONDENT'S PAST EXPERIENCE ON REPRESENTATIVE PROJECTS 20 POINTS**

- I.1 Identify and describe the Construction Team's past experience for providing Services that are MOST RELATED TO THIS PROJECT within the last five (5) years. List the projects in order of priority, with the most relevant project listed first. Provide the following information for each project listed:

- Project name, location, contract delivery method, and description
- Color images (photographic or machine reproductions)

- Bid price
- Final construction cost
- Final project size in gross square feet
- Type of construction (new, renovation, or expansion)
- Actual Notice To Proceed, Substantial Completion, and Final Payment dates for Construction Services
- Name of Project Manager (individual responsible to the Owner for the overall success of the project)
- Name of Project Superintendent (individual responsible for coordinating the day to day work)
- Names of Subcontractors

References (for each project listed above, identify the following):

- The Owner's representative who served as the day-to-day liaison during construction, including telephone number
- Architect/Engineer's name and representative who served as the day-to-day liaison during construction, including telephone number
- Length of business relationship with the Owner.

References shall be considered relevant based on specific project participation and experience with the respondent. The Owner may contact references during any part of this process. The Owner reserves the right to contact any other references at any time during the RFP process.

- 1.2 Provide resumes of the Respondent's team that will be directly involved in the Project, including their experience with similar projects, the number of years with the firm, and their city(s) of residence. Include as applicable; Project Managers, Superintendents, Assistant Project Managers and Superintendents, Project Scheduler, Quality Control Inspectors, Safety Coordinator.
- 1.3 Describe briefly in graphical form (flowchart) the proposed Project assignments and lines of authority and communication for each team member to be directly involved in the Project. Indicate the estimated percent of time these team members will be involved in the Construction Services.

## **B. CRITERIA 2: PROPONENT'S FINANCIAL ABILITY AND RESOURCES 10 POINTS**

2.1 provide the following information on your firm for the past three (3) fiscal years:

Volume

- Annual number, value and percent change of contracts in Florida per year;
- Annual number, value and percent change of contracts nationally per year;

Revenues

Annual revenue totals and Bonding percent change per year

- Total bonding capacity;
- Available bonding capacity and current backlog.

- 2.2 A Cashier's Check or Certified Check payable without recourse to the City of South Miami or an acceptable Surety Proposal Bond, in an amount not less than five percent (5%) of the largest possible total bid, including consideration of alternates, must accompany each bid as a guarantee that, if awarded the contract, the proponent will promptly enter into a contract and execute bonds in the forms provided as outlined in the RFP. A Performance Bond in the amount of one hundred percent (100%) of the contract price including alternates if any will be required for this project.
- 2.3 Provide details of any past or pending litigation, or claims filed, against your firm that may affect your performance under a Contract with the Owner.
- 2.4 Identify if your firm is currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity. If so, specify date(s), details, circumstances, and prospects for resolution.
- 2.5 Does any relationship exist by relative, business associate, capital funding agreement, or any other

such kinship between your firm and any Owner employee, officer or Regent? If so, please explain.

2.6 Provide proponent's most recent financial statement.

**C. CRITERIA 3: PROPONENT'S COST AND QUALITY CONTROL PROGRAM FOR THIS PROJECT 10 POINTS**

- 3.1 Describe your quality control program. Explain the methods used to ensure quality control during the Construction phase of a project. Provide specific examples of how these techniques or procedures were used in one of the company's past project and how it will be used in this project.
- 3.2 Describe how your quality control team will measure the quality of construction and commissioning performed by trade Subcontractors as required by Owner Specification and how you will address nonconforming work.
- 3.3 Describe how you maintain cost control of the construction budget and prevent creep such as documents and site conflicts, changes and delays.
- 3.4 Provide examples of records, reports, monitoring, and information management you will use on this Project.
- 3.5 Describe your approach to coordinating construction inspections and approvals such as building trades (Building Department), Fire and Environmental Department.

**D. CRITERIA 4: PROPONENT'S SCHEDULE AND ABILITY TO COMPLETE THE PROJECT ON TIME 10 POINTS**

- 4.1 Provide a detailed schedule of the project beginning with Mobilization and ending with Close-out /Certificate of Occupancy. Schedule shall clearly identify milestones and critical stages along with projected personnel and subs allocated to achieve these goals considering all existing business commitment.
- 4.2 Provide on a separate sheet a list of a minimum of 3 projects similar or larger to include: the project titles, original contract time, and change order time extensions for these three specific completed projects. Proponent shall document that it achieved substantial completion of these previous projects of similar size and scope within no more than 105% of the final contracted time for completion (including change order adjustments).

**E. CRITERIA 5: RESPONDENT'S PRICING AND DELIVERY PROPOSAL 50 POINTS**

5.1 Complete the "Pricing Proposal Form" included with the RFP Documents.

The Evaluation Team will not be limited to the criteria referred to above, and the Evaluation Team may consider other criteria that the team identifies as relevant during the evaluation process. The Evaluation Team may apply the evaluation criteria on a comparative basis, evaluating the Proposals by comparing one Proponent's Proposal to another Proponent's Proposal. All criteria considered will be applied evenly and fairly to all Proposals.

**2.4 DISCREPANCIES IN PROPONENT'S FINANCIAL PROPOSAL**

If there are any obvious discrepancies, errors or omissions in the Price Proposal (Proponent's Financial Proposal), then the City shall be entitled to make obvious corrections, but only if, and to the extent, the corrections are apparent from the Proposal as submitted, and in particular:

- (a) if there is a discrepancy between a unit price and the extended total, then the unit prices shall be deemed to be correct, and corresponding corrections will be made to the extended totals;
- (b) if a unit price has been given but the corresponding extended total has been omitted, then the extended total will be calculated from the unit price and the estimated quantity;

- (c) if an extended total has been given but the corresponding unit price has been omitted, then the unit price will be calculated from the extended total and the estimated quantity.

## 2.5 LITIGATION

In addition to any other provision of this RFP, the City may, in its absolute discretion, reject a Proposal if the Proponent, or any officer or director of the Proponent submitting the Proposal, is or has been engaged directly or indirectly in a legal action against the City, its elected or appointed officers, representatives or employees in relation to any matter.

In determining whether or not to reject a Proposal under this section, the City will consider whether the litigation is likely to affect the Proponent's ability to work with the City, its consultants and representatives and whether the City's experience with the Proponent indicates that there is a risk the City will incur increased staff and legal costs in the administration of the Contract if it is awarded to the Proponent.

## 2.6 ADDITIONAL INFORMATION

The Evaluation Team may, at its discretion, request clarifications or additional information from a Proponent with respect to any Proposal, and the Evaluation Team may make such requests to only selected Proponents. The Evaluation Team may consider such clarifications or additional information in evaluating a Proposal.

## 2.7 INTERVIEWS

The Evaluation Team may, at its discretion, invite some or all of the Proponents to appear before the Evaluation Team to provide clarifications of their Proposals. In such event, the Evaluation Team will be entitled to consider the answers received in evaluating Proposals.

## 2.8 NEGOTIATION OF CONTRACT AND AWARD

If the City selects a Preferred Proponent or Preferred Proponents, then it may:

- (a) enter into a Contract with the Preferred Proponent(s); or
- (b) enter into discussions with the Preferred Proponent(s) to clarify any outstanding issues and attempt to finalize the terms of the Contract(s), including financial terms. If discussions are successful, the City and the Preferred Proponent(s) will negotiate and finalize the Contract(s); or
- (c) if at any time the City reasonably forms the opinion that a mutually acceptable agreement is not likely to be reached within a reasonable time, give the Preferred Proponent(s) written notice to terminate discussions, in which event the City may then either open discussions with another Proponent or terminate this RFP and retain or obtain the Services in some other manner.

The City is under no obligation to accept any Proposal submitted. The City reserves the right in its sole discretion to waive informalities in, or reject any or all Proposals, or to accept any Proposal deemed most favorable in the interest of the City, or cancel the competition at any time without award. Thereafter, the City may issue a new Invitation / Request, sole source or do nothing.

## 3.0 GENERAL CONDITIONS

### 3.1 NO CITY OBLIGATION

This RFP is not a tender and does not commit the City in any way to select a Preferred Proponent, or to proceed to negotiations for a Contract, or to award any Contract, and the City reserves the complete right to at any time reject all Proposals, and to terminate this RFP process.

### 3.2 PROPONENTS' EXPENSES

Proponents are solely responsible for their own expenses in preparing, and submitting Proposals, and for any meetings, negotiations or discussions with the City or its representatives and consultants, relating to or arising from this RFP. The City and its representatives, agents, consultants and advisors will not be liable to any Proponent for any claims, whether for costs, expenses, losses or damages, or loss of anticipated profits, or for any other matter whatsoever, incurred by the Proponent in preparing and submitting a Proposal, or participating in negotiations for a Contract, or other activity related to or arising out of this RFP.

### 3.3 NO CONTRACT

By submitting a Proposal and participating in the process as outlined in this RFP, Proponents expressly agree that no contract of any kind is formed under, or arises from, this RFP, prior to the signing of a formal written Contract.

### 3.4 CONFLICT OF INTEREST

Proponents shall disclose any potential conflicts of interest and existing business relationships they may have with the City. If requested by the City, Proponents should provide all pertinent information regarding ownership of their company within forty-eight (48) hours of the City's request.

### 3.5 SOLICITATION OF COMMISSION MEMBERS

Proponents and their agents will not contact any member of the City Commission or City staff with respect to this RFP at any time prior to the award of a contract or the termination of this RFP, and the City may reject the Proposal of any Proponent that makes any such contact.

### 3.6 CONFIDENTIALITY

All submissions become the property of the City and will not be returned to the Proponent. The City will hold all submissions in confidence unless otherwise required by law. Proponents should be aware the City is a "public body" defined by and subject to the *Freedom of Information and Protection of Privacy Act* of the State of Florida.

## 4.0 SCOPE OF SERVICES

The City of South Miami is issuing this Request for Proposals (RFP) for a proponent to plan and manage the redevelopment of its *Murray Park Community Pool* in South Miami, Florida. The selected proponent will have exclusive rights to develop the Murray Park Community Pool. The City intends to finance the design and construction of the complex through a grant provided by Miami-Dade County and if needed, funds from other grant sources, or other funding sources approved by the City. The selected team will be responsible for managing the planning, design and construction of the Community Pool, subject to the City's approval.

## 5.0 OVERVIEW

### Murray Park Community Pool

Murray Park, located in South Miami, near Sunset Drive, is approximately a 4.32 acre community park which currently contains the South Miami Community Center, playing fields, and basketball courts. Murray Park, originally designated by the City, is an important community asset, but is underutilized, given its location, facilities, and open space.

The City of South Miami is recognized as one of Miami-Dade County's most family friendly communities. However, the City lacks a pool and/or aquatics facility, and for 40 years has sought to develop a pool complex to round out its inventory of high-quality community assets.

The City, through previous planning efforts, has designated Murray Park as the preferred location for a new pool/aquatic complex. The City's objectives in developing a new pool/aquatic complex at Murray Park are to:

1. Provide swimming and recreation opportunities to the surrounding neighborhood and the entire South Miami community for residents and homeowners who do not have a pool or access to swimming and recreation facilities;
2. Improve Murray Park, and by providing new facilities at the Park, round out its development as a mixed-use recreation, arts and community facility;
3. Simultaneously improve the appearance, function and circulation of the streets adjacent to the park;
4. Support the continuing development of the Murray Park neighborhood, and improve property values of the homes surrounding the park;
5. Provide a high-quality recreation, education, cultural and performance venue available to the residents of South Miami; and
6. City desires a facility it can afford to build and operate. Recognizing that no pool is a break-even facility, the City seeks a design that will be a revenue generating source through rentals that will not conflict excessively with normal daytime uses.

#### 1.1 Project location

Murray Park is located at 5800 SW 66<sup>th</sup> St, in the City of South Miami. The pool site is located at the Southwest corner of the park. Optionally, either or both of the basketball courts may be relocated north of the internal sidewalk.

#### 2.1 Design program

##### 2.1.1. Character of the Pool

The City desires to design and construct a new pool/aquatic center at the park. The principle functions of the Murray Park Community Pool are to provide a place where all children can learn to swim and a family oriented swimming facility to service the entire City of South Miami. The Community Pool should also be a delightful place where children can play and adults can exercise and enjoy beautiful surroundings, a garden in the city. The pool should become a valued asset of the city, as the Venetian pool is for the City of Coral Gables, which will be used and loved by all South Miami residents. In overall appearance, and performance, the City prefers a pool facility that may include lap lanes, but need not be a conventional rectangular pool. Instead, the City prefers a design that includes a lush, shady, tropical landscape.

## Program Details

At a minimum, the primary design program should include the following elements:

- Swim lessons
- Exercise – lap swimming, elder therapeutic exercise, water aerobics, swim team practice
- Family recreation & relaxation (facility should serve all ages)
- Water safety

Options for additional service and recovery of operating costs – we expect the design team will provide design and cost/revenue estimates on the utility of options for cost recovery that may include:

- Evening party rentals
- Competitive swim meets
- A concession selling healthy snacks. Concession could also serve people using community center facilities and walk-in customers from the neighborhood. Therefore the stand may have so the hard edges of the city disappear.
- A shaded area with lounge chairs and picnic/cafe tables, with a clear view of the pool.
- Lifeguard station, with outside lifeguard stand.

Sustainable features are paramount.

- The design will be as energy efficient as possible with the goal of LEED certification.
- Fans & cross-ventilation in bathrooms and changing areas.
- Showers and pool heating must be done with passive solar heating.
- Option for present or future power supplement with photovoltaic panels must be included in the design.
- Permeable paving wherever possible to allow water table recharge.
- Rainwater collection to supply toilets.
- Alternative to heavy chlorination: consider metal ion treatment, salt water, filtration, etc.
- Bicycle parking.
- Shade the surrounding sidewalks with trees.

Additional structure(s)

- Entry control building
- Lifeguard station
- Changing / showers / bathrooms / locker system
- Equipment storage, pool filtration

- The project will require consideration of drainage/sanitation system and limits of existing capabilities.

### 3.0 SERVICES REQUIRED OF THE PROPONENT

The selected proponent (the Team) will, under the City's direction, lead the planning, design, and construction of the Murray Park Community Pool. As such, the Team must, at a minimum, contain architecture, and engineering expertise as well as construction experts. The specific scope of services for the project is as follows.

#### 3.1 Phase I – Complete Project Development Plan and Cost Estimate.

In Phase I of the Project, the Team will manage the completion and approval of a concept design, cost estimate, operating budget, and financing plan for the Recreation Complex redevelopment. The specific task items under Phase I include:

- 3.1.1 Identify and establish the design program, planning, and development issues and priorities. Produce and manage a process for public input, review, and comment, which shall be reflected in the final plan and design. The Team will be responsible for reaching consensus on the design, cost and operation of the facility.
- 3.1.2 Complete a concept physical design.
- 3.1.3 Complete a concept cost estimate.
- 3.1.4 Complete a project pro forma, specifically enumerating the project's long term operating costs.
- 3.1.5 If additional funding is required, identify and secure preliminary commitments for grants, and other potential funding sources, and ownership structure(s) that may benefit the City. The City's objective is to have all of the due diligence on the cost and potential financing options (if required) completed in Phase I, allowing the City to consider its options and proceed to Phase II, if feasible.
- 3.1.6 Produce a final report detailing the design, cost, operating financial pro forma, financial structure and ownership structure for the project.
- 3.1.7 Submit the project final report to the City, make presentations as required, and manage the process to obtain any public approvals to move the project forward.

The City anticipates that Phase I will take approximately six months. This phase will require the Team to conduct monthly meetings/conference calls and prepare monthly status reports. If, and only if, the City approves the development plan, design, financing and operating structure for the project (in its sole discretion), the Team will be authorized to move forward with Phase II of the Project.

#### 4.1 Phase II – Complete Project Funding, Design and Construction

In Phase II of the Project, the Team will manage the securing of funding, and complete the design and construction of the Recreation Complex. The specific task items under Phase II include:

- 4.1.1 Assist the City with completion and securing project funding, managing the execution of contracts, fund transfers, and establishment of project funding accounts, under the direction and approval of the City.
- 4.1.2 Schematic Design - The Team will prepare schematic designs of the pool complex and associated park improvements for the Project. Upon approval of the schematic design by the City, the Team will prepare design development drawings.

- 4.1.3 Design Development Drawings - The Team will prepare design development drawings of the pool complex and associated park improvements for the Project. Upon approval of the design development drawings by the City, the Team will prepare the construction drawings.
- 4.1.4 Construction Drawings - The Team will prepare the final construction drawings for City approval. The Proponent will prepare a Gross Maximum Price for the Project when the construction drawings are 75 percent to 80 percent complete.
- 4.1.5 Upon approval of the Construction Drawings, the Team will manage and complete the construction of the Project.

#### 5.1 Anticipated Contract Structure

Upon selection as the preferred proponent for the Project, the Team and the City will enter into negotiations to complete and execute a two-part *Design Services Agreement*. It is the City's intent to enter into a contract with the selected Proponent, assuming terms can be agreed upon, structured to follow the proposed scope of services described above.

The DSA will detail the services, deliverables, and fees payable under Phase I of the contract. The Team will provide the services described above, and deliver its final development report to the City at the conclusion of Phase I. If, and only if, the Team can provide a design, cost, financing structure and operating structure that is approved by the City, will the contract continue into Phase II.

The City will provide a draft of the initial DSA upon the selection of the preferred Team, which may or may not be based on the American Institute of Architects (AIA) Design Services Contract standard form.

#### 6.1 MANDATORY SUBMISSION REQUIREMENTS

The following submission requirements are intended to provide the Evaluation team with information concerning each member of each of the Respondents' Teams. All materials submitted shall become the property of the City of South Miami. Proposals must be concise and clear. Unnecessarily elaborate representations beyond that sufficient to present a complete and effective proposal are not desired. To assist the Evaluation team in its evaluation of development proposals, Respondents' proposals are to be presented in the following format:

##### 6.1.1 Cover Letter

The cover letter, duly signed by a principal of the responding entity with the corporate seal impressed (if applicable), certifies that the proponent acknowledges, understands, and agrees to be bound by the conditions set forth in the proposal.

##### 6.1.2 Introduction of the Proponent (The Team):

The respondents shall identify:

- Each firm comprising the Proponent and its area of expertise;
- Firm Names and Principals managing the project for each firm and;
- Biographies of the principals assigned to the project from each firm/team member.

##### 6.1.3. Organization Structure of the Proponent

Detail on one page the Management Structure of the Proponent, identifying the managing firm, and how team members will report to the managing member or other members of the Team.

##### 6.1.4. Comparable Experience

Respondents must highlight comparable projects where they have programmed, designed, constructed and/or developed a project for use by the public sector, and comparable downtown

and/or urban redevelopment projects. Projects involving pools, recreation, public facilities, and involving public/private financing of said projects, should be emphasized. For each project provide the following:

- Project name
- Date of completion
- On time performance
- Project location
- Project description
- Project size in square feet and cost
- Proponent members involved
- Specific services provided (programming, site evaluation, approvals/permitting, design, development)
- Any litigation of project
- References (provide address and phone number)

#### 6.1.5 Concept Project Design and Park Improvements

Respondents will provide an initial concept design for the Project detailing the following elements:

- A site plan showing the proposed location of the pool and other improvements to Murray Park recommended by the Proponent;
- A maximum of three (3) elevations and a rendering showing Murray Park and the improvements suggested by the Proponent.
- An order of magnitude cost estimate for Park improvements included in the concept design proposed by the Proponent.

## 7.0 SCOPE OF WORK

The Contractor shall perform the complete work described herein or reasonably inferable there from, including all demolition and construction services, supervision, administration services, coordination of all Subcontractors, tests, inspections, and other items that are necessary to and appropriate for the finishing, equipping and functioning of the facilities and structures, together with all additional, collateral and incidental work and services required for the completion of the work.

The Contractor shall furnish and assume full responsibility for everything required for the orderly progress and proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated into the Work including, but not limited to, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, utilities and all other facilities and incidentals.

END OF SECTION

# PRICE PROPOSAL FORM

## Murray Park Community Pool

THIS PRICE PROPOSAL IS SUBMITTED TO:

Maria M. Menendez  
City Clerk Office  
City Hall  
6130 Sunset Drive  
South Miami, Florida 33143

1. The undersigned PROPONENT proposes and agrees, if this Price Proposal is accepted, to enter into an agreement with the City of South Miami in the form included in the Contract Documents to perform and furnish all work as specified or indicated in the Contract Documents for the Contract Price and within the Contract Time indicated in this Price Proposal and in accordance with the other terms and conditions of the Contract Documents. In addition to the work specified or indicated in the Contract Documents as prepared are due by Consultant.
2. PROPONENT accepts all of the terms and conditions of the Advertisement or RFP and Instructions to Proponents, including without limitation those dealing with the disposition of Bid (Price Proposal) Security. This Price Proposal will remain subject to acceptance for ninety (90) days after the day of the Bid opening. PROPONENT agrees to sign and submit the Agreement with the Bonds and other documents required by the RFP requirements within ten (10) calendar days after the date of the City's Notice of Award.
3. In submitting this Price Proposal, PROPONENT represents, as more fully set forth in the Agreement, that:
  - a. PROPONENT has examined copies of all the RFP Documents and the following Addenda (receipt of all which is hereby acknowledged.)

Addendum No.	_____	Dated:	_____
Addendum No.	_____	Dated:	_____
Addendum No.	_____	Dated:	_____
Addendum No.	_____	Dated:	_____
Addendum No.	_____	Dated:	_____
Addendum No.	_____	Dated:	_____

- b. PROPONENT has familiarized himself with the nature and extent of the contract documents, work, site, locality, and all local conditions and laws and regulations that in any manner may affect cost, progress, performance or furnishing of the Work.
- c. PROPONENT has studied carefully all reports and drawings of subsurface conditions and drawings of physical conditions.
- d. PROPONENT has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests and studies (in addition to or to supplement those referred to in (c) above which pertain to the subsurface or physical conditions at the site or otherwise may affect the cost, progress, performance, or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, and no additional examinations, investigations, explorations, tests, reports or similar information or data are, or will be required, by PROPONENT for such purposes.

- e. PROPONENT has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of all Underground Facilities. No additional examinations, investigations, explorations, tests, reports or similar information or data in respect to said Underground Facilities are, or will be required, by PROPONENT in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents.
  - f. PROPONENT has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
  - g. PROPONENT has given by 10:00 a.m., Friday, September 3, 2010 written notice of all conflicts, errors, discrepancies that it has discovered in the Contract Documents and the written resolution thereof by Consultant is acceptable to PROPONENT.
  - h. This RFP is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; PROPONENT has not directly or indirectly induced or solicited any other PROPONENT to submit a false or sham RFP; PROPONENT has not solicited or induced any person, firm or corporation to refrain from responding to RFP; and PROPONENT has not sought by collusion to obtain for itself any advantage over any other PROPONENT or over the CITY.
4. PROPONENT understands and agrees that the Contract Price is the lump sum to furnish and install all of the Work complete in place. A Schedule of Values must be provided with the 13 division break-down as well a cost breakdown of the design phase and contingency. This information needs to be provided for the purpose of Evaluation and when initiated by the CITY, the pricing of change orders. Contractor's price will not be adjusted to reflect any deviation from the Schedule of Values, except to the extent that the CITY changes the scope of the Project after the Contract Date.

As such, the Contractor shall furnish all labor, materials, equipment, tools, superintendence and services necessary to provide a complete, in place Project for the Proposed Price of:

Design: \_\_\_\_\_

Construction: \_\_\_\_\_

LUMP SUM PRICE:

	dollars and	cents	\$
Alternates:	#1	#5	
	#2	#6	
	#3	#7	
	#4	#8	

5. The ENTIRE WORK shall be completed, in full, within one hundred and eighty (180) calendar days from the date stipulated in the NOTICE TO PROCEED.

Failure to complete the entire work during the described time period shall result in the assessment of liquidated damages as indicated in Paragraph 6 of the Agreement.

6. Communications concerning this Bid shall be addressed to:

PROPOSER: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Attention: \_\_\_\_\_

7. The terms used in this RFP which are defined in the General Conditions of the Construction Contract included as part of the Contract Documents have the meanings assigned to them in the General Conditions.

SUBMITTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2010.

BID SUBMITTED BY:

_____ Company	_____ Telephone Number
_____ Name of Person Authorized to Submit Bid	_____ Fax Number
_____ Signature	_____ Email Address
_____ Title	



(Business Phone)

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
(Corporate Surety)\*

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

\*Impress Corporate Surety Seal

**IMPORTANT**

Surety companies executing bonds must appear on the Treasury Department's most current list (circular 570 as amended) and be authorized to transact business in the State of Florida.

# PROPONENT QUALIFICATION STATEMENT

## Murray Park Community Pool

The PROPONENT response to this questionnaire will be utilized as part of the CITY'S overall Proposal Evaluation and Contractor selection.

1. Number of similar construction and/or design/build projects completed,

a) In the past 5 years \_\_\_\_\_

On Schedule \_\_\_\_\_

b) In the past 10 years \_\_\_\_\_

On Schedule \_\_\_\_\_

2. List the last three (3) completed similar projects.

a) Project Name: \_\_\_\_\_

Owner Name: \_\_\_\_\_

Owner Address: \_\_\_\_\_

Owner Telephone: \_\_\_\_\_

Original Contract Completion Time (Days): \_\_\_\_\_

Original Contract Completion Date: \_\_\_\_\_

Actual Final Contract Completion Date: \_\_\_\_\_

Original Contract Price: \_\_\_\_\_

Actual Final Contract Price: \_\_\_\_\_

b) Project Name: \_\_\_\_\_

Owner Name: \_\_\_\_\_

Owner Address: \_\_\_\_\_

Owner Telephone: \_\_\_\_\_

Original Contract Completion Time  
(Days): \_\_\_\_\_

Original Contract Completion Date: \_\_\_\_\_

Actual Final Contract Completion  
Date: \_\_\_\_\_

Original Contract Price: \_\_\_\_\_

Actual Final Contract Price: \_\_\_\_\_

c) Project Name: \_\_\_\_\_

Owner Name: \_\_\_\_\_

Owner Address: \_\_\_\_\_

Owner Telephone: \_\_\_\_\_

Original Contract Completion Time  
(Days): \_\_\_\_\_

Original Contract Completion Date: \_\_\_\_\_

Actual Final Contract Completion  
Date: \_\_\_\_\_

Original Contract Price: \_\_\_\_\_

Actual Final Contract Price: \_\_\_\_\_

3. Current workload

Project Name	Owner Name	Telephone Number	Contract Price

4. The following information shall be provided for **this** project:

- a) Estimated total demolition man-hours \_\_\_\_\_
- b) Percent man-hours to be performed by Contractor’s permanent staff \_\_\_\_\_
- c) Permanent man-hours to be performed by direct hired employees for this project \_\_\_\_\_
- d) Percent man-hours to be performed by Subcontractors \_\_\_\_\_

5. The following information shall be attached to the proposal:

- a) Contractor’s home office organization chart.
- b) Contractor’s proposed project organizational chart.
- c) Resumes of proposed key project personnel, including on-site Superintendent.

6. List and describe any:

- a) Bankruptcy petitions filed by or against the PROPONENT or any predecessor organizations,
- b) Any arbitration or civil or criminal proceedings, or
- c) Suspension of contracts or debarring from Bidding by any public agency brought against the PROPONENT in the last five (5) years.

7. Government References:

List other Government Agencies or Quasi-government Agencies for which you have done business within the past five (5) years.

Name of Agency: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Type of Project: \_\_\_\_\_

Name of Agency: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Type of Project: \_\_\_\_\_

Name of Agency: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Type of Project: \_\_\_\_\_

**PUBLIC ENTITY CRIMES AND CONFLICTS OF INTEREST**

## Murray Park Community Pool

Pursuant to the provisions of Paragraph (2) (a) of Section 287.133, Florida State Statutes – “A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a Bid on a Contract to provide any goods or services to a public entity, may not submit a Bid on a Contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases or real property to a public entity, may not be awarded to 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 Category Two of Section 287.017, Florida Statutes, for thirty six (36) months from the date of being placed on the convicted vendor list”.

The award of any contract hereunder is subject to the provisions of Chapter 112, Florida State Statutes. PROPONENTS must disclose with their Bids, the name of any officer, director, partner, associate or agent who is also an officer or employee of the City of South Miami or it’s agencies.

### SWORN STATEMENT PURSUANT TO SECTION 287.133 (3)(a), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

I.

This sworn statement is submitted to \_\_\_\_\_  
[print name of the public entity]

by: \_\_\_\_\_  
[print individual’s name and title]

for: \_\_\_\_\_  
[print name of entity submitting sworn statement]

whose business address is: \_\_\_\_\_  
\_\_\_\_\_

and (if applicable) its Federal Employer Identification Number (FEIN) is \_\_\_\_\_ (If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: \_\_\_\_\_.)

2. I understand that a “public entity crime” as defined in Paragraph 287.133 (1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to , any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

3. I understand that “convicted” or “conviction” as defined in Paragraph 287.133 (1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

4. I understand that an “affiliate” as defined in Paragraph 287.133 (1)(a), Florida Statutes, means:  
(a) A predecessor or successor of a person convicted of a public entity crime; or  
(b) An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term “affiliate” includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in any person, or a pooling of equipment or income among persons when not for fair market value under an arm’s length agreement, shall be a prima facie case that one person

controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

- 5. I understand that a "person" as defined in Paragraph 287.133 (1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
- 6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. [Indicate which statement applies.]

\_\_\_\_\_ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent of July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (attach a copy of the final order)

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY, AND THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

\_\_\_\_\_  
[signature]

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Personally known \_\_\_\_\_

OR Produced Identification \_\_\_\_\_

\_\_\_\_\_  
(Type of identification)

\_\_\_\_\_  
Notary Public – State of \_\_\_\_\_

\_\_\_\_\_  
My commission expires \_\_\_\_\_

(Printed, typed or stamped commissioned name of notary public)

# DRUG FREE WORKPLACE

## Murray Park Community Pool

Whenever two or more Bids which are equal with respect to price, quality and service are received by the State or by any political subdivisions for the procurement of commodities or contractual services, a Bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie Bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business' policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under Bid a copy of the statement specified in Subsection (1).
- 4) In the statement specified in Subsection (1), notify the employees, that, as a condition of working on the commodities or contractual services that are under Bid, the employer will abide by the terms of the statement and will notify the employee of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program, if such is available in the employee's community, by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

PROPONENT Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

ACKNOWLEDGEMENT OF CONFORMANCE WITH OSHA STANDARDS

Murray Park Community Pool

TO THE CITY OF SOUTH MIAMI

We, \_\_\_\_\_, (Name of Contractor), hereby acknowledge and agree that as Contractors for the Murray Park Community Pool, as specified have the sole responsibility for compliance with all the requirements of the Federal Occupational Safety and Health Act of 1970, and all State and local safety and health regulations, and agree to indemnify and hold harmless the City of South Miami and Consultant, against any and all liability, claims, damages, losses and expenses they may incur due to the failure of (subcontractor's names):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

to comply with such act or regulation.

CONTRACTOR

\_\_\_\_\_

\_\_\_\_\_

Witness

BY: \_\_\_\_\_

Name

\_\_\_\_\_

Title

# LIST OF PROPOSED SUBCONTRACTORS AND PRINCIPAL SUPPLIERS

## Murray Park Community Pool

**PROPONENT shall list all Proposed Subcontractors to be used on this project.**

<b>Classification of Work</b>	<b>Subcontractor Name</b>	<b>Address</b>	<b>Telephone, Fax &amp; Email</b>
Landscape			
Sodding and Turf Work			
Electrical			
Irrigation			
Paving			
Park Amenities			
Graphics			
Utilities			
Excavation			
Building			
Structures			
Plumbing			
Painting			
Testing Laboratory			
Soil Fumigator			
Signs			
Other:			

This list shall be provided to the City of South Miami by the apparent lowest responsive and responsible proponent within five (5) calendar days after Notice of Award.

# NOTICE OF AWARD

## Murray Park Community Pool

TO:

PROJECT DESCRIPTION: Murray Park Community Pool, in accordance with the requirements of the RFP Contract Documents as prepared and submitted by proponent by 10:00 a.m., Friday, September 3, 2010, prime consultant and the City has considered the Proposal submitted by you for the above described Work in response to its advertised RFP and Instructions to PROPONENTS.

You are hereby notified that your Proposal has been accepted for the Murray Park Community Pool, in the lump sum amount of \$ \_\_\_\_\_, broken down as follows:

Base Bid: \_\_\_\_\_  
Alternate #1: \_\_\_\_\_  
Alternate #2: \_\_\_\_\_  
Alternate #3: \_\_\_\_\_  
Alternate #4: \_\_\_\_\_  
Alternate #5: \_\_\_\_\_  
Alternate #6: \_\_\_\_\_  
Alternate #7: \_\_\_\_\_  
Total of Award: \_\_\_\_\_

You are required by the Instructions to PROPONENTS to execute the Agreement and furnish the required CONTRACTOR'S Performance Bond, Payment Bond and Certificates of Insurance within ten (10) days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said bonds within ten (10) days from the date of this notice, said CITY shall be entitled to disqualify your Proposal, revoke the award and retain the Bid Security.

BY: \_\_\_\_\_  
Buford Randy Witt  
ACTING CITY MANAGER

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2010

### I.I.I. ACCEPTANCE OF NOTICE

Receipt of the above Notice of Award is hereby acknowledged by \_\_\_\_\_

this the \_\_\_\_\_ day of \_\_\_\_\_, 2010

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

You are required to return an acknowledged copy of this Notice of Award to the City Manager.

# AGREEMENT

## Murray Park Community Pool

THIS AGREEMENT, made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between \_\_\_\_\_ Party of the First Part, and the City of South Miami, Party of the Second Part:

### WITNESSETH:

That, the First Party, for the consideration hereinafter fully set out, hereby agrees with the Second Party as follows:

1. That the First Party shall furnish all the materials, and perform all of the Work in manner and form as provided by the RFP, Instructions to Proponents and proposal documents.
2. That the First Party shall commence the Work to be performed under this Agreement on a date to be specified in a written order of the Second Party and shall complete all Work hereunder within the length of time stipulated in the RFP.
3. That the Second Party hereby agrees to pay to the First Party for the faithful performance of this Agreement, subject to additions and deductions as provided in the Price Proposal Form, in lawful money of the United States, the amount of:

\_\_\_\_\_

Written Dollar Amount

Dollars (\$ \_\_\_\_\_), Lump Sum

4. That the Second party shall make monthly partial payments to the First Party on the basis of a duly certified and approved estimate of Work performed during each calendar month by the First Party, less the retain age provided in the General Conditions, which is to be withheld by the Second Party until completion and acceptance of the complete project in accordance with this Agreement and until such Work has been accepted by the Second Party.
5. That upon submission by the First Party of evidence satisfactory to the Second Party that all payrolls, materials bills, and other costs incurred by the First Party in connection with the construction of the Work have been paid in full, final payment on account of this Agreement shall be made within sixty (60) days after the completion by the First Party of all Work covered by this Agreement and the acceptance of such Work by the Second Party.
6. In the event that the Contractor shall fail to complete the Work within the time limit stipulated on the Price Proposal Form in #5, or the extended time limit agreed upon, as more particularly set forth in the Contract Documents, liquidated damages shall be paid at the rate of **One Thousand and 00/100 Dollars (\$1,500.00) per day**, plus any monies paid by the City to a Consultant related to the delay of this project.
7. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bond hereto attached for its faithful performance and payment, the Second Party shall deem the Surety or Sureties upon such bond to be unsatisfactory, or if, for any reason such bond ceases to be adequate to cover the performance of the Work, the First Party shall, at its expense within five (5) days after the receipt of notice from the Second Party so to do, furnish an additional bond or bonds in such form and amount and with such Surety or Sureties as shall be satisfactory to the Second Party. In such event, no further payment to the First Party shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the Work is furnished in manner and form satisfactory to the Second Party.
8. No additional Work or extras shall be done unless the same is duly authorized by appropriate action by the Party of the Second Part.
9. The Contractor agrees that it will abide by the requirements of the Federal Labor Standards Provisions as described in Form HUD 4010 issued by the U.S. Department of Housing and Urban Development and those requirements contained in General Wage Decision Number FL 100267

06/04/2010 for the entire project duration.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first above written, in five (5) counterparts, each of which shall, without proof or accounting for the other counterpart be deemed an original Contract.

WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_

CONTRACTOR:

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

OWNER: CITY OF SOUTH MIAMI

Signature: \_\_\_\_\_

Buford Randy Witt  
Acting City Manager

AUTHENTICATION:

Signature:  
e: \_\_\_\_\_

Maria M. Menendez  
City Clerk

# FORM OF PERFORMANCE BOND

Murray Park Community Pool

KNOW ALL MEN BY THESE PRESENTS:

That, pursuant to the requirements of Florida Statute 255.05, we, \_\_\_\_\_  
\_\_\_\_\_ as Principal, hereinafter call Contractor, and \_\_\_\_\_  
\_\_\_\_\_, as Surety, are bound to the City of South Miami, 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, for the Murray Park  
Community Pool, awarded the \_\_\_\_\_ day of \_\_\_\_\_, 2010, with the  
City for \_\_\_\_\_ in accordance with drawings (plans) and specifications prepared  
by Consultant which Contract is by reference made a part hereof, and is hereafter referred to as the Contract;

THE CONDITION OF THIS BOND is that the Contract:

1. Fully performs the Contract between the Contractor and the City for the Murray Park Community Pool, within **one hundred and eighty (180) calendar days** after the date of Contract commencement as specified in the Notice to Proceed and in the manner prescribed in the Contract; and
2. Indemnifies and pays City all losses, damages (specifically including, but not limited to, damages for delay and other consequential damages caused by or arising out of the acts, omissions or negligence of Contractor), expenses, costs and attorney's fees including attorney's fees incurred in appellate proceedings, that City sustains because of default by Contractor under the Contract; and
3. Upon notification by the City, correct any and all defective or faulty Work or materials which appear within one and one-half (1 1/2) years, and
4. 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.

Whenever Contractor shall be, and declared by the City to be, in default under the Contract, the City having performed obligations thereunder, the Surety may promptly remedy the default, or shall promptly remedy the default, or shall promptly:

- 4.1 Complete the Contract in accordance with its terms and conditions; or
- 4.2 Obtain a Bid or Bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the best, lowest, qualified, responsible and responsive PROPONENT, or, if the City elects, upon determination by the City, and Surety jointly of the best, lowest, qualified, responsible and responsive PROPONENT, arrange for a Contract between such PROPONENT and City, and make available as Work progress (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 the City to the Contractor.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the 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 informalities connected with the Contract or the changes do not affect the Surety's obligation under this Bond.

IN WITNESS WHEREOF, the above bonded parties have executed this instrument under their several seals this \_\_\_\_\_ day of \_\_\_\_\_, 2010, the name and the corporate seal of each corporate party being hereto affixed and these presents being duly signed by its undersigned representative.

IN PRESENCE OF:

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

\_\_\_\_\_  
(Individual or Partnership Principal)  
\_\_\_\_\_

\_\_\_\_\_  
(Business Address)  
\_\_\_\_\_

\_\_\_\_\_  
(City/State/Zip)  
\_\_\_\_\_

\_\_\_\_\_  
(Business Phone)  
\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
(Corporate Surety)\*

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

IN THE PRESENCE OF:

INSURANCE COMPANY:

BY: \_\_\_\_\_

Agent and Attorney-in-fact Signature

\_\_\_\_\_  
(Business Address)  
\_\_\_\_\_

\_\_\_\_\_  
(City/State/Zip)  
\_\_\_\_\_

\_\_\_\_\_  
(Business Phone)  
\_\_\_\_\_

\*Power of Attorney must be attached.

STATE OF FLORIDA )  
 )  
COUNTY OF MIAMI-DADE )

On this, the \_\_\_\_\_ day of \_\_\_\_\_, 2010, before me, the undersigned notary public of the State of Florida, the foregoing instrument was acknowledged by \_\_\_\_\_ (Name of Corporate Officer), \_\_\_\_\_ (Title), of \_\_\_\_\_ (Name of Corporation), a \_\_\_\_\_ (State of Corporation) corporation, on behalf of the corporation.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public, State of Florida

NOTARY PUBLIC:

SEAL OF OFFICE:

\_\_\_\_\_  
(Name of Notary Public: Print, Stamp or type as commissioned.)

\_\_\_\_\_ Personally known to me, or

\_\_\_\_\_ Personal identification:

\_\_\_\_\_  
Type of Identification Produced

\_\_\_\_\_ Did take an oath, or

\_\_\_\_\_ Did Not take an oath.

# FORM OF PAYMENT BOND

Murray Park Community Pool

KNOW ALL MEN BY THESE PRESENTS:

That, pursuant to the requirements of Florida Statute 255.05, we, \_\_\_\_\_  
\_\_\_\_\_ as Principal, hereinafter call Contractor, and \_\_\_\_\_  
\_\_\_\_\_, as Surety, are bound to the City of South Miami, 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, for the Murray  
Park Community Pool, awarded the \_\_\_\_\_ day of \_\_\_\_\_, 2010, with the City for  
\_\_\_\_\_ in accordance with the requirements of this RFP prepared by Consultant  
which Contract is by reference made a part hereof, and is hereafter referred to as the Contract;

THE CONDITION OF THIS BOND is that the Contract:

1. Indemnifies and pays City all losses, damages (specifically including, but not limited to, damages for delay and other consequential damages caused by or arising out of the acts, omissions or negligence of Contractor), expenses, costs and attorney's fees including attorney's fees incurred in 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 225.05(1) supplying Contractor with all labor, materials and supplies used directly or indirectly by Contractor in the prosecution of the Work provided for in the Contract, then this 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 the Contractor and who has not received payment for their 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 the Contractor a notice that they intend to look to the Bond for protection.
  - 2.2 A claimant who is not in privity with the Contractor and who has not received payment for their 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 the Contractor and to the Surety, written notice of the performance of the labor or delivery of the materials or supplies and of the non-payment.
  - 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 paragraphs 2.1 and 2.2 have been given.
  - 2.4 Any action under this Bond must be instituted in accordance with the Notice and Time Limitations provisions prescribed in Section 255.05(2), Florida Statutes.

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

IN WITNESS WHEREOF, the above bonded parties have executed this instrument under their several seals this \_\_\_\_\_ day of \_\_\_\_\_, 2010, the name and the corporate seal of each corporate party being hereto affixed and these presents being duly signed by its undersigned representative.

IN PRESENCE OF:

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

\_\_\_\_\_  
(Individual or Partnership Principal)  
\_\_\_\_\_

\_\_\_\_\_  
(Business Address)  
\_\_\_\_\_

\_\_\_\_\_  
(City/State/Zip)  
\_\_\_\_\_

\_\_\_\_\_  
(Business Phone)  
\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
(Corporate Surety)\*

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

INSURANCE COMPANY:

BY: \_\_\_\_\_

Agent and Attorney-in-fact Signature

\_\_\_\_\_  
(Business Address)  
\_\_\_\_\_

\_\_\_\_\_  
(City/State/Zip)  
\_\_\_\_\_

\_\_\_\_\_  
(Business Phone)

\*Power of Attorney must be attached.

STATE OF FLORIDA )  
 )  
COUNTY OF MIAMI-DADE )

On this, the \_\_\_\_\_ day of \_\_\_\_\_, 2010, before me, the undersigned notary public of the State of Florida, the foregoing instrument was acknowledged by \_\_\_\_\_ (Name of Corporate Officer), \_\_\_\_\_ (Title), of \_\_\_\_\_ (Name of Corporation), a \_\_\_\_\_ (State of Corporation) corporation, on behalf of the corporation.

WITNESS my hand and official seal. \_\_\_\_\_  
Notary Public, State of Florida

NOTARY PUBLIC:

SEAL OF OFFICE:

\_\_\_\_\_  
(Name of Notary Public: Print, Stamp or type as commissioned.)

\_\_\_\_\_ Personally known to me, or

\_\_\_\_\_ Personal identification:

\_\_\_\_\_  
Type of Identification Produced

\_\_\_\_\_ Did take an oath, or

\_\_\_\_\_ Did Not take an oath.

**NOTICE TO PROCEED**

**Murray Park Community Pool**

TO:

DATE:

PROJECT DESCRIPTION: Murray Park Community Pool, in accordance with Plans and Contract Documents as prepared by Consultant, the prime consultant.

You are hereby notified to commence Work in accordance with the Agreement dated \_\_\_\_\_, on or before \_\_\_\_\_. You are to complete the work within **one hundred and eighty (180) calendar days**. The date of completion of all Work is therefore \_\_\_\_\_.

City of South Miami

BY: \_\_\_\_\_  
Buford Randy Witt  
Acting City Manager

**ACCEPTANCE OF NOTICE**

Receipt of the above Notice to Proceed is hereby acknowledged by \_\_\_\_\_  
on this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

# GENERAL CONDITIONS

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## Murray Park Community Pool

### ARTICLE I DEFINITION

Whenever used in these General Conditions or in the other Contract Documents, the following terms shall have the meaning indicated which shall be applicable to both the singular and plural thereof:

Acceptance: By the City of the Work as being fully complete in accordance with the Contract Documents subject to waiver of claims.

Agreement: The written Agreement between the CITY and the CONTRACTOR covering the Work to be performed, which includes the Contract Documents.

Addenda: Written or graphic instruments issued prior to the Bid Opening which modify or interpret the Contract Documents, Drawings and Specifications, by addition, deletions, clarifications or correction.

Application for Payment: The form furnished by the CONSULTANT which is to be used by the CONTRACTOR in requesting progress payments.

Bid: the offer or proposal of the PROPONENT submitted on the prescribed form setting forth the prices for the Work to be performed.

PROPONENT: Any person, firm or corporation submitting a Bid for Work.

Bonds: Bid, performance and payment bonds and other instruments of security, furnished by the CONTRACTOR and their surety in accordance with the Contract Documents and in accordance with the laws of the State of Florida.

Change Order: A written order to the CONTRACTOR signed by the City authorizing an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Time issued after execution of the Agreement.

CITY: City of South Miami, 6130 Sunset Drive, South Miami, Florida 33143.

Contract Documents: Contract Documents shall include, Instructions to PROPONENTS, CONTRACTOR'S Bid, the Bonds, the Notice of Award, these General Conditions, Special Conditions, the Technical Specifications, Drawings and Modifications, Notice to Proceed, Invitation to Bid, Insurance Certificates, Change Orders and Acknowledgment of Conformance with the City of South Miami.

Contract Price: The total moneys payable to the CONTRACTOR under the Contract Documents.

Contract Time: The number of calendar days stated in the Agreement for the completion of the Work.

Contracting Officer: The individual who is authorized to sign the contract documents on behalf of the CITY'S governing body.

CONTRACTOR: The proponent, person, firm or corporation with whom the CITY has executed the Agreement.

CONSULTANT: See Supplementary Conditions for identification.

Day: A calendar day of twenty-four hours measured from midnight to the next midnight.

Drawings: The drawings which show the character and scope of the Work to be performed and which have been prepared or approved by the CONSULTANT and are referred to in the Contract Documents.

Field Order: A written order issued by the CONSULTANT which clarifies or interprets the Contract Documents in accordance with Paragraph 9.3 or orders minor changes in the Work in accordance with paragraph 10.2.

Modification: (a) A written amendment of the Contract Documents signed by both parties, (b) a Change Order, (c) a written clarification or interpretation if issued by the CONSULTANT in accordance with paragraph 9.3 or (d) a written order for minor change or alteration in the Work issued by the CONSULTANT pursuant to Paragraph 10.2. A modification may only be issued after execution of the Agreement.

Notice of Award: The written notice by CITY to the apparent successful PROPONENT stating that upon compliance with the conditions precedent to be fulfilled by him within the time specified, CITY will execute and deliver the Agreement to him.

Notice to Proceed: A written notice given by CITY to CONTRACTOR (with copy to CONSULTANT) fixing the date on which the Contract Time will commence to run and on which CONTRACTOR shall start to perform its obligations under the Contract Documents.

Project: The entire construction Project to be performed as provided in the Contract Documents.

Construction Observer: An authorized representative of the CONSULTANT assigned to observe the Work performed and materials furnished by the CONTRACTOR or such other person as may be appointed by the CITY as his representative. The CONTRACTOR shall be notified in writing of the identity of this representative.

Samples: Physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

Shop Drawings: All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the CONTRACTOR, a Subcontractor, manufacturer, supplier, or distributor, and which illustrate the equipment, material or some portion of the work and as required by the Contract Documents.

Specifications: Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work.

Subcontractor: An individual, firm or corporation having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the site.

Substantial Completion: The date as certified by the CONSULTANT when the construction of the Project or a certified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it was intended; or if there be no such certification, the date when final payment is due in accordance with paragraph 14.9.

Supplier: Any person or organization who supplies materials or equipment for the Work, including that fabricated to a special design, but who does not perform labor at the site.

Surety: The corporate body which is bound with the CONTRACTOR and which engages to be responsible for the CONTRACTOR and their acceptable performance of the Work.

Work: Any and all obligations, duties and responsibilities necessary to the successful completion of the assigned to or undertaken by CONTRACTOR under the Contract Documents, including all labor, materials, equipment and other incidentals, and the furnishing thereof.

Written Notice: The term "Notice" as used herein shall mean and include all written notices, demands, instructions, claims, approvals and disapproval's required to obtain compliance with Contract requirements. Written notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or to an authorized representative or such individual, firm, or corporation, or if delivered at or sent by registered mail to the last business address known to them who gives the notice. Unless otherwise stated in writing, any notice to or demand upon the CITY under this Contract shall be delivered to the CITY through the CONSULTANT.

## ARTICLE 2 PRELIMINARY MATTERS

### Award:

- 2.1 The CITY reserves the right to reject any and all Proposals at its sole discretion. Contract shall be awarded by the CITY to the lowest responsive and responsible PROPONENT. No Notice of Award will be given until the CITY has concluded such investigations as it deems necessary to establish the responsibility, qualifications and financial ability of the PROPONENT to the Work in accordance with the Contract Documents to the satisfaction of the CITY within the time prescribed. The CITY reserves the right to reject the Proposal of any PROPONENT who does not pass such investigation to the CITY'S satisfaction. In analyzing the Proposal, the CITY may also take into consideration alternate and unit prices, if requested by the Price Proposal forms. If the Contract is awarded, the CITY will issue the Notice of Award and give the successful PROPONENT a Contract for execution within ninety (90) day after the proposal due date.

### Execution of Agreement:

- 2.2 At least four counterparts of the Agreement, the Performance and Payment Bond, the Certificates of Insurance and such other Documents as required by the Contract Documents shall be executed and delivered by CONTRACTOR to the CITY within ten (10) calendar days of receipt of the Notice of Award.

Forfeiture of Bid Security/Performance and Payment Bond:

- 2.3 Within ten (10) calendar days of being notified of the Award, CONTRACTOR shall furnish a Performance Bond and a Payment Bond containing all the provisions of the Performance Bond and Payment Bond attached.
- 2.3.1 Each Bond shall be in the amount of one hundred percent (100%) of the Contract Price guaranteeing to CITY the completion and performance of the Work covered in such Contract as well as full payment of all suppliers, material man, laborers, or Subcontractor employed pursuant to this Project. Each Bond shall be with a Surety company meeting the qualifications of Sections 2.3.4, 2.3.5, and 2.3.6.
- 2.3.2 Each Bond shall continue in effect for one year after final completion and acceptance of the Work with the liability equal to one hundred percent (100%) of the Contract Sum. The Performance 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 Contract.
- 2.3.3 Pursuant to the requirements of Section 255.05(1), Florida Statutes, CONTRACTOR shall ensure that the Bond(s) referenced above shall be recorded in the public records of Miami-Dade County and provide CITY with evidence of such recording.
- 2.3.4 Each Bond must be executed by a surety company authorized to do business in the State of Florida as a surety, having a resident agent in the State of Florida and having been in business with a record of successful continuous operation for a least five (5) years.
- 2.3.5 The surety company shall hold a current certificate of authority as acceptable surety on federal bonds in accordance with the United States Department of Treasury Circular 570, current revisions.
- 2.3.6 The CITY will accept a surety bond from a company with a rating B+ or better.
- 2.3.7 Failure of the successful PROPONENT to execute and deliver the Agreement and deliver the required bonds and Insurance Certificates as stipulated in Paragraph 2.2 shall be cause for the CITY to annul the Notice of Award and declare the Bid and any security therefore forfeited.

Contractor's Pre-Start Representation:

- 2.4 CONTRACTOR represents that he has familiarized himself with, and assumes full responsibility for having familiarized himself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and federal, State and local laws, ordinance, rules and regulations that may in any manner affect performance of the Work, and represents that they have correlated their study and observations with the requirements of the Contract Documents. CONTRACTOR also represents that he has studied all surveys and investigations, reports of subsurface and latent physical conditions referred to in the specifications and made such additional surveys and investigations as he deems necessary for the performance of the Work in the Contract Documents and that he has correlated the results of all such data with the requirements of the Contract Documents.

Commencement of Contract Time:

- 2.5 The Contract Time will commence to run on the date stated in the Notice to Proceed.

Starting the Project:

- 2.6 CONTRACTOR shall start to perform its obligations under the Contract Documents on the date the Contract Time commences to run. No Work shall be done at the site prior to the date on which the Contract Time commences to run, except with the written consent of the CITY.

Before Starting Construction:

- 2.7 Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. It shall at once report in writing to CONSULTANT any conflict, error, or discrepancy

which it may discover; however, it shall not be liable to CITY or CONSULTANT for its failure to discover any conflict, error, or discrepancy in the Drawings or Specifications.

Schedule of Completion:

- 2.8 Within Five (5) days after delivery of the Notice to Proceed by CITY to CONTRACTOR, CONTRACTOR shall submit to the CITY for approval, an estimated progress schedule indicating the starting and completion dates of the various stages of the Work, and a preliminary schedule of Shop Drawing submissions. The CONSULTANT shall approve this schedule or require revisions thereto within seven (7) days of its submittal. If there is more than one CONTRACTOR involved in the Project, the responsibility for coordinating the Work of all CONTRACTORS shall be provided in the Special Conditions and Contract Documents.
- 2.9 Within five (5) days after delivery of the executed Agreement by CITY to CONTRACTOR, but before starting the Work at the site, a pre-construction conference shall be held to review the above schedules, to establish procedures for handling Shop Drawings and other submissions, and for processing Applications for Payment, and to establish a working understanding between the parties as to the Project. Present at the conference will be the CITY'S representative, CONSULTANT, Resident Project Representatives, CONTRACTOR and its Superintendent.

Qualifications of Subcontractors, Material men and Suppliers:

- 2.10 Within five (5) calendar days after bid opening, the apparent lowest responsive and responsible PROPONENT shall submit to the CITY and the CONSULTANT for acceptance a list of the names of Subcontractors and such other persons and organizations (including those who are to furnish principal items of materials or equipment) proposed for those portions of the Work as to which the identity of Subcontractors and other persons and organizations must be submitted as specified in the Contract Documents. Within thirty (30) working days after receiving the list, the CONSULTANT, will notify the CONTRACTOR in writing if either the CITY or the CONSULTANT, after due investigation, has reasonable objection to any Subcontractor, person, or organization on such list. The failure of the CITY or the CONSULTANT to make objection to any Subcontractor, person, or organization on the list within thirty (30) days of the receipt shall constitute an acceptance of such Subcontractor, person or organization. Acceptance of any such Subcontractor, person or organization shall not constitute a waiver of any right of the CITY or the CONSULTANT to reject defective Work, material or equipment, or Work, material or equipment not in conformance with the requirements of the Contract Documents.
- 2.11 If, prior to the Notice of Award, the CITY or the CONSULTANT has reasonable objection to and refuses to accept any Subcontractor, person or organization listed, the apparent low PROPONENT may, prior to Notice of Award, submit an acceptable substitute without an increase in its bid price.

### ARTICLE 3 CORRELATIONS, INTERPRETATION AND INTENT OF CONTRACT DOCUMENTS

- 3.1 It is the intent of the Specifications and Drawings to describe a complete Project to be constructed in accordance with the Contract Documents. The Contract Documents comprise the entire Agreement between the CITY and the CONTRACTOR. They may be altered only by a modification.
- 3.2 The Contract Documents are complementary; what is called for by one is as binding as if called for by all. If CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, he shall call it to the CONSULTANT attention in writing at once and before proceeding with the Work affected thereby. The various Contract Documents are complementary; in case of conflict, error or discrepancy, the more stringent interpretation and requirement shall apply.
- 3.3 The words "furnish" and "furnish and install", "install", and "provide" or words with similar meaning shall be interpreted, unless otherwise specifically stated, to mean "furnish and install complete in place and ready for service".
- 3.4 Miscellaneous items and accessories which are not specifically mentioned, but which are essential to produce a complete and properly operating installation, or usable structure of plan, providing the indicated functions, shall be furnished and installed without change in the Contract Price. Such miscellaneous items and accessories shall be of the same quality standards, including material, style, finish, strength, class, weight and other applicable characteristics, as specified for the major component of which the miscellaneous item or accessory is an essential part, and shall be approved by the CONSULTANT before installation. The above requirement is not intended to include major components not covered by or inferable from the Drawings and Specifications.
- 3.5 The Work of all trades under this Contract shall be coordinated by the CONTRACTOR in such a manner as obtain the best workmanship possible for the entire Project, and all components of the Work shall be installed or erected in accordance with the best practices of the particular trade.
- 3.6 The CONTRACTOR shall be responsible for making the construction of habitable structures under this Contract rain proof, and for making equipment and utility installations properly perform the specified function.  
  
If he is prevented from so doing by any limitations of the Drawings or Specifications, the CONTRACTOR shall immediately notify the CONSULTANT in writing of such limitations before proceeding with construction in the area where the problem limitation exists.
- 3.7 Manufacturer's literature, when referenced, shall be dated and numbered and is intended to establish the minimum requirements acceptable. Whenever reference is given to codes, or standard specifications or other data published by regulating agencies or accepted organizations, including but not limited to National Electrical Code, applicable State Building Code, Florida Building Code, Federal Specifications, ASTM Specifications, various institute specifications, and the like, it shall be understood that such reference is to the latest edition including addenda in effect on the date of the Bid.
- 3.8 Brand names where used in the technical specifications, are intended to denote the standard or quality required for the particular material or product. The term "equal" or "equivalent", when used in connection with brand names, shall be interpreted to mean a material or product that is similar and equal in type, quality, size, capacity, composition, finish, color and other applicable characteristics to the material or product specified by trade name, and that is suitable for the same use capable of performing the same function, in the opinion of the CONSULTANT, as the material or product so specified. Proposed equivalent items must be approved by CONSULTANT before they are purchased or incorporated in the Work. (When a brand name, catalog number, model number, or other identification, is used without the phrase "or equal", the CONTRACTOR shall use the brand specified).

## ARTICLE 4 AVAILABILITY OF LANDS SUBSURFACE CONDITIONS REFERENCE POINTS

### Availability of Lands:

4.1 The CITY will furnish, as indicated in the Contract Documents, the lands upon which the Work is to be done, rights-of-way for access thereto, and such other lands which are designed for the use of the CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by the CITY, unless otherwise specified in the Contract Documents. Other access to such lands or rights-of-way for the CONTRACTOR'S convenience shall be the responsibility of the CONTRACTOR.

The CONTRACTOR will provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of material and equipment.

4.2 The CITY will, upon request, furnish to the PROPONENTS, copies of all available boundary surveys and subsurface tests at no cost.

### Subsurface Conditions:

4.3 The CONTRACTOR acknowledges that he has investigated prior to bidding and satisfied himself as to the conditions affecting the Work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, river stages, tides, water tables or similar physical conditions at the site, the conformation and conditions of the ground, the character of equipment and facilities needed preliminary to and during prosecution of the Work. The CONTRACTOR further acknowledges that he has satisfied himself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the CITY/ CONSULTANT on the site or any contiguous site, as well as from information presented by the Drawings and Specifications made part of this Contract, or any other information made available to them prior to receipt of bids. Any failure by the CONTRACTOR to acquaint themselves with the available information will not relieve them from responsibility for estimating properly the difficulty or cost of successfully performing Work. The CITY assumes no responsibility for any conclusions or interpretations made by the CONTRACTOR on the basis of the information made available by the CITY/ CONSULTANT.

### Differing Site Conditions:

4.4 The CONTRACTOR shall within forty eight (48) hours of its discovery, and before such conditions are disturbed, notify the CITY in writing, of:

4.4.1 Subsurface or latent physical conditions at the site differing materially from those indicated in this Contract, or

4.4.2 Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally inherent in Work of the character provided for in this Contract. The CITY shall promptly investigate the conditions, and if it finds that such conditions do materially so differ and cause an increase or decrease in the CONTRACTOR'S cost of, or the time required for, performance of any part of the Work under this Contract, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the Contract modified in writing accordingly.

4.5 No claim of the CONTRACTOR under this clause shall be allowed unless the CONTRACTOR has given the notice required in 4.4 above; provided, however, the time prescribed therefore may be extended by the CITY.

4.6 No claim by the CONTRACTOR for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

## ARTICLE 5 CONTRACTOR'S RESPONSIBILITIES

### Supervision and Superintendence:

5.1 The CONTRACTOR will supervise and direct the Work. It will be solely responsible for the means,

methods, techniques, sequences and procedures of construction. The CONTRACTOR will employ and maintain a qualified supervisor or superintendent at the Work site who shall be designated in writing by the CONTRACTOR as the CONTRACTOR'S representative at the site. The supervisor shall have full authority to act on behalf of the CONTRACTOR and all communications given to the supervisor shall be as binding as if given to the CONTRACTOR. The supervisor(s) shall be present at each site at all times as required to perform adequate supervision and coordination of the Work. (Copies of written communications given to the Superintendent shall be mailed to the CONTRACTOR'S home office).

- 5.1.1 The CONTRACTOR will keep one record copy of all Specifications, Drawings, Addenda, Modifications and Shop Drawings at the site in good order and annotated to show all changes made during the construction process. These shall be available to the CONSULTANT and any CITY Representative at all reasonable times and shall be delivered to the CITY upon completion of the Project.

Labor, Materials and Equipment:

- 5.2 The CONTRACTOR will provide competent, suitably qualified personnel to lay out the Work and perform construction as required by the Contract Documents. It will at all times maintain good discipline and order at the site.
- 5.3 The CONTRACTOR will furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, local telephone, water and sanitary facilities and all other facilities and incidentals necessary for the execution, testing, initial operation and completion of the Work.
- 5.4 All materials and equipment will be new, except as otherwise provided in the Contract Documents. When special makes or grades of material which are normally packaged by the supplier or manufacturer are specified or approved, such materials shall be delivered to the site in their original packages or containers with seals unbroken and labels intact.
- 5.5 All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator, or processors, except as otherwise provided in the Contract Documents.

Materials, Equipment, Products and Substitutions:

- 5.6 Materials, equipment and products incorporated in the Work must be approved for use before being purchased by the CONTRACTOR. The CONTRACTOR shall submit to the CONSULTANT a list of proposed materials, equipment or products, together with such samples as may be necessary for them to determine their acceptability and obtain their approval, within ninety (90) calendar days after award of Contract unless otherwise stipulated in the Special Conditions. No request for payment for "or equal" equipment will be approved until this list has been received and approved by the CONSULTANT.
  - 5.6.1 Whenever a material, article or piece of equipment is identified on the Drawings or Specifications by reference to brand name or catalog number, it shall be understood that this is referenced for the purpose of defining the performance of other salient requirements, and that other products of equal capacities, quality and function shall be considered. The CONTRACTOR may recommend the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the Contract Documents by reference to brand name or catalog number, and if, in the opinion of the CONSULTANT, such material, article, or piece of equipment is of equal substance and function to that specified, the CONSULTANT may approve its substitution and use by the CONTRACTOR. Incidental changes or extra component parts required to accommodate the substitute will be made by the CONTRACTOR without a change in the Contract Price or the Contract Time.
  - 5.6.2 No substitute shall be ordered or installed without the written approval of the CONSULTANT who shall be the judge of quality.
  - 5.6.3 Delay caused by obtaining approvals for substitute materials will not be considered justifiable grounds for an extension of construction time.
  - 5.6.4 Should any Work or materials, equipment or products not conform with requirements of the Drawings and Specifications or become damaged during the progress of the Work, such Work or materials shall be removed and replaced, together with any Work disarranged by such alterations,

at any time before completion and acceptance of the Project. All such Work shall be done at the expense of the CONTRACTOR.

- 5.6.5 No materials or supplies for the Work shall be purchased by the CONTRACTOR or any Subcontractor subject to any chattel mortgage or under a conditional sale or other agreement by which an interest is retained by the Seller. The CONTRACTOR warrants that they have good title to all materials and supplies used by them in the Work.

Concerning Subcontractors:

- 5.7 The CONTRACTOR shall not employ any Subcontractor, against whom the CITY may have reasonable objection, nor will the CONTRACTOR be required to employ any Subcontractor who has been accepted by the CITY and the CONSULTANT, unless the CONSULTANT determines that there is good cause for doing so.
- 5.8 The CONTRACTOR shall be fully responsible for all acts and omissions of its Subcontractors and of persons and organizations directly or indirectly employed by it and of persons and organizations for whose acts any of them may be liable to the same extent that they are responsible for the acts and omissions of persons directly employed by them. Nothing in the Contract Documents shall create any contractual relationship between CITY or CONSULTANT and any Subcontractor or other person or organization having a direct contract with CONTRACTOR, nor shall it create any obligation on the part of CITY or CONSULTANT to pay or to see to payment of any persons due subcontractor or other person or organization, except as may otherwise be required by law. CITY or CONSULTANT may furnish to any Subcontractor or other person or organization, to the extent practicable, evidence of amounts paid to the CONTRACTOR on account of specified Work done in accordance with the schedule values.
- 5.9 The divisions and sections of the Specifications and the identifications of any Drawings shall not control the CONTRACTOR in dividing the Work among Subcontractors or delineating the Work performed by any specific trade.
- 5.10 The CONTRACTOR agrees to bind specifically every Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the CITY.
- 5.11 All Work performed for the CONTRACTOR by a Subcontractor shall be pursuant to an appropriate agreement between the CONTRACTOR and the Subcontractor.
- 5.12 The CONTRACTOR shall be responsible for the coordination of the trades, Subcontractors material and men engaged upon their Work.
- 5.12.1 The CONTRACTOR shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the CONTRACTOR by the terms of these General Conditions and other Contract Documents insofar as applicable to the Work of Subcontractors, and give the CONTRACTOR the same power as regards to terminating any subcontract that the CITY may exercise over the CONTRACTOR under any provisions of the Contract Documents.
- 5.12.2 The CITY or CONSULTANT will not undertake to settle any differences between the CONTRACTOR and their Subcontractors or between Subcontractors.
- 5.12.3 If in the opinion of the CONSULTANT, any Subcontractor on the Project proves to be incompetent or otherwise unsatisfactory, they shall be promptly replaced by the CONTRACTOR if and when directed by the CONSULTANT in writing.

Patent Fees and Royalties:

- 5.13 The CONTRACTOR will pay all license fees and royalties and assume all costs incident to the use of any invention, design, process or device which is the subject of patent rights or copyrights held by others. He will indemnify and hold harmless the CITY and the CONSULTANT and anyone directly or indirectly employed by either of them from against all claims, damages, losses and expenses (including attorney's fees) arising out of any infringement of such rights during or after the completion of the Work, and shall defend all such claims in connection with any alleged infringement of such rights.
- 5.14 The CONTRACTOR shall be responsible for determining the application of patent rights and royalties materials, appliances, articles or systems prior to bidding. However, he shall not be responsible for such determination on systems which do not involve purchase by them of materials, appliances and articles.

Permits:

- 5.15 The CONTRACTOR will secure and pay for all construction permits and licenses and will pay for all governmental charges and inspection fees necessary for the prosecution of the Work, which are applicable at the time of his Bid.

When such charges are normally made by the CITY and when so stated in the Special Conditions, there will be no charges to the CONTRACTOR. The CITY shall assist the CONTRACTOR, when necessary, in obtaining such permits and licenses. The CONTRACTOR will also pay all public utility charges.

Electrical Power and Lighting:

- 5.16 Electrical power required during construction shall be provided by each prime CONTRACTOR as required by it. This service shall be installed by a qualified electrical Contractor approved by the CONSULTANT. Lighting shall be provided by the CONTRACTOR in all spaces at all times where necessary for good and proper workmanship, for inspection or for safety. No temporary power shall be used off temporary lighting lines without specific approval of the CONTRACTOR.

Laws and Regulations:

- 5.17 The CONTRACTOR shall comply with all notices, laws, ordinances, rules and regulations applicable to the Work. If the CONTRACTOR observes that the Specifications or Drawings are at variance therewith, it will give the CONSULTANT prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate modification. If the CONTRACTOR performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the CONSULTANT, it will bear all costs arising there from; however, it shall not be its primary responsibility to make certain that the Drawings and Specifications are in accordance with such laws, ordinances, rules and regulations.

Taxes:

- 5.18 Cost of all applicable sales consumer, use, and other taxes for which the CONTRACTOR is liable under the Contract shall be included in the Contract Price stated by the CONTRACTOR.

Safety and Protection:

- 5.19 The CONTRACTOR will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. They will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to:

5.19.1 All employees and other persons who may be affected thereby,

5.19.2 All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and

5.19.3 Other property at the site 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.

- 5.20 The CONTRACTOR will designate a responsible member of their organization at the site whose duty shall be the prevention of accidents. This person shall be the CONTRACTOR'S Superintendent unless otherwise designated in writing by the CONTRACTOR to the CITY.

Emergencies:

- 5.21 In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the CONSULTANT or CITY, is obligated to act, at his discretion, to prevent threatened damage, injury or loss. He will give the CONSULTANT prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby. If the CONTRACTOR believes that additional Work done by him in an emergency which arose from causes beyond his control entitles him to an increase in the Contract Price or an extension of the Contract Time, he may make a claim therefore as provided in Articles 11 and 12.

Shop Drawings and Samples:

- 5.22 After checking and verifying all field measurements, the CONTRACTOR will submit to the CONSULTANT for review, in accordance with the accepted schedule of shop drawing submissions six (6)

copies (or at the CONSULTANT option, one reproducible copy) of all Shop Drawings, which shall have been checked by and stamped with the approval of the CONTRACTOR and identified as the CONSULTANT may require. The data shown on the Shop Drawings will be complete with respect to dimensions, design criteria, materials of construction and the like to enable the CONSULTANT to review the information as required.

- 5.23 The CONTRACTOR will also submit to the CONSULTANT for review, with such promptness as to cause no delay in Work, all samples required by the Contract Documents.
- All samples will have been checked by and stamped with the approval of the CONTRACTOR, identified clearly as to material, manufacturer, any pertinent catalog numbers and the use for which intended.
- 5.24 At the time of each submission, the CONTRACTOR'S will in writing call the CONSULTANT attention to any deviations that the Shop Drawings or Samples may have from the requirements of the Contract Documents.
- 5.25 The CONSULTANT will review with responsible promptness Shop Drawings and Samples, but his review shall be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents. The review of a separate item as such will not indicate review of the assembly in which the items functions. The CONTRACTOR will make any corrections required by the Consultant and will return the required number of corrected copies of Shop Drawings and resubmit new samples until the review is satisfactory to the CONSULTANT. The CONTRACTOR shall direct specific attention in writing or on resubmitted Shop Drawings to revisions other than the corrections called for by the CONSULTANT on previous submissions. The CONTRACTOR'S stamp of approval on any Shop Drawings or sample shall constitute representation to the CITY and the CONSULTANT that the CONTRACTOR has either determined and/or verified all quantities, dimension, field construction criteria, materials, catalog numbers and similar data or they assume full responsibility for doing so, and that they have reviewed or coordinated each Shop Drawing to sample with the requirements of the Work and the Contract Documents.
- 5.26 No Work requiring a Shop Drawing or Sample submission shall be commenced until the submission has been reviewed by the CONSULTANT. A copy of each Shop Drawing and each approved Sample shall be kept in good order by the CONTRACTOR at the site and shall be available to the CONSULTANT.
- 5.27 The CONSULTANT review of Shop Drawings or samples shall not relieve the CONTRACTOR from his responsibility for any deviations from the requirements of the Contract Documents unless the CONTRACTOR has in writing called the CONSULTANT attention to each deviation at the time of submission and the CONSULTANT has given written approval to the specific deviation, nor shall any review by the CONSULTANT relieve the CONTRACTOR from responsibility for errors or omissions in the Shop Drawings.

Cleaning Up:

- 5.28 The CONTRACTOR shall clean up behind the Work as much as is reasonably possible as the Work progresses. Upon completion of the Work, and before acceptance of final payment for the Project by the CITY, the CONTRACTOR shall remove all his surplus and discarded materials, excavated material and rubbish from the property, roadways, sidewalks, parking areas, lawn and all adjacent property; shall clean the his portion of Work involved in any building under this Contract, so that no further cleaning by the CITY is necessary prior to its occupancy; shall restore all property, both public and private, which has been disturbed or damaged during the prosecution of the Work; and shall leave the whole in a neat and presentable condition.
- 5.29 If the CONTRACTOR does not clean the Work site, the CITY may remove the rubbish and charge the cost to the CONTRACTOR.

Public Convenience and Safety:

- 5.30 The CONTRACTOR shall, at all times, conduct the Work in such a manner as to insure the least practicable obstruction to public travel. The convenience of the general public and of the residents along and adjacent to the area of Work shall be provided for in a satisfactory manner, consistent with the operation and local conditions. "Street Closed" signs shall be placed immediately adjacent to the Work, in a conspicuous position, at such locations as traffic demands. At any time that streets are required to be closed, the CONTRACTOR shall notify law enforcement agencies and in particular, the South Miami Police

Department, before the street is closed and again as soon as it is opened. Access to fire hydrants and other fire extinguishing equipment shall be provided and maintained at all times.

Sanitary Provisions:

- 5.31 The CONTRACTOR shall provide on-site office, and necessary toilet conveniences, secluded from public observation, for use of all personnel on the Work, whether or not in his employ. They shall be kept in a clean and sanitary condition and shall comply with the requirements and regulations of the Public Authorities having jurisdiction. They shall commit no public nuisance. Temporary field office and sanitary facilities shall be removed upon completion of the Work and the premises shall be left clean.

Indemnification:

- 5.32 In consideration of the separate sum of twenty-five dollars (\$25.00) and other valuable consideration, the CONTRACTOR shall indemnify and save harmless the CITY and CONSULTANT, their officers, agents and employees, from or on account of any injuries or damages, received or sustained by any person or persons during or on account of any operations connected with the construction of this Project; including the warranty period, or by or in consequence of any negligence (excluding negligence of CITY and CONSULTANT), in connection with the same; or by use of any improper materials or by or on account of any act or omission of the said CONTRACTOR or its Subcontractor, agents, servants or employees. The CONTRACTOR shall indemnify and hold harmless the CITY and the CONSULTANT and their agents or employees from and against all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from the performance of the Work, provided that any such claim damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than Work itself) including the loss of use resulting there from and (b) is caused in whole or in part by any negligent act or omission of the CONTRACTOR, Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder.
- 5.33 In the event that any action or proceeding is brought against CITY or CONSULTANT by reason of any such claim or demand, CONTRACTOR, upon written notice from CITY shall defend such action or proceeding by counsel satisfactory to CITY. The indemnification provided above shall obligate CONTRACTOR to defend at its own expense 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 that may be brought against CITY or Consultant, excluding only those which allege that the injuries arose out of the sole negligence of CITY or CONSULTANT, which may result from the operations and activities under this Contract whether the construction operations be performed by CONTRACTOR, its Subcontractors or by anyone directly or indirectly employed by either.
- 5.34 The obligations of the CONTRACTOR under paragraph 6.33 shall not extend to the liability of the CONSULTANT, its agents or employees arising out of (a) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications or (b) the giving of or the failure to give directions or instructions by the CONSULTANT, its agents or employees provided such giving of failure to give is the primary cause of injury or damage. These indemnification provisions shall survive the term of this Contract.

Responsibility for Connection to Existing Work:

- 5.35 It shall be the responsibility of the CONTRACTOR to connect its Work to each part of the existing Work or Work previously installed as required by the Drawings and Specifications to provide a complete installation.
- 5.36 Excavations, grading, fill, storm drainage, paving and any other construction or installations in rights-of-ways of streets, highways, public carrier lines, utility lines either aerial, surface or subsurface, etc., shall be done in accordance with requirements of the special conditions. The CITY will be responsible for obtaining all permits necessary for the Work. Upon completion of the Work, CONTRACTOR shall present to CONSULTANT certificates, in triplicate, from the proper authorities stating that the Work has been done in accordance with their requirements.
- 5.36.1 The CITY will cooperate with the CONTRACTOR in obtaining action from any utilities or public authorities involved in the above requirements.
- 5.36.2 The CONSULTANT shall be responsible, if required, for obtaining elevations of curbs and gutters, pavement, storm drainage structures, and other items which must be established by governmental

departments as soon as grading operations are begun on the site and, in any case, sufficiently early in the construction period to prevent any adverse effect on the Project.

Cooperation with Governmental Departments, Public Utilities, Etc.:

- 5.37 The CONTRACTOR shall be responsible for making all necessary arrangements with governmental departments, public utilities, public carriers, service companies and corporations owning or controlling roadways, railways, water, sewer, gas, electrical conduits, telephone, and telegraph facilities such as pavements, tracks, piping, wires, cables, conduits, poles, guys, etc., including incidental structures connected therewith, that are encountered in the Work in order that such its may be properly shored, supported and protected, or the CONTRACTOR may relocate them if he desires, The CONTRACTOR shall give all proper notices, shall comply with this requirements of such parties in the performance of his Work, shall permit entrance of such parties on the Project in order that they may perform their necessary Work, and shall pay all charges and fees made by such parties for this Work.
- 5.37.1 The CONTRACTOR'S attention is called to the fact that there may be delays on the Project due to Work to be done by governmental departments, public utilities, and others in repairing or moving poles, conduits, etc. The CONTRACTOR shall cooperate with the above parties in every way possible, so that the construction can be completed in the least possible time.
- 5.37.2 The CONTRACTOR shall have made itself familiar with all codes, laws, ordinances, and regulations which in any manner affect those engaged or employed in the Work, or materials and equipment use in or upon the Work, or in any way affect the conduct of the Work, and no plea of misunderstanding will be considered on account of their ignorance thereof.

Use Premises:

- 5.38 CONTRACTOR shall confine its apparatus, storage of materials, and operations of its workmen to the limits indicated by law, ordinances, permits and directions of CONSULTANT and CITY, and shall not unnecessarily encumber any part of the site.
- 5.38.1 CONTRACTOR shall not overload or permit any part of any structure to be loaded with such weight as will endanger its safety, nor shall it subject any party of the work to stresses or pressures that will endanger it.
- 5.38.2 CONTRACTOR shall enforce CONSULTANT and CITY'S instructions in connection with signs, advertisements, fires and smoking.
- 5.38.3 CONTRACTOR shall arrange and cooperate with CITY in routing and parking of automobiles of its employees, subcontractors and other personnel, and in routine material delivery trucks and other vehicles to the Project site.

The CONTRACTOR shall furnish, install and maintain adequate construction office facilities for all workers employed by it or by its Subcontractors. Temporary offices shall be provided and located where directed and approved by the CONSULTANT. All such facilities shall be furnished in strict accordance with existing governing regulations. Field offices shall include telephone facilities.

- 5.38.4 The City will designate specific areas on the site for storage, parking, etc. and the job site shall be fenced to protect the job site and the general public.

Protection of Existing Property Improvements:

- 5.39 Any existing surface or subsurface improvements, such as pavements curbs, sidewalks, pipes or utilities, footings, or structures (including portions thereof), trees and shrubbery, not indicated on the Drawings or noted in the Specifications as being removed or altered shall be protected from damage during construction of the Project. Any such improvements damaged during construction of the Project shall be restored at the expense of the CONTRACTOR to a condition equal to that existing at the time of award of Contract.

ARTICLE 6 WORK BY OTHERS

- 6.1 The CITY may perform additional Work related to the Project or may let other direct contracts therefore which shall contain General Conditions similar to these.

The CONTRACTOR shall afford the other contractors who are parties to such direct contracts (or the CITY, if it is performing the additional Work itself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of Work, and shall properly connect and coordinate its Work with theirs.

- 6.2 If any part of the CONTRACTOR'S Work depends upon proper execution or results of the Work of any CONTRACTOR (or the CITY), the CONTRACTOR shall promptly report to the CONSULTANT in writing any defects or deficiencies in such Work that render it unsuitable for such proper execution and results.
- 6.3 The CONTRACTOR will do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and fit it to receive or be received by such other Work. The CONTRACTOR will not endanger any Work of others by cutting, excavating or otherwise altering their Work and will only cut or alter their Work with the written consent of the CONSULTANT and of the other CONTRACTORS whose Work will be affected.
- 6.4 If the performance of additional Work by other contractors or the CITY is not noted in the Contract Documents prior to the execution of the Contract, written notice thereof shall be given to the CONTRACTOR prior to starting any such additional Work. If the CONTRACTOR believes that the performance of such additional Work by the CITY or others involves them in additional expense or entitles them to an extension of the Contract Time, they may make a claim therefore as provided in Articles 11 and 12.
- 6.5 Where practicable, the CONTRACTOR shall build around the Work of other separate CONTRACTORS or shall leave chases, slots and holes as required to receive and to conceal within the general construction Work the Work of such other separate CONTRACTORS as directed by them. Where such chases, slots, etc., are impracticable, the Work shall require specific approval of the CONSULTANT.
- 6.6 Necessary chases, slots, and holes not built or left by the CONTRACTOR shall be cut by the separate contractor requiring such alterations after approval of the CONTRACTOR. The CONTRACTOR shall do all patching and finishing of their Work where cut by other CONTRACTORS at the expense of such other CONTRACTORS.
- 6.7 Cooperation is required in the use of site facilities and in the detailed execution of the Work. Each CONTRACTOR shall coordinate their operation with those of the other CONTRACTORS for the best interest of the Work in order to prevent delay in the execution thereof.
- 6.8 Each CONTRACTOR shall keep itself informed of the progress of the Work of other CONTRACTORS. Should lack of progress or defective workmanship on the part of other CONTRACTORS interfere with their operations, the CONTRACTOR shall notify the CONSULTANT immediately. Lack of such notice to the CONSULTANT will be construed as acceptance by the CONTRACTOR of the status of the Work of other CONTRACTORS as being satisfactory for proper coordination of their own Work.
- 6.9 The cost of extra Work resulting from lack of notices, untimely notices, failure to respond to notices, defective Work or lack of coordination shall be home by the CONTRACTOR responsible for such lack of notices, etc.

#### ARTICLE 7 CITY'S RESPONSIBILITIES

- 7.1 The CITY will issue all communications to the CONTRACTOR through the CONSULTANT.
- 7.2 In cases of termination of employment of the CONSULTANT, the CITY will appoint a CONSULTANT, whose status under the Contract Documents shall be that of the former CONSULTANT.
- 7.3 The CITY will furnish the data required of them under the Contract Documents promptly.
- 7.4 The CITY'S duties in respect to providing lands and easements are set forth in Paragraphs 4.1 and 4.2.
- 7.5 The CITY shall have the right to take possession of and use any completed or partially completed portions of the Work, notwithstanding the fact that the time for completing the entire Work or any portion thereof may not have expired; but such taking possession and use shall not be deemed an acceptance of any Work not completed in accordance with the Contract Documents.

## ARTICLE 8 CONSULTANTS' STATUS DURING CONSTRUCTION

### City's Representative:

- 8.1 The CONSULTANT shall be the CITY'S representative during the construction period. The duties and responsibilities and the limitations of authority of the CONSULTANT as the CITY'S representative during construction are set forth in Articles 1 through 16 of these General Conditions and shall not be extended without written consent of the CITY and the CONSULTANT.
- 8.1.1 The CONSULTANT decision, in matters relating to aesthetics, shall be final, if within the terms of the Contract Documents.
- 8.1.2 Except as may be otherwise provided in this contract, all claims, counterclaims, disputes and other matters in question between the CITY and the CONTRACTOR arising out of or relating to this Agreement or the breach thereof, will be decided in a court of competent jurisdiction within the State of Florida.

### Visits to Site:

- 8.2 The CONSULTANT shall provide an inspector to make periodic visits to the site at each phase of construction to observe the progress and quality of the executed Work and to determine, if the Work is proceeding in accordance with the Contract Documents. His efforts will be directed toward providing assurance for the CITY that the completed Project will conform to the requirements of the Contract Documents. On the basis of these on site-observations as an experienced and qualified design professional, he will keep the CITY informed of the progress of the Work and will guard the CITY against defects and deficiencies in the Work of CONTRACTORS.

### Clarifications and Interpretations:

- 8.3 The CONSULTANT shall issue, with reasonable promptness, such written clarifications or interpretations of the Contract Documents (in the form of Drawings or otherwise) as it may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If the CONTRACTOR believes that a written clarification and interpretation cause a change in the Contract Price and/or of Contract Time, it may make a claim therefore as provided in Articles 11 and 12.

### Measurement of Quantities:

- 8.4 All Work completed under the Contract will be measured by the CONSULTANT according to the United States Standard Measures. All linear surface measurements will be made horizontally or vertically as required by the item measured.

### Rejecting Defective Work:

- 8.5 The CONSULTANT shall have authority to disapprove or reject Work which is "defective" (which term is hereinafter used to describe Work that is unsatisfactory, faulty or defective, or does not conform to the requirements of the Contract Documents or does not meet the requirements of any inspection, test or approval referred to in Special Condition, or has been damaged prior to final acceptance). It shall also have authority to require special inspection or testing of the Work as provided in the Special Conditions whether or not the Work is fabricated, installed or completed.

### Shop Drawings, Change Orders and Payments:

- 8.6 In connection with the CONSULTANT'S responsibility as to Shop Drawings and samples, see paragraphs 6.22 through 6.27, inclusive.
- 8.7 In connection with the CONSULTANT'S responsibility for Change Orders, see Articles 10, 11, and 12.
- 8.8 In connection with the CONSULTANT'S responsibilities in respect of Application of Payment, etc., see Article 14.

### Resident Project Representative:

- 8.9 The CONSULTANT shall provide construction observation sufficient to confirm to CITY and all applicable regulatory agencies that construction is in compliance with the Construction Drawings and the Contract Specifications.

### Decisions on Disagreements:

8.10 The CONSULTANT will be the initial interpreter of the Construction Drawings and Technical Specifications.

Limitations on Consultant's Responsibilities:

8.11 The CONSULTANT will not be responsible for the construction means, methods, techniques, sequences or procedures, or the safety precautions and programs incident thereto.

8.12 The CONSULTANT will not be responsible for the acts or omissions of the CONTRACTOR, or any Subcontractors, or any of their or their agents or employees, or any other person performing any of the Work.

ARTICLE 9 CHANGES IN THE WORK

9.1 Without invalidating the Agreement, the CITY may, at any time or from time to time, order additions, deletions or revisions in the Work; these shall be authorized by Change Orders. Upon receipt of a Change Order, the CONTRACTOR will proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made to as provided in Article 11 or Article 12. A Change Order signed by the CONTRACTOR indicates their agreement therewith.

9.2 The CONSULTANT may authorize minor changes or alterations in the Work not involving extra cost and not inconsistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order. If the CONTRACTOR believes that any minor change or alteration authorized by the CONSULTANT entitles him an increase in the Contract Price or extension of Contract Time, he may make a claim therefore as provided in Articles 11 and 12.

9.3 Additional Work performed by the CONTRACTOR without authorization of a Change Order will not entitle it to an increase in the Contract Price or an extension of the Contract Time, except in the case of an emergency as provided in paragraph 6.21 and except as provided in paragraph 10.2.

9.4 The CITY will execute appropriate Change Orders prepared by the CONSULTANT covering changes in the Work, to be performed as provided in paragraph 4.4, and Work performed in an emergency as Provided in paragraph 6.21 and any other claim of the CONTRACTOR for a change in the Contract Time or the Contract Price which is approved by the CONSULTANT.

9.5 It is the CONTRACTOR'S responsibility to notify its Surety of any changes affecting the general scope of the Work or change in the Contract Price or Contract Time and the amount of the applicable bonds shall be adjusted accordingly. The CONTRACTOR will furnish proof of such an adjustment to the CITY.

ARTICLE 10 CHANGE OF CONTRACT PRICE

10.1 The Contract Price constitutes the total compensation payable to the CONTRACTOR for Performing the Work. All duties, responsibilities and obligations assigned to or undertaken by the CONTRACTOR shall be at their expense without changing the Contract Price.

10.2 The CITY may, at any time, without written notice to the sureties, by written order designated or indicated to be a Change Order, make any change in the Work within the general scope of the Contract, including but not limited to changes:

11.2.1 In the specifications (including drawings and designs);

11.2.2 In the method or manner of performance of the Work;

11.2.3 In the CITY-furnished facilities, equipment, materials, services, or site; or

11.2.4 Directing acceleration in the performance of the Work.

10.3 Except as herein provided, no order, statement, or conduct of the CITY shall be treated as a change under this clause or entitle the CONTRACTOR to an equitable adjustment hereunder.

10.4 If any change order under this clause causes an increase or decrease in the CONTRACTOR'S cost of, or the time required for, the performance of any part of the Work, under this Contract, whether or not

changed by any order, an equitable adjustment shall be made and the Contract modified in writing accordingly.

- 10.5 If the CONTRACTOR intends to assert a claim for an equitable adjustment under this clause, it shall, within ten (10) days after receipt of a written Change Order, submit to the CITY and CONSULTANT a written notice including a statement setting forth the general nature and monetary extent of such claim, and supporting data.
- 10.6 No claim by the CONTRACTOR for an equitable adjustment hereunder shall be allowed if not submitted in accordance with this section or if asserted after final payment under this Contract.
- 10.7 The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:
  - 10.7.1 By negotiated lump sum.

- 10.7.2 On the basis of the Cost of the Work, determined as provided in Sections 11.4 and 11.5, plus a mutually agreed upon fee to the CONTRACTOR to cover overhead and profit not to exceed 15%.
- 10.8 The term Cost of the Work means the sum of all direct costs necessarily incurred and paid by the CONTRACTOR in the proper performance of the Work. Except as otherwise may be agreed to in writing by CITY, such costs shall be in amounts no higher than those prevailing in Miami-Dade County, shall include only the following items and shall not include any of the costs itemized in Paragraph 11.5.
- 10.8.1 Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the Work described in the Change Order under schedules of job classifications agreed upon by CITY and CONTRACTOR. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall be limited to: salaries and wages, plus the costs of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing Work after regular working hours, on Sunday or legal holidays shall be included in the above only if authorized by CITY.
- 10.8.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage, 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 the 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.
- 10.8.3 Payments made by CONTRACTOR to the Subcontractors for Work performed by Subcontractors. If required by CITY, CONTRACTOR shall obtain competitive bids from Subcontractors acceptable to him and shall deliver such bids to CITY who will then determine with the advice of Consultant which Bids will be accepted. If a Subcontract provides that the Subcontractor is to be paid on the basis of Cost of Work plus a fee, the Cost of the Work shall be determined in accordance with paragraphs 11.4 and 11.5.
- 10.8.4 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 terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the Work.
- 10.8.5 Sales, use or similar taxes related to the Work, and for which CONTRACTOR is liable, imposed by any governmental authority.
- 11.8.6 Payments and fees for permits and licenses. Costs for permits and licenses must be shown as a separate item.
- 10.8.7 The cost of utilities, fuel and sanitary facilities at the site.
- 10.8.8 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.
- 10.8.9 Cost of premiums for additional Bonds and insurance required solely because of changes in the Work, not to exceed two percent (2%) of the increase in the Cost of the Work.
- 10.9 The term Cost of the Work shall NOT include any of the following:
- 10.9.1 Payroll costs and other compensation of CONTRACTOR'S officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, lawyers, 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 schedule referred to in Subparagraph 10.4 - all of which are to be considered administrative costs covered by the CONTRACTOR'S fee.

- 10.9.2 Expenses of CONTRACTOR'S principal and branch offices other than its office at the site.
- 10.9.3 Any part of CONTRACTOR'S capital expenses, including interest on CONTRACTOR'S capital employed for the Work and charges against CONTRACTOR for delinquent payments.
- 10.9.4 Cost of premiums for all bonds and for all insurance policies whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same (except as otherwise provided in Subparagraph 10.4).
- 10.9.5 Costs due to the negligence of CONTRACTOR, any Subcontractor, 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.
- 10.9.6 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 11.4.
- 10.10 The CONTRACTOR'S fee which shall be allowed to CONTRACTOR for its overhead and profit shall be determined as follows:
  - 10.10.1 A mutually acceptable firm fixed price; or if none can be agreed upon.
  - 10.10.2 A mutually acceptable fixed percentage (not to exceed 15%) based on the estimate of the various portions of the Cost of the Work.
- 10.11 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 net shall be computed to include overhead and profit, identified separately, for both additions and credit, provided however, the CONTRACTOR shall not be entitled to claim lost profits for any Work not performed.
- 10.12 Whenever cost of any Work is to be determined pursuant to paragraphs 10.4 and 10.5, CONTRACTOR will submit in form prescribed by Consultant an itemized cost breakdown together with supporting data.

**ARTICLE 11 TIME FOR COMPLETION, LIQUIDATED DAMAGES & CHANGE OF THE CONTRACT TIME**

- 11.1 The date of beginning and the time for completion of the Work are essential conditions of the Contract Documents and the Work shall be commenced on the date specified in the Notice to Proceed.
- 11.2 The CONTRACTOR shall proceed with the Work at such rate of progress to ensure full completion within the Contract Time. It is expressly understood and agreed, by and between the CONTRACTOR and the CITY that the Contract Time for the completion of the Work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the Work.
- 11.3 If the CONTRACTOR shall fail to complete the Work within the Contract Time, or extension of time granted by the CITY, then the CONTRACTOR shall pay to the CITY the amount for liquidated damages as specified in the Agreement, Paragraph 6, for each calendar day that the CONTRACTOR shall be default after the time stipulated in the Contract Documents.
  - 11.3.1 These amounts are not penalties but are liquidated damages to CITY for its inability to obtain full use of the Project. Liquidated damages are hereby fixed and agreed upon between the parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by as a consequence of such delay, and both parties desiring to obviate any question or dispute concerning the amount of said damages and the cost and effect of the failure of CONTRACTOR to complete the Contract on time. The above-stated liquidated damages shall apply separately to each phase of the Project for which a time for completion is given.
  - 11.3.2 CITY is authorized to deduct the liquidated damages from monies due to CONTRACTOR for the Work under this Contract.
  - 11.3.3 CONTRACTOR shall be responsible for reimbursing CITY, in addition to liquidated damages, for all costs incurred by CITY for the Consultant fees in administering the construction of the Project due to the failure of the CONTRACTOR to comply with the Contract Documents, to also include additional time beyond an approved extension of time granted to CONTRACTOR,

whichever date is later. Such costs shall be deducted from the monies due CONTRACTOR for performance of Work under this Contract by means of a unilateral Change Order issued by the CITY.

- 11.4 The Contract Time may only be changed by a Change Order. Any claim for an extension in the CONTRACT TIME shall be based on written notice delivered to the CITY and CONSULTANT within five (5) days of the occurrence of the event giving rise to the claim and stating the general nature of the claim including supporting data. All claims for adjustment in the Contract Time shall be evaluated and recommended by the CONSULTANT, with final approval by the CITY'S representative. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.
- 11.5 All time limits stated in the Contract Documents are of the essence of the Agreement.
- 11.6 No claim for delay shall be allowed because of failure to furnish Drawings until fourteen (14) days after demand to the Consultant for such Drawings and not then unless such claim be reasonable.
- 11.7 Extensions to the Contract Time for delays caused by the effects of inclement weather shall be submitted as a request for a change in the Contract Time pursuant to Section 11.4. These time extensions are justified only when rains or other inclement weather conditions or related adverse soil conditions prevent CONTRACTOR from productively performing controlling items of Work identified on the accepted schedule or updates resulting in:
  - 11.7.1 CONTRACTOR being unable to work at least fifty percent (50%) of the normal workday on controlling items of Work identified on the accepted schedule or updates due to adverse weather conditions; or
  - 11.7.2 CONTRACTOR must make major repairs to the Work damaged by weather. Providing the damage was not attributable to a failure to perform or neglect by CONTRACTOR, and providing that CONTRACTOR was unable to work at least fifty percent (50%) of the normal workday on controlling items of Work identified on the accepted schedule or updates.
- 11.8 No Damages for Delay: No claim for damages or any claim, other than for an extension of time as provided for in Section 11.4 shall be made or asserted against CITY by reason of any delays. 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, overhead or lost profits, 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. CONTRACTOR shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay.

## ARTICLE 12 - GUARANTEE

- 12.1 The CONTRACTOR shall guarantee and unconditionally warranty through either the manufacturer or the CONTRACTOR directly, all materials and equipment furnished and Work performed for a period of one and one-half (1 ½) years from the date of Final Acceptance as indicated in the CONSULTANT Letter of Recommendation of Acceptance. The CITY will give notice of observed defects with reasonable promptness. In the event that the CONTRACTOR should fail to promptly correct such defective or non-conforming Work, the CITY may cause the defective Work to be removed or corrected at the CONTRACTOR'S expense, and the CITY may charge the CONTRACTOR the cost thereby incurred. The Performance Bond shall remain in full force and effect through the guarantee period.
- 12.2 The specific warranty periods listed in the Contract Documents, if different from the period of time listed in Section 12.1 shall be applicable.

## ARTICLE 13 PAYMENTS AND COMPLETION

### Payments to Contractor

- 13.1 At least ten (10) days before each progress payment falls due (but not more often than once a month), the CONTRACTOR shall submit to the CONSULTANT a partial payment estimate filled out and signed by the CONTRACTOR covering the Work performed during the period covered by the partial payment

estimate and supported by such data as the CONSULTANT may reasonably require. Said progress payment request shall be accompanied by partial releases of lien executed by all persons, firms and corporations who have furnished labor, services or materials incorporated into the work during the period of time for which the progress payment is due, releasing such lien rights those persons, firms or corporations may have for that period.

If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at or near site, the partial payment estimate shall also be accompanied by such supporting data, satisfactory to the CITY will establish the CITY'S title to the material and equipment and protect their interest therein, including applicable insurance. The CONTRACTOR shall replace at its expense any stored materials paid for which are either damaged or stolen before installation. The CONSULTANT will within ten (10) calendar days after receipt of each partial payment estimate, either indicate in writing their approval of payment and present the partial payment estimate to the CITY, or return the partial payment estimate to the CONTRACTOR, indicating in writing his reasons for refusing to approve payment. In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the partial payment estimate. The CITY, will within thirty (30) calendar days of presentation to it of any approved partial payment estimate, pay the CONTRACTOR a progress payment on the basis of the approved partial payment estimate. The CITY shall retain ten (10%) percent of the amount of each payment until Final Completion and Acceptance of all Work covered by the Contract Documents. Any interest earned on the retainage shall accrue to the benefit of the CITY.

- 13.2 The CITY shall have the right to demand and receive from the CONTRACTOR, before it shall receive final payment, final releases of lien executed by all persons, firms or corporations who have performed or furnished labor, services or materials, directly or indirectly, used in the Work.

#### Contractor's Warranty of Title

- 13.3 The CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by an application for Payment whether incorporated in the Project or not, will have passed to the CITY prior to the making of the Application for Payment, free and clear of all liens, claims, security interest and encumbrances (hereafter in these General Conditions referred to as "Liens"); and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the CONTRACTOR or by any other person performing the Work at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or encumbrance thereon is retained by the seller or otherwise imposed by the CONTRACTOR or such other person.

#### Approval of Payment

- 13.4 The Consultant approval of any payment requested in an Application for Payment shall constitute a representation by him to the CITY, based on the CONSULTANT on site observations of the Work in progress as an experienced and qualified design professional and on his review of the Application for Payment and supporting data, that the Work has progressed to the point indicated; that, to the best his knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning Project upon substantial completion, to the results of any subsequent tests called for in the Contract Documents and any qualifications stated in his approval); and that the CONTRACTOR is entitled to payment of the amount approved. However, by approving, any such payment the CONSULTANT shall not thereby be deemed to have represented that he made exhaustive or continuous on-site observations to check the quality or the quantity of the Work, or that he has reviewed the means, methods, techniques, sequences and procedures of construction or that he had made any examination to ascertain how or for what purpose the CONTRACTOR has used the moneys paid or to be paid to him on account of the Contract Price, or that title to any Work, materials, or equipment has passed to the CITY free and clear of any liens.
- 13.5 The CONTRACTOR shall make the following certification on each request for payment:
- "I hereby certify that the labor and materials listed on this request for payment have been used in the construction of this Work or that all materials included in this request for payment and not yet incorporated into the construction are now on the site or stored at an approved location, and payment received from the last request for payment has been used to make payments to all first tier Subcontractors and suppliers except as listed below".
- 13.6 The CONSULTANT may refuse to approve the whole or any part of any payment if, in its opinion, it is unable to make such representations to the CITY. It may also refuse to approve any payment, or because

of subsequently discovered evidence or the results of subsequent inspection or tests, nullify any such payment previously approved, to such extent as may be necessary in its opinion to protect the CITY from loss because:

- 13.6.1 The Work is defective, or completed Work has been damaged requiring correction or replacement,
  - 13.6.2 The Work for which payment is requested cannot be verified,
  - 13.6.3 Claims or Liens have been filed or there is reasonable evidence indicating the probable filing thereof,
  - 13.6.4 The Contract Price has been reduced because of modifications,
  - 13.6.5 The CITY has been required to correct defective Work or complete the Work in accordance with Article 13.
  - 13.6.6 Of unsatisfactory prosecution of the Work, including failure to clean up as required by paragraphs 6.28 and 6.29,
  - 13.6.7 Of persistent failure to cooperate with other contractors on the Project and persistent failure to carry out the Work in accordance with the Contract Documents,
  - 13.6.8 Of liquidated damages payable by the CONTRACTOR, or
  - 13.6.9 Of any other violation of, or failure to comply with provisions of the Contract Documents.
- 13.7 Prior to Final Acceptance the CITY, with the approval of the Consultant and with the concurrence of the CONTRACTOR, may use any completed or substantially completed portions of the Work. Such use shall not constitute an acceptance of such portions of the Work.
- 13.8 The CITY shall have the right to enter the premises for the purpose of doing Work not covered by the Contract Documents. This provision shall not be construed as relieving the CONTRACTOR of the sole responsibility for the care and protection of the Work, or the restoration of any damaged Work except such as may be caused by agents or employees of the CITY.
- 13.9 Upon completion and acceptance of the Work the CONSULTANT shall issue a Certificate attached to the Final Payment request that the Work has been accepted by it under the conditions of the Contract Documents. The entire balance found to be due the CONTRACTOR, including the retained percentages, but except such sums as may be lawfully retained by the CITY, shall be paid to the CONTRACTOR within thirty (30) days of completion and acceptance of the Work.

#### Acceptance of Final Payment as Release

- 13.10 The Acceptance by the CONTRACTOR of Final Payment shall be and shall operate as a release to the CITY and a waiver of all claims and all liability to the CONTRACTOR other than claims in stated amounts as may be specifically excepted by the CONTRACTOR for all things done or furnished in connection with the Work and for every act and neglect of the CITY and others relating to or arising out of this Work. Any payment, however, final or otherwise, shall not release the CONTRACTOR or its sureties from any obligations under the Contract Documents or the Performance Bond and Payment Bonds.

#### ARTICLE 14 SUSPENSION OF WORK AND TERMINATION

- 14.1 The CITY may, at anytime and without cause, suspend the Work or any portion thereof for a period of not more than ninety (90) days by notice in writing to the CONTRACTOR and the CONSULTANT, which shall fix the date on which Work shall be resumed. The CONTRACTOR will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension if it makes a claim therefore as provided in Articles 11 and 12.
- 14.2 No Work shall be done under these specifications except by permission of the Consultant when the weather is unfit for good and careful Work to be performed. Should the severity of the weather continue, the CONTRACTOR upon the direction of the CONSULTANT, shall suspend all Work until instructed to resume operations by the CONSULTANT and the Contract Time pursuant to Section 12.7 shall be extended to cover the duration of the order. Work damaged during periods of suspension due to

inclement weather shall be repaired and/or replaced by the CONTRACTOR. Any compensation for repairs or replacements shall be subject to approval of the CITY.

#### City May Terminate

14.3 If the CONTRACTOR is adjudged bankrupt or insolvent, or if it makes a general assignment for the benefit of its creditors, or if a trustee or receiver is appointed for the CONTRACTOR or for any of its property, or if it files a petition to take advantage of any debtor's act, or to reorganize under bankruptcy or similar laws, or if it repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or if it repeatedly fails to make prompt payments to Subcontractors or for labor, materials or equipment or he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction, or if it disregards the authority of the CONSULTANT, or if it otherwise violates any provision of, the Contract Documents, then the CITY may, without prejudice to any other right or remedy and after giving the CONTRACTOR and the Surety seven (7) days written notice, terminate the services of the CONTRACTOR and take possession of the Project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the CONTRACTOR, and finish the Work by whatever method it may deem expedient. In such case the CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Project, including compensation for additional professional services, such excess shall be paid to the CONTRACTOR. If such costs exceed such unpaid balance, the CONTRACTOR shall pay the difference to the CITY. Such costs incurred by the CITY will be determined by the CONSULTANT and incorporated in a Change Order.

If after termination of the CONTRACTOR under this Section, it is determined by a court of competent jurisdiction for any reason that the CONTRACTOR was not in default, the rights and obligations of the CITY and the CONTRACTOR shall be the same as if the termination had been issued pursuant to Section 14.5

14.4 Where the CONTRACTOR'S services have been so terminated by the CITY said termination shall not affect any rights of the CITY against the CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys by the CITY due the CONTRACTOR will not release the CONTRACTOR from liability.

14.5 Upon seven (7) days written notice to the CONTRACTOR and the CONSULTANT, the CITY may, without cause and without prejudice to any other right or remedy, elect to abandon the Project and terminate the Agreement. In such case, the CONTRACTOR shall be paid for all Work executed and accepted by the CITY as of the date of the termination. No payment shall be made for profit for Work which has not been performed.

#### Removal of Equipment

14.6 In the case of termination of this Contract before completion for any cause whatever, the CONTRACTOR, if notified to do so by the CITY, shall promptly remove any part or all of its equipment and supplies from the property of the CITY. Should the CONTRACTOR not remove such equipment and supplies, the CITY shall have the right to remove them at the expense of the CONTRACTOR. Equipment and supplies shall not be construed to include such items for which the CONTRACTOR has been paid in whole or in part.

#### Contractor May Stop Work or Terminate

14.7 If, through no act or fault of the CONTRACTOR, the Work is suspended for a period of more than ninety (90) days by the CITY or under an order of court of other public authority, or the Consultant fails to act on any Application for Payment within thirty (30) days after it is submitted, or the CITY fails to pay the CONTRACTOR any sum approved by the CONSULTANT, within thirty (30) calendar days of its approval, and presentation, then the CONTRACTOR may, upon twenty (20) calendar days written notice to the CITY and the CONSULTANT, terminate the Agreement. The CITY may remedy the delay or neglect within the twenty (20) calendar day time frame. If timely remedied by the CITY the Contract shall not be considered terminated. In lieu of terminating the Agreement, if the CONSULTANT has failed to act on an Application for Payment or the CITY has failed to make any payment as afore said, the CONTRACTOR may upon ten (10) calendar days notice to the CITY and the CONSULTANT stop the Work until it has been paid all amounts then due.

#### ARTICLE 15 MISCELLANEOUS

- 15.1 Whenever any provision of the Contract Documents requires the giving of written notice it shall be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to them who gives the notice.
- 15.2 The Contract Documents shall remain the property of the CITY. The CONTRACTOR and the CONSULTANT shall have the right to keep one record set of the Contract Documents upon completion of the Project.
- 15.3 The duties and obligations imposed by these General Conditions, Special Conditions and Supplemental Conditions and the rights and remedies available hereunder, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon CONTRACTOR by paragraphs 6.3 and 14.3 and those in the Special Conditions and the rights and remedies available to the CITY and CONSULTANT there under, shall be in addition to, and shall not be construed in any way as a limitation of, any rights and remedies available by law, by special guarantee or by other provisions of the Contract Documents.
- 15.4 Should the CITY or the CONTRACTOR suffer injury or damage to its person or property because of any error, omission, or act of the other or of any of their employees or agents or others for whose acts they are legally liable, claim shall be made in writing to the other party within a reasonable time of the first observance of such injury or damage.

#### ARTICLE 16 WAIVER OF JURY TRIAL

- 16.1 CITY and CONTRACTOR knowingly, irrevocably voluntarily and intentionally waive any right either may have to a trial by jury in State or Federal Court proceedings in respect to any action, proceeding, lawsuit or counterclaim based upon the Contract Documents or the performance of the Work there under.

#### ARTICLE 17 ATTORNEYS FEES JURISDICTION / VENUE / GOVERNING LAW

- 17.1 The Contract shall be construed in accordance with and governed by the laws of the State of Florida.
- 17.2 The parties submit to the jurisdiction of any Florida State or federal court in any action or proceeding arising out of or relating to the Contract. Venue of any action to enforce the Contract shall be in Miami-Dade County, Florida.
- 17.3 If either the CITY or CONTRACTOR is required to enforce the terms of the Contract by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all such costs and expenses, including, but not limited to, court costs, and reasonable attorney's fees.

#### ARTICLE 18 PROJECT RECORDS

- 18.1 The CITY shall have right to inspect and copy during regular business hours at CITY'S expense, the books and records and accounts of CONTRACTOR which relate in any way to the Project, 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 the Project. CONTRACTOR shall retain and make available to CITY all such books and records and accounts, financial or otherwise, which relate to the Project and to any claim for a period of three (3) years following final completion of the Project. During the Project and the three (3) year period following final completion of the Project, CONTRACTOR shall provide CITY access to its books and records upon five (5) days written notice.

#### ARTICLE 19 SEVERABILITY

- 19.1 If any provision of the Contract or the application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of the Contract, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not

be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

#### ARTICLE 20 INDEPENDENT CONTRACTOR

- 20.1 The CONTRACTOR is an independent CONTRACTOR under the Contract. Services provided by the CONTRACTOR shall be by employees of the CONTRACTOR and subject to supervision by the CONTRACTOR, and not as officers, employees, or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures, applicable to services rendered under the Contract shall be those of the CONTRACTOR.

**SUPPLEMENTARY CONDITIONS**

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**Murray Park Community Pool**

In accordance with ARTICLE I of the General Conditions CONSULTANT is defined as follows \_\_\_\_\_,  
Principal Consultant, Civil Engineer of Record, and City Engineer

## MIAMI DADE COUNTY HCD REQUIREMENTS

### NOTICE TO BIDDERS/PROSPECTIVE CONTRACTOR (S)

This project in part will be federally assisted through the Miami-Dade County Department Housing and Community Development with Community Development Block Grant funds and as such bidder must comply with Presidential Executive Order 11246, as amended; by Executive Order 11375; Title VII of the Civil Rights Act of 1964 as amended; the Davis Bacon Act of 1968, as amended; the Copeland Anti-Kickback Act; the Contract Work Hours and Safety Standards Act and all other applicable federal, state and local ordinance.

Note that bidder is required to pay workers on this project the minimum wages as determined in the Wage Determination Decision included in the Bidder's package; and that the contractor must ensure that employees are not discriminated because of race, color, religion, sex or national origin.

This project is also a Section 3 covered activity. Section 3 requires that job training, employment and contracting opportunities be directed to very-low and low income persons or business owners who live in the project's area.

**STATEMENT OF BIDDER'S CONSTRUCTION EXPERIENCE**  
To be submitted by each Bidder with requested information and  
documentation with the Bid package

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. If necessary, add separate sheets for items marked "\*".

1. Prime Contractor: \_\_\_\_\_
2. Prime Contractor Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. Name and Social Security number of each principal officer of corporation, partner, or firm; or individual.  
\_\_\_\_\_
4. Gender and Ethnicity of Principals: \_\_\_\_\_
5. Company Qualifier: \_\_\_\_\_
6. Years in Business: \_\_\_\_\_
7. U.S. Treasury Number. (Employer's Identification number; Federal Social Security number used on Employer's quarterly Federal Tax/return, U.S. Treasury Department.  
FEI Number: \_\_\_\_\_
8. General Contractor License Number: \_\_\_\_\_ State: \_\_\_\_\_
9. Contractor's Certification Categories: \_\_\_\_\_
10. Contracts completed in the last five years (include the months and year completed, use additional pages, if needed)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
11. Contractor's on-going construction projects (Schedule these, showing gross amount of each contract and the approximate anticipated dates of completion).  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
12. Have you ever defaulted on a Contract? \_\_\_\_\_ If so, where and why?  
\_\_\_\_\_

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Statement of Bidder's  
Construction Experience  
Page 2 of 2

13. Through what personnel or affiliations do you propose to provide knowledge of local design and construction problems and methods?
- 
- 

14. a) **The undersigned has attached** a detailed financial statement and furnish any other information that may be required by Miami-Dade Office of Community and Economic Development?

\_\_\_\_\_  
(initials)

- b) The Bidder promises to defend, indemnify and hold harmless the \_\_\_\_\_ (agency name) and Miami-Dade County with regard to any disclosures or information received, whether at trial, in arbitration or on appeal.

\_\_\_\_\_  
(initials)

15. The Bidder authorizes any person, firm corporation, organization or governmental unit to act on a copy of **the submitted financial statement**.

\_\_\_\_\_  
(initials)

17. The undersigned hereby authorizes and requests any person, firm, corporation, or governmental unit, to furnish any information requested by the \_\_\_\_\_ (name of agency) in verification of the recitals comprising this statement of bidder's experience

\_\_\_\_\_  
(initials)

SUBSCRIBED AND SWORN TO (or affirmed) before me on \_\_\_\_\_  
Date

By \_\_\_\_\_ He/She is personally known to me or has presented  
(Affiant)

\_\_\_\_\_ as identification.  
(Type of Identification)

\_\_\_\_\_  
(Signature of Notary)

\_\_\_\_\_  
(Serial Number)

\_\_\_\_\_  
(Print or Stamp Name of Notary)

\_\_\_\_\_  
(Expiration Date)

Notary Public

\_\_\_\_\_  
(State)

Notary Seal

CERTIFICATION RECEIPT

This is to acknowledge receipt of a copy of the U.S. Department of Housing and Urban Development Federal Labor Standards Provisions (HUD Form 4010) concerning the CITY OF SOUTH MIAMI – MURRAY PARK COMMUNITY POOL

Further, I hereby certify that I have on this date, read, examined, understood and acknowledge the contents of U.S. Department of Labor requirements, particularly the requirements contained in Wage General Decision Number FL 100267 1 06/04/2010 that is applicable to this project. (Attachment A)

I hereby agree to abide by the requirements of the Federal Labor Standards Provision issued by the United States Department of Housing and Urban Development and described in Form HUD-4010 (Attachment B) and those requirements contained in Wage General Decision Number FL 100267 1 06/04/2010 for this project (Attachment A).

Name:

Employer ID #

(Name of Firm)

(FEID #)

Authorized Signature:

Print Name:

Title: \_\_\_\_\_

Date:

Full Address (including Zip Code)

Telephone Number: ( \_\_\_\_ )

Email Address: \_\_\_\_\_

Check one, as applicable:

\_\_\_\_ Contractor

\_\_\_\_ Subcontractor

\_\_\_\_ Other

### Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

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**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

**(3)** The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

**General Decision Number: FL100267 06/04/2010 FL267**

Superseded General Decision Number: FL20080267

State: Florida

Construction Type: Heavy

County: Miami-Dade County in Florida.

**HEAVY CONSTRUCTION PROJECTS (Including Sewer and Water Lines)**

Modification Number    Publication Date

0                    03/12/2010

1                    06/04/2010

ELEC0349-007 08/31/2009

	Rates	Fringes
<b>ELECTRICIAN</b>		
Electrical contracts including materials that are over \$2,000,000.....	\$ 29.61	8.71
Electrical contracts including materials that are under \$2,000,000.....	\$ 27.15	8.44

\* ENGI0487-017 01/16/2010

	Rates	Fringes
OPERATOR: Backhoe (Except Loader Combo).....	\$ 27.57	8.78
OPERATOR: Crane All Tower Cranes (Must have 2 operators) Mobile, Rail, Climbers, Static-Mount; All Cranes with Boom Length 150 Feet & Over (With or without jib) Friction, Hydro, Electric or Otherwise; Cranes 150 Tons & Over (Must have 2 operators); Cranes with 3 Drums (When 3rd drum is rigged for work); Gantry & Overhead Cranes; Hydro Cranes Over 25 Tons but not more than 50 Tons (Without Oiler/Apprentice); Hydro/Friction Cranes without Oiler/Apprentices when Approved by Union; All Type of Flying Cranes;		
Boom Truck.....	\$ 28.30	8.78
Cranes with Boom Length Less than 150 Feet (With or without jib); Hydro Cranes 25 Tons & Under, & Over 50 Tons (With Oiler/Apprentice); Boom Truck.....	\$ 27.57	8.78
OPERATOR: Drill.....	\$ 25.05	8.78
OPERATOR: Loader.....	\$ 24.89	8.78
OPERATOR: Oiler.....	\$ 22.24	8.78

IRON0272-005 10/01/2006

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 26.70	6.43

LABO1652-004 05/01/2009

	Rates	Fringes
LABORER: Grade Checker.....	\$ 14.50	4.67

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PAIN0365-007 07/01/2008

	Rates	Fringes
PAINTER: Brush, Roller and Spray.....	\$ 16.00	6.15

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SUFL2009-164 06/24/2009

	Rates	Fringes
CARPENTER, Including Form Work.....	\$ 17.00	2.51
CEMENT MASON/CONCRETE FINISHER.....	\$ 16.61	5.52
LABORER: Common or General.....	\$ 13.09	1.26
LABORER: Landscape.....	\$ 7.25	0.00
LABORER: Power Tool Operator (Hand Held Drills/Saws, Jackhammer and Power Saws Only).....	\$ 10.63	2.20
OPERATOR: Asphalt Paver.....	\$ 11.59	0.00
OPERATOR: Backhoe Loader Combo.....	\$ 16.10	2.44
OPERATOR: Blade/Grader.....	\$ 16.00	2.84
OPERATOR: Bulldozer.....	\$ 14.95	0.81
OPERATOR: Excavator.....	\$ 21.16	1.67
OPERATOR: Mechanic.....	\$ 14.32	0.00
OPERATOR: Roller.....	\$ 10.95	0.00
OPERATOR: Scraper.....	\$ 11.00	1.74
OPERATOR: Trackhoe.....	\$ 20.92	5.50
OPERATOR: Tractor.....	\$ 10.54	0.00
TRUCK DRIVER: Lowboy Truck.....	\$ 12.73	0.00
TRUCK DRIVER: Off the Road Truck.....	\$ 12.21	1.97
TRUCK DRIVER: Dump Truck.....	\$ 9.60	0.00

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WELDERS - Receive rate prescribed for craft performing

operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

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In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

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#### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION

## INSURANCE REQUIREMENTS

The term "Contractor", as used in this document, refers to the entity providing construction type services. The terms "owner" and "sub-recipient" are used interchangeably.

Based on the type of project, the Contractor shall acquire the following insurance and submit necessary certificate(s) and original policies described hereunder.

Construction and Major Rehabilitation projects including new structures, additions to existing structures, and comprehensive modernization/renovation. The contractor shall obtain the insurance specified in Section II.

Emergency Shelter, Housing and Minor Rehab, Acquisition of Land and Commercial Revitalization projects including renovation or roofing only of existing structures. The contractor shall obtain the insurance specified in Section II.

### Types of Insurance

REQUIRED CERTIFICATE(S) OF INSURANCE	PROJECT TYPE
<b>Worker's Compensation Insurance-</b> for all employees of the Contractor as required by Florida Statute 440.	<b>Construction and Major Rehabilitation Emergency Shelter, Housing and Minor Rehab, Acquisition of Land &amp; Commercial Revitalization</b>
<b>Public Liability Insurance-</b> on a comprehensive basis in an amount not less than \$500,000 combined single limit per occurrence for bodily injury and property damage. <b>Miami-Dade County must be shown as an additional insured with respect to this coverage.</b>	<b>Construction and Major Rehabilitation Emergency Shelter, Housing and Minor Rehab, Acquisition of Land &amp; Commercial Revitalization</b>
<b>Automobile Liability Insurance-</b> covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$500,000 combined single limit per occurrence for bodily injury and property damage.	<b>Construction and Major Rehabilitation Emergency Shelter, Housing and Minor Rehab, Acquisition of Land &amp; Commercial Revitalization</b>
<b>Completed Value Builder's Risk Insurance-</b> on an "All Risk" basis in an amount not less than one hundred (100%) percent of the insurable value of the building(s) or structure(s). The policy shall be in the name of the sub-recipient and the Contractor, and <b>Miami-Dade County must be listed as a loss payee.</b>	Construction and Major Rehabilitation
<b>Professional Liability Insurance-</b> in the name of the design professional for this project, in an amount not less than \$250,000 with the deductible per claim, if any, not to exceed 10% of the limit.	Construction and Major Rehabilitation

**All insurance policies required above all shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:**

The company must be rated no less than "B" 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, subject to the approval of the County Risk Management Division.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.

**All insurance required by the contract must stay in force until final acceptance except, "Completed Value Builder's Risk" which may be dropped after substantial completion.**

The Contractor shall also keep all insurance required by contract, except "Completed Value Builder's Risk", in force when performing any work during the guarantee period(s).

The Contractor shall furnish certificates of insurance and insurance policies to the owner prior to commencing any operation under this contract, which certificates shall clearly indicate that the Contractor has obtained insurance, in the type, amount, and classifications, as required for strict compliance with the contract.

NOTE: [Certificates will indicate](#) no modification or change in insurance shall be made without thirty (30) days in advance notice to the certificate holder.

**Compliance with the foregoing requirements as to the carrying of insurance shall not relieve the Contractor from his liability under any other portion of this contract.**

**Cancellation of any insurance or bonds, or non-payment by the contractor of any premium for any insurance policies or bonds required by this contract shall constitute a breach of this contract. In addition to any other legal remedies, the owner at its sole option may terminate this contract or pay such premiums, and deduct the costs thereof from any amount, which are or may be due to the Contractor.**

## PROVISIONS TO BE INCORPORATED IN CONSTRUCTION CONTRACTS

### “DAVIS-BACON” ACT PROVISION

As stated in 24 CFR Part 85.36:

When required by the Federal grant program legislation, all construction contracts in excess of \$2,000 awarded by grantees and sub grantees shall include a provision for compliance with the Davis-Bacon Act (40 USC 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor for this solicitation and the award of the contract shall be conditioned upon the acceptance of the attached wage determination.

Further, the provision listed below must be included in each set of bid documents and incorporated in each contract, subcontract, and any lower-tier subcontract:

“The contractor hereby agrees that it will abide by the requirements of the Federal Labor Standards Provisions issued by the United States Department of Housing and Urban Development and described in **Form HUD-4010** and those requirements contained in Wage **General Decision Number FL 100267 1 06/04//2010** or this project.”

### TERMINATION PROVISION & LEGAL REMEDIES

#### **As stated in 24 CFR Part 85.36**

All contracts in excess of \$10,000 shall contain suitable provisions for termination by the grantee including the manner which it will be affected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

**Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.**

Provisions for termination are as follows:

#### Termination at Will

This contract, in whole or in part, may be terminated by the Principal Contractor/Owner upon no less than ten (10) working days notice when the Principal Contractor/Owner determines that it would be in the best interest of the Principal Contractor/Owner and the Office of Community and Economic Development (OCED). Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.

#### Termination for Convenience

The Principal Contractor/Owner may terminate this contract, in whole part, when both parties agree that the continuation of the activities would not produce beneficial results commensurate with the further expenditure of funds. Both parties shall agree upon the termination conditions. The Principal Contractor/Owner, at its sole discretion, reserves the right to terminate this contract without cause upon thirty (30) days written notice. Upon receipt of such notice, the Contractor shall not incur any additional costs under this contract. The Principal Contractor/Owner shall be liable only for reasonable costs incurred by the Contractor prior to notice of termination. The Principal Contractor/Owner shall be the sole judge of "reasonable costs."

#### Termination Because of Lack of Funds

In the event of a funding short-fall, or a reduction in federal appropriations, or should funds to finance this contract become unavailable, the Principal Contractor/Owner may terminate this contract upon no less than twenty-four (24) hours written notification to the Contractor. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. The Principal Contractor/Owner shall be the final authority to determine whether or not funds are available. The Principal Contractor/Owner may at its discretion terminate, renegotiate and/or adjust the contract award whichever is in the best interest of the Principal Contractor/Owner.

#### Termination for Substantial Funding Reduction

In the event of a substantial funding reduction of the allocation to the Principal Contractor/Owner through Board of County Commissioners' action, the Principal Contractor/Owner may, at its discretion, request in writing from the Director of OCED a release from its contractual obligations to the County. The Director of OCED will review the effect of the request on the community and the County prior to making a final determination.

#### Termination for Breach

The Principal Contractor/Owner may terminate this contract, in whole or in part, when the Principal Contractor/Owner determines, in its sole and absolute discretion, that the Contractor is not making sufficient progress thereby endangering ultimate contract performance, or is not materially complying with any term or provision of this contract.

Unless the Contractor's breach is waived by the Principal Contractor/Owner in writing, the Principal Contractor/Owner may, by written notice to the Contractor, terminate this contract upon no less than twenty-four (24) hours notice. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.

Waiver of breach of any provision of this contract shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this contract. The provisions herein do not limit the Principal Contractor's/Owner's right to legal or equitable remedies.

#### Penalties for Fraud Misrepresentation or Material Misstatement

In accordance with the Code of Miami-Dade County, Section 2-8.4.1, any individual or corporation or other entity that attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement, shall have its contract with the County terminated, whenever practicable, as determined by the County. The County may terminate or cancel any other contracts which such individual or other subcontracted entity has with the County. Such individual or entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees. The foregoing notwithstanding, any individual or entity who attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be disqualified from County contracting for up to five (5) years.

#### Payment Settlement

If termination occurs, the Contractor will be paid for allowable costs incurred in carrying out activities required by this contract up to the date and time of termination.

#### ACCESS TO RECORDS AND RECORD RETENTION PROVISION

All official project records and documents must be maintained during the operation of this project and for a period of five (5) years following close out in compliance with 4 NCAC 19L Rule .0911, Recordkeeping.

The Miami-Dade Office of Community and Economic Development, the U.S. Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the implementing agency which are pertinent to this contract, for the purpose of making audits, examinations, excerpts and transcriptions in compliance with the above.

NONCOLLUSION AFFIDAVIT

STATE OF: \_\_\_\_\_

COUNTY OF: \_\_\_\_\_

\_\_\_\_\_, being first duly sworn, deposes and says that:

He/she is \_\_\_\_\_ of \_\_\_\_\_, the Bidder that has submitted the attached Bid.

Bidder has been fully informed regarding the preparation and contents of the attached Bid and of all pertinent circumstances regarding such Bid;

Such Bid is genuine and is not a collusion or sham Bid;

Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the contractor for which the attached Bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through advantage against the \_\_\_\_\_ (Local Public Agency) or any person interested in the proposed Contract; and

The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(SIGNED)

Title

Subscribed and sworn to before me this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_

\_\_\_\_\_

My commission expires: \_\_\_\_\_

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans and Cooperative Agreements  
in excess of \$100,000

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

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 an 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.

If any of the funds other than Federal appropriated funds have been paid or will be 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.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreement in excess of \$100,000) and that all subrecipients 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 prerequisite 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.

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

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## AFFIRMATIVE ACTION STANDARDS

Contracts covered by the Notice and Specifications shall take affirmative action to insure equal employment opportunity. Evaluation of contractor's compliance with the affirmative action standards shall be based on contractor's efforts to achieve maximum results from their actions. The contractor shall be required to provide documentary evidence of efforts to implement each of the 16 affirmative action steps outlined in the Specifications. Listed below are the 16 essential affirmative action steps, the efforts required to implement them and the records that should be maintained to document the contractor's efforts.

Contractors must maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, must assign 2 or more women to each construction project. The contractor shall specifically insure that all forepersons, superintendents, and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minorities or women working at such sites or in such facilities.

### **To Demonstrate Compliance:**

Contractor must have copies of memoranda to supervisory staff, or minutes or notes of staff meeting or EEO officer's meetings with supervisors to inform them of the contractor's obligation to maintain a working environment free of harassment, intimidation, and coercion and to where possible, assign two or more women to each construction project. Monitoring of work environment by EEO officer.

Contractors must establish and maintain a current list of minority and women's recruitment sources, provide written notification to minority and women's recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.

### **To Demonstrate Compliance:**

Contractors must have a current listing of recruitment sources for minority and women craft workers. It must have copies of recent letters to community resource groups or agencies specifying the contractor's employment opportunities and the procedures one should follow when seeking employment. It must note the responses receive and the results on the bottom or reverse of the letters or establish a follow-up file for each organization notified.

Contractors must maintain a current file of the name, address, and telephone number of each minority and/or women off-the-street applicant and minority and/or women referred from a union, recruitment source, or community organization, and of the action that was taken with respect to each individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, was not employed by the contractor, this shall be documented in the file with the reason, along with whatever additional actions the contractor may have taken.

**To Demonstrate Compliance:**

Contractors must have a file of the names, addresses, telephone numbers, and crafts of each minority and/or woman applicant showing the date of contact and whether or not the person was hired and (if not) the reason; whether or not the person was sent to a union for referral and what happened; and follow-up contracts when the contractor was hiring.

Contractors must provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement failed to refer to the Contractor a minority or woman sent by the contractor, or when the contractor has other information that the union referral process impeded the contractor's efforts to meet its obligations.

**To Demonstrate Compliance:**

Contractors must have copies of letters sent to verify claim that the union is impeding the contractor's efforts to comply.

Contractors must develop on-the-job training opportunities or participate in training programs for the area that expressly includes minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notices of those programs to the sources compiled under Item 2, above.

**To Demonstrate Compliance:**

Contractors must have records of contributions in cash, equipment supplied or contractor personnel provided as instructors for approved Bureau of Apprenticeship and Training or Department of Labor funded training programs and records of the hiring and training of minorities and women from such programs. Supply copies of letters informing minority and women's recruitment sources or schools providing these training programs.

Contractors must disseminate their EEO policies by providing notices of the policy to unions and training programs and requesting their help in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper or annual report; by specific review of the policy with all management personnel and with all minority and women employees at least once a year; and by posting the company EEO policy on bulleting boards accessible to all employees at each location where construction work is performed.

**To Demonstrate Compliance:**

Contractors must have written EEO policies that include the name and contact information on the contractor's EEO officer and must (a) include the policy in any company policy manuals; (b) post a copy of the policy on all company bulletin boards (in the office and on all job sites); (c) put in records, such as reports or diaries, that each minority and woman employee is aware of the policy and that it has been discussed with them; (d) record that the policy has been discussed regularly at staff meetings; (e) make copies of newsletters and annual reports that include the policy; and (f) make copies of letters to unions and training programs requesting their cooperation in helping the contractor meet its EEO obligations.

Contractors must review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions, including specific review of these items with on-site supervisory personnel such as superintendents and general forepersons prior to the initiation of work at any job site. Contractors must make and maintain a written record and maintain it to identify the time and place of these

meetings, persons attending, subject matter discussed, and disposition of the subject matter.

**To Demonstrate Compliance:**

Contractors must have written records (memoranda, diaries, minutes of meetings) identifying the time and place of meeting, persons attending, subject matter discussed, and disposition of subject matter.

Contractors must disseminate their EEO policies externally by including it in any advertising in the news media, specifically including minority and women's policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.

**To Demonstrate Compliance:**

Contractors must have copies of (a) letters sent, at least every 6 months or at the start of each new major contract, to all recruiting sources (including labor unions and training programs) requiring compliance with the policy; (b) advertisement that has the EEO "tagline" on the bottom; and (c) letters to subcontractors and suppliers, at least at the time of the subcontract is signed, requiring compliance with the policy.

Contractors must direct recruitment efforts, both oral and written, to minority, women and community organizations, to schools with minority and women students, and to minority and women's recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one (1) month prior to the date for acceptance of applications for apprenticeship or other training by any recruitment source, the contractor will send written notification to such organizations, describing the openings, screening procedures, and tests to be used in the selection process.

**To Demonstrate Compliance:**

Contractors must have written records of contacts (written communications, telephone calls, or personal meetings) with minority and women's community organizations and recruitment's sources, and schools and training organizations, specifying the date(s), individuals contacted, results of the contact, and any follow-up. It must have copies of letters sent to these organizations at least one (1) month prior to the acceptance of applications for training (apprenticeship or other) describing the openings, screening procedures, and tests to be used in the selection process.

Contractors must encourage minority and women employees to recruit other minority persons and women and provide, where reasonable, school, summer and vacation employment to minority and female youth both on-site and in other areas of the workforces.

**To Demonstrate Compliance:**

Contractors must have copies of diaries, telephone logs, or memoranda indicating contacts (written and oral) with minority and women employees requesting their assistance in recruiting other minorities and women, and record results. If contractors normally provide after-school, summer, and vacation employment, it must have copies of letters to organizations under Item 9 describing those opportunities and must have responses received and results noted on letters or in a follow-up file.

Contractors must validate all tests and other selection requirements where there is an obligation to do so under CFR 60-3.

**To Demonstrate Compliance:**

Contractors must have evidence in the form of correspondence, or certificates that all tests, interviews and selection procedures used by the contractor, a craft union, or Joint Apprenticeship Committee meet the requirements in the OFCCP testing and selection guidelines.

Contractors must conduct, at least annually, an inventory evaluation (at least) of all minority and women personnel for promotional opportunities and encourage these employees to seek or to prepare for such opportunities by appropriate training.

**To Demonstrate Compliance:**

Contractors must have written records (memo, letters, personnel files, etc.) showing that the company conducts annual reviews of minority and female personnel for promotional opportunities and notifies these employees of training opportunities (formal or on-the-job) and encourages their participation.

Contractors must ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect, by continually monitoring all personnel and employment related activities to insure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

**To Demonstrate Compliance:**

Contractors must have evidence (letter, memos, personnel files, reports) that: (a) the activity under Item 12, above, has been carried out; (b) any collective bargaining agreements have an EEO clause and the provisions do not operate to exclude minorities and women; (c) the EEO officer reviews all monthly workforce reports, hiring, terminations, and training provided on the job; (d) the EEO officer's job description identifies his or her responsibility for monitoring all employment activities for discriminatory effects; and (e) the contractor has initiated corrective action whenever the contractor has identified a possible discriminatory effect.

Contractors must insure that all facilities and company activities are nonsegregated, except for providing separate or single-user toilets and necessary changing facilities to assure privacy between the sexes.

**To Demonstrate Compliance:**

Contractors must have incorporated the "Certification of Nonsegregated Facilities" from the contractors federally involved contract documents into all subcontracts and purchase order; have records that announcements of parties, picnics, etc. have been posted and have been available to all employees; have written copies of contracts (written or verbal) with supervisory staff regarding the provision of adequate toilet and changing facilities to assure privacy between the sexes.

Contractors must document and maintain a record of all solicitations of offers for subcontractors from minority and female construction contractors and suppliers, including circulation of solicitations to minority and women's contractor associations and other business associations.

**To Demonstrate Compliance:**

Contractors must have copies of letters or other direct solicitation of bids for subcontractors or joint ventures from minority or women contractors with a record of specific responses and any follow-up the contractor has done to obtain a price quotation or to assist a minority or female contractor in preparing or reducing a price quotation; have a list of all minority or female subcontracts awarded or joint ventures participated in with dollar amounts; have copies of solicitations sent to minority and women's contractor associations or other business associations.

Contractors must conduct a review, at least annually, of all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations.

**To Demonstrate Compliance:**

Contractors must have copies of memos, letters, reports, minutes of meeting, or interviews with supervisors regarding their employment practices as they relate to the contractor's EEO policy and affirmative action obligations, and written evidence that supervisors were notified when their employment practices adversely or positively impacted on the contractor's EEO and affirmative action posture.

**CERTIFICATION OF COMPLIANCE WITH PART 60-2  
AFFIRMATIVE ACTION PROGRAMS**

The bidder represents that he has ( ) has not ( ), participated in a previous contract or subcontract subject to the Equal Opportunity Clause prescribed by Executive Order 11246; that he has ( ) has not ( ) developed a written affirmative action compliance program for each of his establishments; that he has ( ) has not ( ), filed with the Joint Reporting Committee, the Office of Federal Contract Compliance Programs (OFCCP) or the Equal Employment Opportunity Commission (EEOC) all reports due under the applicable filing requirements; and that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to contract and/or subcontract award.

**NOTE**

The penalty for making false statement in offers is prescribed in 18 U.S.C. 1001

\_\_\_\_\_  
**Name**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Address (Including Zip Code)**

\_\_\_\_\_

\_\_\_\_\_

## OTHER REQUIRED CERTIFICATIONS

### EQUAL EMPLOYMENT OPPORTUNITY

Bidder, by submission of this quotation represents:

The undersigned has \_\_\_\_, has not \_\_\_\_, participated in a previous contract or subcontract subject to the Equal Opportunity clause herein or the clause originally contained in Section 301 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114; that it has \_\_\_\_, has not \_\_\_\_ filed all required compliance reports; and that representations indicating submission of the required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards. (The above representation need not be submitted in connection with contracts or subcontracts which are exempt from the clause.)

### AFFIRMATIVE ACTION

The bidder represents that (a) it has \_\_\_\_ developed and has on file, has not \_\_\_\_ developed and does not have on file, at each establishment an affirmative action program as required by the rules and regulation of the Secretary of Labor (41 CFR 60-1 and 60-2), or (b) it has not \_\_\_\_ previously had contracts subject to written affirmative action program requirements of the rules and regulations of the Secretary of Labor.

### AMERICANS WITH DISABILITIES ACT

The contractor represents and certifies the following as part of its offer:

By submission of an offer, the bidder certifies that it complies with the American with Disabilities Act, 42 U.S.C., and 12101 et. seq., and will maintain compliance throughout the life of the Contract. By commencing performance of the Contract work, the selected contractor certifies to the American with Disabilities Act compliance.

### COPELAND ANTI-KICKBACK

By submission of a bid, the bidder certifies that it has read and complies with the General Provision entitled "Anti-Kickback Procedures" as stated in 24 CFR part 85.36 as follows:

All contracts and subcontracts for construction or repair shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 USC 874) as supplemented in Department of Regulations (29 CFR, Part 3). This Act provides that each contractor or subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled.

By submission of this bid, the bidder attests that neither it nor any of its employees has performed or participated in any prohibited actions, as defined in this provision.

BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352)

**This certification applies to those contractors who apply for award of bid of \$100,000 or more:**

Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of

Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

FULL DISCLOSURE BY THE CONTRACTOR/BIDDER REGARDING WHETHER IT ANTICIPATES BEING OR IS DEBARRED, SUSPENDED, OR PROPOSED FOR DEPARTMENT BY THE FEDERAL GOVERNMENT, STATE OF FLORIDA, OR MIAMI-DADE COUNTY AT TIME OF AWARD.

This certification applies to a contract or subcontract in excess of \$25,000

By submission of an offer, the bidder certifies that it has provided full disclosure in writing to \_\_\_\_\_ (name of implementing agency) whether as of the anticipated time of award of any contract resulting from this solicitation; it anticipates that it or its principals will be debarred, or proposed for department by the Federal Government, State of Florida, or Miami-Dade County.

By commencing performance of the Contract work, the selected contractor certifies that it has made full disclosure in writing to \_\_\_\_\_ (name of implementing agency) as to whether as of the time of award it or any of its principals is debarred, suspended, or proposed for department by the Federal Government, State of Florida, or Miami-Dade County.

#### NONDISCRIMINATION CLAUSE

Section 109, Housing and Community Development Act of 1974

No person in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under Section 109, Housing and Community Development Act of 1974.

AGE DISCRIMINATION ACT OF 1975, AS AMENDED

Non Discrimination on the Basis of Age

No qualified person shall on the basis of age be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal assistance.

SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED

**Non-discrimination on the Basis of Handicap**

No qualified handicapped person shall, on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal assistance.

**By:**

**Print:**

**Title:**

**Date:**

**Business Address:**

**CERTIFICATION REGARDING  
DRUG-FREE WORKPLACE  
(GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, subpart F, for grantees, as defined at 28 CFR part 67 Sections 67.615 and 67.620-

The applicant certifies that it will or will continue to provide a drug-free workplace by:

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

Establishing an on-going drug-free awareness program to inform employees about:

The dangers of drug abuse in the workplace;  
The grantee's policy of maintaining a drug-free workplace;  
Any available drug counseling, rehabilitation, and employee assistance programs; and  
The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will

Abide by the terms of the statement; and  
Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

Notifying the agency in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction

Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted

Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or  
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;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

The Grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

**Place of Performance (Street address, city, county, state, zip code)**

Check  if there are workplaces on file that are not identified here.

\_\_\_\_\_  
Name of Bidder

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Official Address (including Zip Code)

\_\_\_\_\_

\_\_\_\_\_

## **ASSURANCE OF COMPLIANCE (Section 3, HUD ACT of 1968)**

### **TRAINING, EMPLOYMENT, AND CONTRACTING OPPORTUNITIES FOR BUSINESS AND LOWER INCOME PERSONS**

The project assisted under this (contract) (agreement) is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S. C. 170U. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.

Notwithstanding any other provision of this (contract) (agreement), the (applicant) (recipient) shall carry out the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary set forth in 24 CFR Part 135 (published in 38 Federal Register 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this (contract) (agreement). The requirements of said regulations include but are not limited to development and implementation of an affirmative action plan for utilizing business concerns located within or owned in substantial part by persons residing in the area of the project; the making of a good faith effort, as defined by the regulation, to provide training, employment and business opportunities required by Section 3; and incorporation of the "Section 3 Clause" specified by Section 135.20 (b) of the regulations in all contracts for work in connection with the project. The (applicant) (recipient) certifies and agrees that it is under no contractual or other disability which would prevent it from complying with these requirements.

Compliance with the provision of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this (contract) (agreement), shall be a condition of the Federal financial assistance provided to the project, binding upon the (applicant) (recipient), its successors and assigns. Failure to fulfill these requirements shall subject the (applicant) (recipient), its contractors and subcontractors, its successors, and assigns to the sanctions specified by the (contract) (agreement), and to such sanctions as are specified by 24 CFR Section 135

**APPLICANT:**

**SIGNATURE:**

**ADDRESS:**

**DATE:**

## SECTION 3 REQUIREMENTS

### ASSURANCE STATEMENT

Each applicant, recipient, contractor, and subcontractor on a Section 3 covered project shall sign the attached Section 3 Assurance of Compliance.

### AFFIRMATIVE ACTION PLAN FOR UTILIZATION OF PROJECT AREA BUSINESSES

Each applicant, recipient, contractor, and subcontractor preparing to undertake work pursuant to a Section 3 covered contract shall develop and implement an affirmative action plan, which shall:

Set forth the approximated number and dollar value of all contracts proposed to be awarded to all businesses within each category (type or profession) over the duration of the Section 3 covered project.

Analyze the information set forth in paragraph (a) and the availability of eligible business concerns within the project area doing business in professions or occupations identified as needed in paragraph (a) and set forth a goal or target number and estimated dollar amount of contracts to be awarded to the eligible businesses and entrepreneurs within each category over the duration of the Section 3 covered project.

Outline the anticipated program to be used to achieve the goals for each business and/or professional category identified. This program should include but not be limited to the following actions:

Insertion in the bid documents, if any, of the affirmative action plan of the applicant, recipient, contractor, or subcontractor letting the contract; and

Identification within the bid documents, if any, of the applicable Section 3 project area.

Ensuring that the appropriate business concerns are notified of pending contractual opportunities either personally or through locally utilized media.

### BIDDING AND NEGOTIATION REQUIREMENTS

Every applicant and recipient shall require prospective contractors for work in connection with Section 3 covered projects to provide, prior to the signing of the contract, a preliminary statement of work force needs (skilled, semi-skilled, unskilled labor and trainees by category) where known; where not known, such information shall be supplied prior to the signed of any contract between contractors and their subcontractors. Consideration should be given to those contractors who will have training and employment opportunities for project area residents.

When a bidding procedure is used to let the contract, the invitation or solicitation for bids shall advise prospective contractors of the requirements of these regulations.

Applicant, recipient and contractors should insert plan for utilization of project area business in the bid documents. The recipient must have indicated therein that Section 3 applies to the project and what is expected of them. All contractors who bid a job just show in their bid what they will do to implement Section 3. They must in this bid commit themselves to a goal and show what they intend to do to reach that goal. When the bids are opened, they must be evaluated in terms of the bidder's responsiveness to Section 3. A bid which lacks a commitment to Section 3 or which lacks a goal or plan to reach a goal may be judged nonresponsive.

Applicants, recipients and contractors will ensure that the attached Section 3 Clause and Assurance of Compliance are made a part of all contracts.

In implementing its affirmative action plan, each applicant, recipient, contractor, or subcontractor shall make a good faith effort to achieve its goal or target number and estimated dollar amount of contracts to be awarded to the eligible businesses and entrepreneurs within each category over the duration of the Section 3 covered project.

#### **UTILIZATION OF LOWER INCOME RESIDENTS AS TRAINEES AND EMPLOYEES**

Each applicant, recipient, contractor or subcontractor undertaking work in connection with a Section 3 covered project shall make a good faith effort to fill all vacant training and occupational category positions with lower income project area residents.

## SECTION 3 CLAUSE

The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S. C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance of HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under CFR part 135.

Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

BIDDER'S INITIAL SECTION 3 GOALS

The Bidder agrees to comply with Section 3 of the Housing and Urban Development Act of 1968, as amended.

The Bidder estimate that there will be \_\_\_\_\_new employees hired during the performance of this contract. Furthermore, should this contract be let to the Bidder, the Bidder agrees to delineate work force needs (skilled, semiskilled, unskilled, labor, and trainees) by category.

Of these new employees, the Bidder plans to hire at least \_\_\_\_\_percent (%) from the Section 3 Covered Area (Dade County, Florida).

The Bidder estimates that \_\_\_\_\_percent (%) of those materials purchased for use on this project will be from business located in the Section 3 Covered Area (Dade County, Florida)

I, \_\_\_\_\_(please print), as an authorized Officer of the Bidder, do hereby acknowledge that we are aware of the requirements under Section 3 of the Housing and Urban Development Act of 1968, as amended, and will abide by them. We further agree to abide by this Affirmative Action Plan to the greatest extent feasible and realize that should we be awarded the contract, it becomes subject to monitoring for compliance with this plan by Miami-Dade County Office of Community and Economic Development.

Authorized Signature

Title

Company

Employer (IRS) ID#

Date

**CERTIFICATION REGARDING  
DEPARTMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER  
COVERED TRANSACTIONS**

**INSTRUCTIONS FOR CERTIFICATION**

By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or department.

The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at anytime the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contract the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Department, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transaction, without modification, in all lower tier covered transactions.

A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transactions in addition, to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or department.

**CERTIFICATION**

**REGARDING DEPARTMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER TRANSACTIONS**

By submission of the proposal, the prospective lower tier participant certifies, that:

Neither it nor its principals is presently debarred, suspended, proposed for department, declared ineligible, or voluntarily excluded from participation in this transaction, by any Federal department or agency.

Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

By:

Print:

Title:

Date:

Business Address:

**EQUAL EMPLOYMENT OPPORTUNITY CLAUSE  
FOR CONTRACTS NOT SUBJECT TO EXECUTIVE ORDER 11246**

In carrying out the contract, the contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor shall take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color religion, sex, or national origin. Such action shall include, but not limited to, advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Government setting for the provisions of the nondiscrimination clause. The contractor shall state that all qualified candidates will receive consideration for employment without regard to race, color, religion, sex, or national origin.

**By:**

**Print:**

**Title:**

**Date:**

**Business Address:**

## **EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA**

The contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals without discrimination based on their status as a special disabled veteran or veteran of the Vietnam era in all employment practices, including the following:

recruitment, advertising, and job application procedures;  
hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;  
rates of pay or any other form of compensation and changes in compensation;  
job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;  
leaves of absence, sick leave, or any other leave;  
fringe benefits available by virtue of employment, whether or not administered by the contractor;  
selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C. 3687, professional meeting, conferences, and other related activities, and selection for leaves of absence to pursue training;  
activities sponsored by the contractor including social or recreational programs; and  
any other term, condition, or privilege of employment.

The contractor agrees to immediately list all employment openings which exist at the time of the execution of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate local employment service office of the state employment security agency wherein the opening occurs. Listing employment openings with the U.S. Department of Labor's America's Job Bank shall satisfy the requirement to list jobs with the local employment service office.

Listing of employment openings with the employment service office pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and non-veterans. The listing of employment openings does not require the hiring of any particular job applicants or from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive orders or regulations regarding nondiscrimination in employment.

Whenever the Contractor becomes contractually bound to the listing provisions in paragraphs 2 and 3 of this clause, it shall advise the employment service agency in each State where it has establishments of the name and location of each hiring location in the state: Provided, that this requirement shall not apply to state and local governmental contractors. As long as the Contractor is contractually bound to these provisions and has so advised that state agency, there is no need to advise the state agency of subsequent contracts. The Contractor may advise the state agency when it is no longer bound by this contract clause.

The provisions of paragraphs 2 and 3 of this clause do not apply to the listing of employment openings which occur and are filed outside of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam and the Virgin Islands.

As used in this clause:

All employment openings includes all positions except executive and top management, those positions that will be

filled from within the contractor's organization, and positions lasting three days or less. This term includes full-time employment, temporary employment of more than three days' duration, and part time employment.

Executive and top management means any employee: (a) whose primary duty consists of the management of the enterprise in which he or she is employed or of a customarily recognized department or subdivision thereof; and (b) who customarily and regularly directs the work of two or more other employees therein; and (c) who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and (d) who customarily and regularly exercises discretionary powers; and (e) who does not devote more than 20 percent, or, in the case of an employee or a retail or service establishment who does not devote as much as 40 percent, of his or her hours of work in the work week to activities which are not directly and closely related to the performance of the work described in (a) through (d) of this paragraph 6. ii.; Provided, that (e) of this paragraph 6.ii. shall not apply in the case of an employee who is in sole charge of an independent branch establishment, or who owns at least a 20-percent interest in the enterprise in which he or she is employed.

Positions that will be filled from within the contractor's organization means employment openings for which no consideration will be given to persons outside the contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings which the contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of his or her own organization.

The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

In the event of the Contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistance Secretary for Federal Contract Compliance Programs, Director, provided by or through the contracting officer. Such notice shall state the rights of applicants and employees as well as the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are special disabled veterans or veterans of the Vietnam era. The contractor must ensure that applicants or employees who are special disabled veterans are informed of the contents of the notice (e.g., the contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).

The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, and is committed to take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era.

The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Deputy Assistance Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

**By:**

**Print:**

**Title:**

Date:

Business Address:

## EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES

The contractor will not discriminate against any employee or applicant for employment because he or she is a physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:

- Recruitment, advertising, and job application procedures;
- Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
- Rates of pay or any other form of compensation and changes in compensation;
- Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- Leaves of absence, sick leave, or any other leave;
- Fringe benefits available by virtue of employment, whether or not administered by the contractor;
- Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- Activities sponsored by the contractor including social or recreational programs; and
- Any other term, condition, or privilege of employment.

The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

In the event of the Contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistance Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notice shall state the rights of applicants and employees as well as the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The contractor must ensure that applicants or employees with disabilities are informed of the contents of the notice (e.g., the contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).

The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment individuals with physical or mental disabilities.

The Contractor will include the provisions of this clause in every subcontract or purchase order in excess of \$10,000, unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Deputy Assistance Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action

for non-compliance

**By:**

**Print:**

**Title:**

**Date:**

**Business Address:**

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION  
TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY  
(EXECUTIVE ORDER 11246)**

**60-4.2 (d) THE NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION**

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in all trades on all construction work in the covered area, are as follows:

**A. GOALS FOR MINORITY UTILIZATION, All Trades:**

Area Covered: Dade County, Florida

Goals and Timetables \*

Timetable	Trade	Goal
Until Further Notice	All	39.5%

**GOALS FOR FEMALE UTILIZATION, All Trades:**

Area Covered: Goals for Women apply nationwide.

Goals and Timetables \*

Timetable	Trade	Goal
Until Further Notice	All	6.9%

**THESE GOALS ARE APPLICABLE TO ALL THE CONSTRUCTION WORK CONTRACTORS (WHETHER OR NOT IT IS FEDERAL OR FEDERALLY ASSISTED) PERFORMED IN THE COVERED AREA.**

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000, at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor, employer identification number, estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is \_\_\_\_\_ (insert description of the geographical areas where the contract is to be performed giving the state, county and city, if any).

#### **60-4.3 (a) EQUAL OPPORTUNITY CLAUSE**

During the performances of this contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity Clause.

2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

3. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

5. The Contractor will furnish all information and reports required by Executive Order 11246 of

September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor or pursuant thereto, and will permit access to his books, records and accounts by HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7. The Contractor will include the statement preceding subparagraph (1) and the provisions of subparagraph (1) through (7) in every subcontract or purchases order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 20 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as HUD may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by HUD, the Contractor may request the United States to enter into such litigation to protect the United States.

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
CONSTRUCTION CONTRACT SPECIFICATIONS  
(EXECUTIVE ORDER 11246)**

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this contract resulted.

b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.

c. "Employer Identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. "Minority" includes:

- Black (all persons having origins in any of the Black African racial groups not of Hispanic origin).

- Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin regardless of race).

- Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

- American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000, the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a

through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11240, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, the Contractor must employ such apprentices and trainees during the training period, and the Contractor must have a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained in training programs approved by U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individual working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source of community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by

the Department of Labor. The Contractor shall provide notice of these programs to the sources complied under (7) b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations or offers for subcontracts from minority and

female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations that assist in fulfilling one or more of their affirmative action obligations (7) a. through (7) p. The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under (7) a. through (7) p. of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph (7) of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanic, apprentice,

trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws that establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., these under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

## **EQUAL EMPLOYMENT OPPORTUNITY CLAUSE FOR CONTRACTORS SUBJECT TO EXECUTIVE ORDER 11246**

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the following equal employment opportunity clauses:

During the performance of this contract, the contractor agrees as follows:

The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin; such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous place, available to employee and applicants for employment, notices to be provided setting forth the provision of this nondiscrimination clause.

The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex or national origin.

The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement to other contract or understanding, a notice to be provided advising the said labor union or worker's representatives of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules regulations, and relevant orders of the Secretary of Labor.

The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, the contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

The contractor will include the portion of the sentence immediately preceding paragraph 1 and the provisions of paragraphs 1 through 7 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the contract becomes involved in, or threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CERTIFICATION OF NON-SEGREGATED FACILITIES

“Segregated facilities,” as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise.

By the submission of an offer, the bidder certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishment, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The bidder agrees that a breach of this certification is a violation of the Equal Opportunity clause of the contract.

By submission of the bid, the bidder, further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will:

- Obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause;
- Retain such certifications in its files; and
- Forward this certification and the attached NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES to proposed subcontractors.

By commencing performance of the Contract work, the selected contractor certifies to the Nonsegregated Facilities provisions above.

Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001

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

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATION OF NON SEGREGATED FACILITIES**

A Certification of Nonsegregated Facilities, as required by the May 9, 1967, order (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding \$10,000, which is not exempt from the provisions of the Equal Opportunity Clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, annually).

**Note:** The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001

**By:**

**Print:**

**Title:**

**Date:**

**Business Address:**

**NOTICE OF REQUIREMENT  
CLEAN WATER, CLEAN AIR, EXECUTIVE ORDER (E.O.) 11738  
AND EPA REGULATIONS PROVISION**

This agreement is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Pollution Control Act, as amended, 33 USC 1251 et seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.

The Contractor and any of its subcontractors for work funded under this Agreement which is in excess of \$100,000, agree to the following requirements:

Any facility to be utilized in the performance of this proposed contract has ( ), has not ( ) been listed on the Environmental Protection Agency List of Violating Facilities;

The contractor or any of its subcontractors agree to comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;

The contractor or any of its subcontractors agree that, as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, Environmental Protection Agency (EPA) indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA list of Violating Facilities; and

The Contractor or any of its subcontractors agree that he will include or cause to be included the criteria and requirements in paragraph 1 through 4 of this section in every nonexempt sub-contract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

\_\_\_\_\_  
Name of Bidder

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Official Address (including Zip Code)

\_\_\_\_\_

\_\_\_\_\_

**CERTIFICATION OF COMPLIANCE  
WITH FEDERAL REGULATIONS**

The bidder certifies that he/she will comply with all applicable standards, orders or regulations issued pursuant to the clean Air Act of 1970 (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as amended and with the Lead-Based Paint Poisoning Prevention Act (Public Law 91-695). All applicable rules and orders of the Federal Government issued there under prior to the execution of the contract, shall be binding upon the prime bidder, its subcontractors, and assignees. Violations by contractors will be reported to the U.S. Department of Housing and Urban Development and the Regional Office of the Environmental Protection Agency.

\_\_\_\_\_  
Name of Bidder

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
**Official Address (including Zip Code)**  
\_\_\_\_\_  
\_\_\_\_\_

CERTIFICATION REGARDING  
**DEPARTMENT, SUSPENSION, AND OTHER**  
RESPONSIBILITY MATTERS  
(DIRECT RECIPIENT)

As required by Executive Order 12549, Department and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510-

The applicant certifies that it and its principals:

Are not presently debarred, suspended, proposed for department, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

Have not within a three-year period preceding this application 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 commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

2. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

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Name of Bidder

---

Signature

---

Date

---

Official Address (including Zip Code)

---

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SWORN STATEMENT PURSUANT TO SECTION 287.133 (3) (a)  
FLORIDA STATUTES ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR  
OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS

1. This form statement is submitted to \_\_\_\_\_  
by \_\_\_\_\_  
(Print individual's name and title)

for \_\_\_\_\_  
(Print name of entity submitting sworn statement)

whose business address is \_\_\_\_\_  
and if applicable its Federal Employer Identification Number (FEIN) is \_\_\_\_\_. If the entity has not FEIN,  
include the Social Security Number of the individual signing this sworn statement.

I understand that a "public entity crime" as defined in paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to an directly related to the transactions of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to any bid or contract for goods or services to be provided to public entity or agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misinterpretation.

I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in an federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

I understand that an "Affiliate" as defined in paragraph 287.133(1)(a), Florida Statutes means:

A predecessor or successor of a person convicted of a public entity crime, or  
An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States within the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or entity. The term "person" includes those officers, executives, partners, shareholders, employees, members, and agents who are active in management of an entity

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Please indicate which statement applies.)

\_\_\_\_\_ Neither the entity submitting sworn statement, nor any of its officers, director, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1,

1989.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity, or an affiliate of the entity had been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (please indicate which additional statement applies.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent proceeding before a Hearing Officer of the State of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (attach a copy of the final order).

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND THAT THIS FORM IS VALID THROUGH DECEMBER 31 OR THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THAT PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017 FLORIDA STATUTES FOR A CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

\_\_\_\_\_

(Signature)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Personally known \_\_\_\_\_

Or produced identification \_\_\_\_\_ Notary Public-State of \_\_\_\_\_

\_\_\_\_\_ My commission expires \_\_\_\_\_

(Type of identification)

\_\_\_\_\_

commissioned

(Printed, typed or stamped

name of notary public)