



"Making our Neighborhood a Great Place to Live, Work and Play"

SOUTH MIAMI COMMUNITY REDEVELOPMENT AGENCY

**Request for Qualifications and Proposal
No. CRA 09-1910**

**For Design-Build Services Required to Construct a
Park Restroom/Meeting Room Building at the
City of South Miami's
Marshall Williamson Park**

August 19, 2010



Marshall Williamson Park Restroom/Meeting Room Construction

Sealed proposals will be received at the City Clerk Office, City of South Miami 6130 Sunset Drive, South Miami, Florida 33143, until **3:00 p.m., Thursday, September 9, 2010** for a Design-Build Consultant to construct a park restroom/meeting room building at Marshall Williamson Park located at 6121 SW 68th Street, South Miami, Florida 33143.

The South Miami Community Redevelopment Agency's objective is to hire a qualified and competent Design-Build Firm to provide all necessary design and construction services required to complete construction of a proposed restroom/meeting room building to be located at Marshall Williamson Park, 6121 SW 68th Street, South Miami, Florida 33143.

A **mandatory** Pre-Bid Conference will be held at the City of South Miami City Hall Chambers (6130 Sunset Drive, South Miami, FL 33143) at **10:00 a.m on August 26, 2010.**

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

City of South Miami
City Clerk/SMCRA Secretary Office
6130 Sunset Drive
South Miami, Florida 33143
(305) 663-6340

Copies of the RFP may be obtained from the request for proposal section of the City of South Miami's internet website located at cityofsouthmiami.net

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

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I.0 INSTRUCTIONS TO PROPONENTS

Marshall Williamson Park Building Construction

IT IS THE RESPONSIBILITY OF THE PROPOSER 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 South Miami Community Redevelopment Agency is requesting proposals (RFP) for the best qualified Design-Build Firm to advise the SMCRA on the most cost and energy efficient design and equipment for construction of the Marshall Williamson Park Restroom/Meeting Room Building Project. The Agency reserves the right to award the project to the firm considered the best to serve the Agency's interests.
2. Any questions concerning the RFP or any required need for clarification must be made to the SMCRA Director in writing, at least five (5) days prior to the Proposal due date. Interpretations or clarifications considered necessary by the SMCRA in response to such questions will be issued by an addenda mailed or delivered to all parties listed on the official Proposer'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 SMCRA Board provided final Consultant selection, there is a prohibition on communication with the SMCRA'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 SMCRA Board or 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 SMCRA Board, or communications in writing at any time with any SMCRA employee, official or member of the SMCRA Board unless specifically prohibited. A copy of all written communications must be filed with the SMCRA Director. 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 SMCRA.
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 RFP response 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. Proposer's shall use the Form(s) furnished by the SMCRA. 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 SMCRA:

- a) The RFP and Instructions to Proposers.
- b) A copy of all issued addendum.
- c) One (1) original and eight (5) copies of the RFP response Form completely executed.
- d) Certificates of Competencies, State, County and City Licenses.
- e) Certificate of Insurance and or Letter of Insurability.

The entire RFP Package shall be placed in an opaque envelope and clearly marked with the PROPOSER'S name and "RFP FOR A DESIGN-BUILD FIRM TO COMPLETE CONSTRUCTION OF THE MARSHALL WILLIAMSON PARK RESTROOM/MEETING ROOM BUILDING."

- 6.1. RFP response having an erasure or corrections must be initialed by the PROPOSER in ink. RFP response shall be signed in ink; all quotations shall be typewritten or printed and filled in with ink.
- 7. Mistake: If there is a discrepancy in the unit and extended prices, the unit price(s) will prevail and the extensions adjusted to coincide. PROPOSER'S are responsible for checking their calculations. Failure to do so will be at the PROPOSER'S risk, and errors will not release the PROPOSER from their responsibility as noted herein.
- 8. Material: Material(s) delivered to the SMCRA under this proposal shall remain the property of the seller until accepted to the satisfaction of the SMCRA. In the event materials supplied to the SMCRA are found to be defective or do not conform to specifications, the SMCRA reserves the right to return the product(s) to the seller at the seller's expense.
- 9. 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.
- 10. Liability, Insurance, Licenses & Permits: Where PROPOSERS are required to enter onto City of South Miami property to deliver materials or to perform work or services as a result of a Contract Award, the PROPOSER will assume the full duty, obligation, and expense of obtaining all necessary licenses, permits, inspections, and insurance required. The PROPOSER shall be liable for any damages or loss to the SMCRA occasioned by negligence of the PROPOSER (or its agent) or any person the PROPOSER 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 SMCRA along with the RFP response. Failure to furnish these documents or to have required licenses will be grounds for rejecting the RFP response.
- 11. PROPOSER shall furnish to the SMCRA Director, 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 the South Miami Community Redevelopment Agency shall be named as "additional insured" with respect to this coverage.
- 12. At the time of the submission the PROPOSER must submit Certificates of Insurance, or evidence of insurability in the form of a letter from PROPOSER'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 the South Miami Community Redevelopment Agency as additional

insured.

13. 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 PROPOSER and insurer to notify the SMCRA Director of cancellation, lapse or material modification of any insurance policies insuring the PROPOSER, which relate to the activities of such vendor and the SMCRA. Such notification shall be in writing, and shall be submitted to the SMCRA Director thirty (30) days prior to cancellation of such policies. This requirement shall be reflected on the Certificate of Insurance.
14. Failure to fully and satisfactorily comply with the City's insurance requirements set forth herein shall authorize the SMCRA Director to implement a rescission of Award without further SMCRA Board action. The PROPOSER hereby holds the SMCRA harmless and agrees to indemnify SMCRA and covenants not to sue the SMCRA by virtue of such rescission.
15. Copy rights and/or Patent Rights: PROPOSER 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 RFP. The seller agrees to indemnify SMCRA from any and all liability, loss or expense occasioned by any such violation.
16. Warranty/Guarantee: Successful PROPOSER shall act as agent for the SMCRA in the follow-up and compliance of all items under Warranty/Guarantee and complete all forms for Warranty/Guarantee coverage under this Contract. PROPOSER warrants by signature on the Response Form that prices quoted here are in conformity with the latest Federal Price Guidelines.
17. 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 PROPOSER to notify the SMCRA at once, indicating in its letter the specific regulation which required an alteration. The SMCRA reserves the right to accept any such alteration, including any price adjustments occasioned thereby, or to cancel at no further expense to the SMCRA.
18. Assignment: The CONTRACTOR shall not transfer or assign the performance required by this Bid without prior written consent of the SMCRA Director. 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 SMCRA Director.
19. Award of RFP response: The South Miami Community Redevelopment Agency reserves the right to award the contract to the lowest, most responsive, responsible PROPONENT, as determined by the SMCRA Board, subject to the right of the SMCRA to reject any and all RFP response, to waive any irregularity in the RFP response or bidding procedure and subject also to the right of the SMCRA to award bid and contract to PROPOSERS other than the low PROPOSER.
20. Evaluation of RFP response: The SMCRA, at its sole discretion, reserves the right to inspect any/all PROPOSERS facilities to determine its capability of meeting the requirements for the Contract. Also, price, responsibility and responsiveness of the PROPOSER, the financial position, experience, staffing, equipment, materials, references, and past history of service to the SMCRA 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.
21. Identical (Tie RFP response): Shall be awarded by the SMCRA in compliance with Florida State Statutes providing for a drug free workplace. That is, in the event of an identical Tie Price Submittal, 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 SMCRA.
22. Hold Harmless: All PROPOSERS shall hold the SMCRA, its officials and employees harmless and covenant not to sue the SMCRA, its officials and employees in reference to its decisions to reject,

award, or not award a Bid, as applicable.

23. Cancellation: Failure on the part of the PROPOSER to comply with the conditions, specifications, requirements, and terms as determined by the SMCRA, shall be just cause for cancellation of the Award.
24. Disputes: If any dispute concerning a question of fact arises under the Contract, other than termination for default or convenience, the CONTRACTOR and the Agency 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 Agency with the advice of SMCRA General Council, shall resolve the dispute and send a written copy of its decision to the CONTRACTOR, which shall be binding on both parties.
25. Non-conformance to Contract: The South Miami Community Redevelopment Agency 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 SMCRA 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.
 - 25.1. Default Provision: In case of default by the PROPOSER, the South Miami Community Redevelopment Agency may procure the articles or services from other sources and hold the PROPOSER responsible for any excess costs occasioned or incurred thereby.
 - 25.2. Indemnification: The CONTRACTOR shall indemnify, save harmless, and defend the South Miami Community Redevelopment Agency it's officers, agents 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 SMCRA including without limitation, awarding the Contract to the CONTRACTOR.
 - 25.3. Secondary/Other Vendors: The SMCRA 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.
26. 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 South Miami Community Redevelopment Agency or the compensation of the PROPOSER.
27. 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.

2.0 **EVALUATION AND SELECTION**

2.1. EVALUATION TEAM

The evaluation of Proposals will be undertaken on behalf of the South Miami Community Redevelopment Agency 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 SMCRA.

2.2. EVALUATION CRITERIA

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

(a) **EXPERIENCE**

The Evaluation Team will consider the Proposer's organization and proposed project team past experience in undertaking similar 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 Proposer'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 Proposer's organization proposed project timeline inclusive of mobilization, construction schedule, milestones, closeout and completion;

(e) **PRICE PROPOSAL**

The Evaluation Team will consider the Proposer's price proposal in terms of accuracy, completeness, value, local market and substantiated industry standards.

The Evaluation Team will consider the Proposer'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**

1.1 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: PROPOSER'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 South Miami Community Redevelopment Agency 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: PROPOSER'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: PROPOSER'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: PROPOSER'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 SMCRA 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 SMCRA 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 SMCRA, 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 SMCRA will consider whether the litigation is likely to affect the Proposer's ability to work with the SMCRA, its consultants and representatives and whether the SMCRA's experience with the Proposer indicates that there is a risk the SMCRA will incur increased staff and legal costs in the administration of the Contract if it is awarded to the Proposer.

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 Proposers. 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 Proposers 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 Proposer or Preferred Proposers, then it may:

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

The SMCRA is under no obligation to accept any Proposal submitted. The SMCRA 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 SMCRA, or cancel the competition at any time without award. Thereafter, the SMCRA may issue a new Invitation / Request, sole source or do nothing.

3.0 GENERAL CONDITIONS

3.1 NO SMCRA OBLIGATION

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

3.2 PROPOSER'S EXPENSES

Proposers are solely responsible for their own expenses in preparing, and submitting Proposals, and for any meetings, negotiations or discussions with the SMCRA or its representatives and consultants, relating to or arising from this RFP. The SMCRA and its representatives, agents, consultants and advisors will not be liable to any Proposer for any claims, whether for costs, expenses, losses or damages, or loss of anticipated profits, or for any other matter whatsoever, incurred by the Proposer 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, Proposers 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

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

3.5 SOLICITATION OF SMCRA BOARD MEMBERS

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

3.6 CONFIDENTIALITY

All submissions become the property of the SMCRA and will not be returned to the Proposer. The SMCRA will hold all submissions in confidence unless otherwise required by law. Proposers should be aware the SMCRA 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 The SMCRA is requesting proposals at this time from qualified firms to provide design-build services required to construct a fully functional, approximate 500 square foot park restroom/meeting room building at Marshall Williamson Park.

5.0 **OVERVIEW**

Marshall Williamson Park Restroom/Meeting Room Building Construction

The City of South Miami's Marshall Williamson Park is located at 6121 SW 68th Street, South Miami, Florida (See **Exhibit 1**). Marshall Williamson Park is also located within the South Miami Community Redevelopment Agency (SMCRA) Area. The overall mission and objective of the SMCRA is the removal of "blighted" physical conditions and the enhancement of "quality of life" for residents of the SMCRA and the City as whole. Parks improvements play an important role in the enhancement of "quality of life" conditions.

With these redevelopment goals and objectives in mind, the SMCRA Board has authorized park improvements at Marshall Williamson Park including extensive park lighting improvements and the construction of an outdoor recreational pavilion (See **Exhibit 2**). The SMCRA Board has most recently authorized construction of a restroom/meeting room building at this location. The proposed location of the restroom/meeting room building would be in the Northwest quadrant of Marshall Williamson Park and just South of the SMCRA constructed recreational pavilion (See **Exhibit 3**).

The SMCRA's objective in selecting a qualified design-build firm is to provide the following services:

- I. Provide a contemporary yet complimentary design that meets the high foot traffic demand of a new restroom/meeting building at the City of South Miami's Marshall Williamson Park (No prefabricated or modular units will be accepted). Building design should closely resemble the architectural vocabulary of the SMCRA constructed park pavilion.

Provide required construction services needed to construct an approximate 500 square restroom/meeting room building. Building should be designed to prevent vandalism and potential damage to the building. Must be constructed to utilize maximize natural light and ventilation and to achieve lower maintenance costs at higher levels of service. Should be fully ADA compliant and include stainless steel sinks and low flow toilets. The provision of utilities and storm water retention must be thoroughly addressed in the proposed design. "Green" building design and construction techniques must also be employed when and wherever possible. A sample building floor plan has been provided as **Exhibit 4**.

The selected Project Proposer shall provide full project design services including a full set of "working" detailed construction drawings required to construct the above described park restroom/meeting room building and provide required construction/contractor services required to complete the project.

7.1 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 South Miami Community Redevelopment Agency. 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, Proposer's proposals are to be presented in the following format:

7.1.1 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.

7.1.4 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)

END OF SECTION

PRICE PROPOSAL FORM

Marshall Williamson Park Building Construction

THIS PRICE PROPOSAL IS SUBMITTED TO:

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

1. The undersigned PROPOSER proposes and agrees, if this Price Proposal is accepted, to enter into an agreement with the South Miami Community Redevelopment Agency 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. PROPOSER 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 SMCRA's Notice of Award.
3. In submitting this Price Proposal, PROPOSER represents, as more fully set forth in the Agreement, that:
 - a. PROPOSER 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. PROPOSER 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. PROPOSER has studied carefully all reports and drawings of subsurface conditions and drawings of physical conditions.
- d. PROPOSER 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 PROPOSER

for such purposes.

- e. PROPOSER 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 PROPOSER 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. PROPOSER 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. PROPOSER has given by 10:00 a.m., Friday, September 10, 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 PROPOSER.
 - 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; PROPOSER has not directly or indirectly induced or solicited any other PROPOSER to submit a false or sham RFP; PROPOSER has not solicited or induced any person, firm or corporation to refrain from responding to RFP; and PROPOSER has not sought by collusion to obtain for itself any advantage over any other PROPOSER or over the SMCRA.
4. PROPOSER 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 SMCRA, 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 SMCR 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	

PROPOSER QUALIFICATION STATEMENT

Marshall Williamson Park Building Construction

The PROPOSER response to this questionnaire will be utilized as part of the SMCRA's overall Proposal Evaluation and Contractor selection.

I. 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 PROPOSER 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 PROPOSER 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

Marshall Williamson Park Building Construction

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 RFP response 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 RFP response, 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 RFP response 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 _____	Notary Public – State of _____
_____	My commission expires _____
(Type of identification)	(Printed, typed or stamped commissioned name of notary public)

DRUG FREE WORKPLACE

Marshall Williamson Park Building Construction

Whenever two or more RFP response 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 RFP response 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.

PROPOSER Signature: _____

Print Name: _____

Date: _____

ACKNOWLEDGEMENT OF CONFORMANCE WITH OSHA STANDARDS

Marshall Williamson Park Building Construction

TO THE SOUTH MIAMI COMMUNITY REDEVELOPMENT AGENCY

We, _____, (Name of Contractor), hereby acknowledge and agree that as Contractors for the Marshall Williamson Park Restroom/Meeting Room Building Construction Project , 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 South Miami Community Redevelopment Agency and the City of South Miami, 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

Marshall Williamson Park Building Construction

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

Classification of Work	Subcontractor Name	Address	Telephone, Fax & Email
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 South Miami Community Redevelopment Agency by the apparent lowest responsive and responsible proponent within five (5) calendar days after Notice of Award.

NOTICE OF AWARD

Marshall Williamson Park Building Construction

TO:

PROJECT DESCRIPTION: Marshall Williamson Park Restroom/Meeting Room Building Construction Project, in accordance with the requirements of the RFP Contract Documents as prepared and submitted by proponent by 3:00 p.m., Thursday, September 9, 2010, prime consultant and the SMCRA has considered the Proposal submitted by you for the above described Work in response to its advertised RFP and Instructions to PROPOSERS.

You are hereby notified that your Proposal has been accepted for the Williamson Park Restroom/Meeting Room Building Construction Project, 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 PROPOSERS 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 SMCRA shall be entitled to disqualify your Proposal, revoke the award and retain the Bid Security.

BY: _____

SMCRA Director

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 SMCRA Director.

AGREEMENT

Marshall Williamson Park Building Construction

THIS AGREEMENT, made and entered into on this _____ day of _____, 2010, by and between _____ Party of the First Part, and the South Miami Community Redevelopment Agency, 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 Dollars (\$1,000.00) per day**, plus any monies paid by the SMCRA 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: _____

FACILITATING AGENCY: SOUTH MIAMI COMMUNITY REDEVELOPMENT AGENCY

Signature: _____

SMCRA Director

AUTHENTICATION:

Signature: _____
Maria M. Menendez
City Clerk/SMCRA Secretary

NOTICE TO PROCEED

Marshall Williamson Park Building Construction

TO:

DATE:

PROJECT DESCRIPTION: Marshall Williamson Park Restroom/Meeting Room Construction Project, 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 _____.

South Miami Community Redevelopment Agency

BY: _____

SMCRA Director

ACCEPTANCE OF NOTICE

Receipt of the above Notice to Proceed is hereby acknowledged by _____

on this _____ day of _____, 2010.

BY: _____

TITLE: _____

GENERAL CONDITIONS

Marshall Williamson Park Building Construction

ARTICLE I – DEFINITIONS

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 SMCRA of the Work as being fully complete in accordance with the Contract Documents subject to waiver of claims.

Agreement: The written Agreement between the SMCRA 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 SMCRA which is to be used by the CONTRACTOR in requesting progress payments.

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

PROPOSER: 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 SMCRA 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.

SMCRA: South Miami Community Redevelopment Agency, 6130 Sunset Drive, South Miami, Florida 33143.

Contract Documents: Contract Documents shall include, Instructions to PROPOSERS, 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 South Miami Community Redevelopment Agency.

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 SMCRA's governing body.

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

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 SMCRA to the apparent successful PROPOSER 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 SMCRA 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.

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 South Miami Building Department 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 SMCRA under this Contract shall be delivered to the SMCRA.

ARTICLE 2 – PRELIMINARY MATTERS

Award:

2.1 The SMCRA reserves the right to reject any and all Proposals at its sole discretion. Contract shall be awarded by the SMCRA to the lowest responsive and responsible PROPOSER. No Notice of Award will be given until the SMCRA has concluded such investigations as it deems necessary to establish the responsibility, qualifications and financial ability of the PROPOSER to the Work in accordance with the Contract Documents to the satisfaction of the SMCRA within the time prescribed. The SMCRA reserves the right to reject the Proposal of any PROPOSER who does not pass such investigation to the SMCRA's satisfaction. In analyzing the Proposal, the SMCRA may also take into consideration alternate and unit prices, if requested by the Price Proposal forms. If the Contract is awarded, the SMCRA will issue the Notice of Award and give the successful PROPOSER 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 SMCRA 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 SMCRA 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 SMCRA, 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 SMCRA 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 SMCRA will accept a surety bond from a company with a rating B+ or better.
- 2.3.7 Failure of the successful PROPOSER 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 SMCRA 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 SMCRA.

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 SMCRA any conflict, error, or discrepancy which it may discover; however, it shall not be liable to SMCRA 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 SMCRA to CONTRACTOR, CONTRACTOR shall submit to the SMCRA 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 SMCRA 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 SMCRA 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 an SMCRA representative.

Qualifications of Subcontractors, Material men and Suppliers:

- 2.10 Within five (5) calendar days after bid opening, the apparent lowest responsive and responsible PROPOSER shall submit to the SMCRA 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 SMCRA, will notify the CONTRACTOR in writing if the SMCRA after due investigation, has reasonable objection to any Subcontractor, person, or organization on such list. The failure of the SMCRA 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 SMCRA 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 SMCRA has reasonable objection to and refuses to accept any Subcontractor, person or organization listed, the apparent low PROPOSER may, prior to Notice of Award, submit an acceptable substitute without an increase in its bid price.

ARTICLE 3-CORRELATION, 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 SMCRA 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 SMCRA's 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 SMCRA 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 SMCRA 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 SMCRA, as the material or product so specified. Proposed equivalent items must be approved by SMCRA 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 SMCRA 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 SMCRA, 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 SMCRA will, upon request, furnish to the PROPOSER, 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 SMCRA 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 RFP response. 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 SMCRA assumes no responsibility for any conclusions or interpretations made by the CONTRACTOR on the basis of the information made available by the SMCRA.

Differing Site Conditions:

- 4.4 The CONTRACTOR shall within forty eight (48) hours of its discovery, and before such conditions are disturbed, notify the SMCRA 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 SMCRA 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 SMCRA.
- 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 SMCRA at all reasonable times and shall be delivered to the SMCRA 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 SMCRA.
- 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 SMCRA, such material, article, or piece of equipment is of equal substance and function to that specified, the SMCRA 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 SMCRA 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 SMCRA may have reasonable objection, nor will the CONTRACTOR be required to employ any Subcontractor who has been accepted by the SMCRA, unless the SMCRA 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 SMCRA and any Subcontractor or other person or organization having a direct contract with CONTRACTOR, nor shall it create any obligation on the part of SMCRA 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. SMCRA 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 SMCRA.

- 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 SMCRA may exercise over the CONTRACTOR under any provisions of the Contract Documents.
 - 5.12.2 The SMCRA 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 SMCRA, 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 SMCRA 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 SMCRA 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 SMCRA and when so stated in the Special Conditions, there will be no charges to the CONTRACTOR. The SMCRA 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 SMCRA. 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 SMCRA 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 SMCRA, 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 SMCRA.

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 SMCRA, is obligated to act, at his discretion, to prevent threatened damage, injury or loss. He will give the SMCRA 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 SMCRA for review, in accordance with the accepted schedule of shop drawing submissions six (6) copies (or at the SMCRA 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 SMCRA 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 SMCRA to review the information as required.
- 5.23 The CONTRACTOR will also submit to the SMCRA 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 SMCRA attention to any deviations that the Shop Drawings or Samples may have from the requirements of the Contract Documents.
- 5.25 The SMCRA 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 SMCRA on previous submissions. The CONTRACTOR'S stamp of approval on any Shop Drawings or sample shall constitute representation to the SMCRA 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 SMCRA. 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 SMCRA.

- 5.27 The SMCRA 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 SMCRA attention to each deviation at the time of submission and the SMCRA has given written approval to the specific deviation, nor shall any review by the SMCRA 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 SMCRA, 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 SMCRA 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 SMCRA 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 SMCRA, City of South Miami, 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 SMCRA), 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 SMCRA, the City of South Miami 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 SMCRA or City of South Miami by reason of any such claim or demand, CONTRACTOR, upon written notice from SMCRA shall defend such action or proceeding by counsel satisfactory to SMCRA. The indemnification provided above shall obligate CONTRACTOR to defend at its own expense or to provide for such defense, at SMCRA's option, any and

all claims of liability and all suits and actions of every name and description that may be brought against SMCRA excluding only those which allege that the injuries arose out of the sole negligence of SMCRA, 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 SMCRA, 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 SMCRA, 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 SMCRA will be responsible for obtaining all permits necessary for the Work. Upon completion of the Work, CONTRACTOR shall present to SMCRA certificates, in triplicate, from the proper authorities stating that the Work has been done in accordance with their requirements.
- 6.36.1 The SMCRA will cooperate with the CONTRACTOR in obtaining action from any utilities or public authorities involved in the above requirements.
- 6.36.2 The SMCRA 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 the SMCRA and City of South Miami 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 SMCRA's and City of South Miami instructions in connection with signs, advertisements, fires and smoking.
- 5.38.3 CONTRACTOR shall arrange and cooperate with SMCRA 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 SMCRA. All such facilities shall be furnished in strict accordance with existing governing regulations. Field offices shall include telephone facilities.

- 5.38.4 The SMCRA 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 SMCRA 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 SMCRA, 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 SMCRA), the CONTRACTOR shall promptly report to the SMCRA 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 SMCRA and of the other CONTRACTORS whose Work will be affected.
- 6.4 If the performance of additional Work by other contractors or the SMCRA 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 SMCRA 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 SMCRA.
- 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 SMCRA immediately. Lack of such notice to the SMCRA 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 borne by the CONTRACTOR responsible for such lack of notices, etc.

ARTICLE 7 – SMCRA’s RESPONSIBILITIES

- 7.1 The SMCRA will issue all required communications to the CONTRACTOR.
- 7.2 The SMCRA will furnish the data required of them under the Contract Documents promptly.
- 7.3 The SMCRA’s duties in respect to providing lands and easements are set forth in Paragraphs 4.1 and 4.2.
- 7.4 The SMCRA 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 – SMCRA’s STATUS DURING CONSTRUCTION

SMCRA’s Representative:

- 8.1 The duties and responsibilities and the limitations of authority of the SMCRA during construction are set forth in Articles 1 through 16 of these General Conditions and shall not be extended without written consent of the SMCRA.
 - 8.1.1 The SMCRA 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 SMCRA 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 SMCRA 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 SMCRA 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 SMCRA informed of the progress of the Work and will guard the SMCRA against defects and deficiencies in the Work of CONTRACTORS.

Clarifications and Interpretations:

- 8.3 The SMCRA 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 SMCRA 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 SMCRA 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 SMCRA's responsibility as to Shop Drawings and samples, see paragraphs 6.22 through 6.27, inclusive.
- 8.8 In connection with the SMCRA's responsibilities in respect of Application of Payment, etc., see Article 14.

Resident Project Representative:

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

Decisions on Disagreements:

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

Limitations on SMCRA's Responsibilities:

- 8.11 The SMCRA will not be responsible for the construction means, methods, techniques, sequences or procedures, or the safety precautions and programs incident thereto.
- 8.12 The SMCRA 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 SMCRA 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 SMCRA 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 SMCRA 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 SMCRA will execute appropriate Change Orders 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 SMCRA.

- 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 SMCRA.

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 SMCRA 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 SMCRA-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 SMCRA 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 SMCRA 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 SMCRA.

- 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 SMCRA deposits funds with CONTRACTOR with which to make payments in which case the cash discounts, shall accrue to the SMCRA. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment shall accrue to SMCRA, 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 SMCRA, CONTRACTOR shall obtain competitive RFP response from Subcontractors acceptable to him and shall deliver such RFP response to SMCRA who will then determine with the advice of Consultant which RFP response 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 SMCRA 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 SMCRA 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 AND 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 SMCRA, then the CONTRACTOR shall pay to the SMCRA 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 SMCRA 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 SMCRA 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 SMCRA, in addition to liquidated damages, for all costs incurred by SMCRA 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 SMCRA.
- 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 SMCRA 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 SMCRA'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 SMCRA 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 SMCRA 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 SMCRA 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 SMCRA may cause the defective Work to be removed or corrected at the CONTRACTOR'S expense, and the SMCRA 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 SMCRA 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 SMCRA 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 SMCRA will establish the SMCRA'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 SMCRA 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 SMCRA, 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 SMCRA, 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 SMCRA 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 SMCRA.

- 13.2 The SMCRA 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 SMCRA 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 SMCRA approval of any payment requested in an Application for Payment shall constitute a representation by him to the SMCRA, based 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 SMCRA 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 SMCRA 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 SMCRA 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 SMCRA. 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 SMCRA 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 SMCRA 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 SMCRA, 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 SMCRA 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 SMCRA.
- 13.9 Upon completion and acceptance of the Work the SMCRA 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 SMCRA, 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 SMCRA 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 SMCRA 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 SMCRA 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 SMCRA, 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 SMCRA, shall suspend all Work until instructed to resume operations by the SMCRA 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 SMCRA.

SMCRA 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 SMCRA 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 SMCRA 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 SMCRA 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 SMCRA said termination shall not affect any rights of the SMCRA against the CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys by the SMCRA due the CONTRACTOR will not release the CONTRACTOR from liability.
- 14.5 Upon seven (7) days written notice to the CONTRACTOR, the SMCRA 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 SMCRA 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 SMCRA, shall promptly remove any part or all of its equipment and supplies from the property of the SMCRA. Should the CONTRACTOR not remove such equipment and supplies, the SMCRA 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 SMCRA 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 SMCRA fails to pay the CONTRACTOR any sum approved by the SMCRA, within thirty (30) calendar days of its approval, and presentation, then the CONTRACTOR may, upon twenty (20) calendar days written notice to the SMCRA, terminate the Agreement. The SMCRA may remedy the delay or neglect within the twenty (20) calendar day time frame. If timely remedied by the SMCRA the Contract shall not be considered terminated. In lieu of terminating the Agreement, if the SMCRA has failed to act on an Application for Payment or the SMCRA has failed to make any payment as afore said, the CONTRACTOR may upon ten (10) calendar days notice to the SMCRA 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 SMCRA. The CONTRACTOR and the SMCRA 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 SMCRA 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 SMCRA 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 SMCRA 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 SMCRA 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 SMCRA shall have right to inspect and copy during regular business hours at SMCRA'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 SMCRA 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 SMCRA 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.

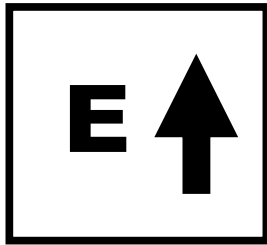
ARTICLE 20 – INDEPENDENT CONTRACTOR

- 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 SMCRA. 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.

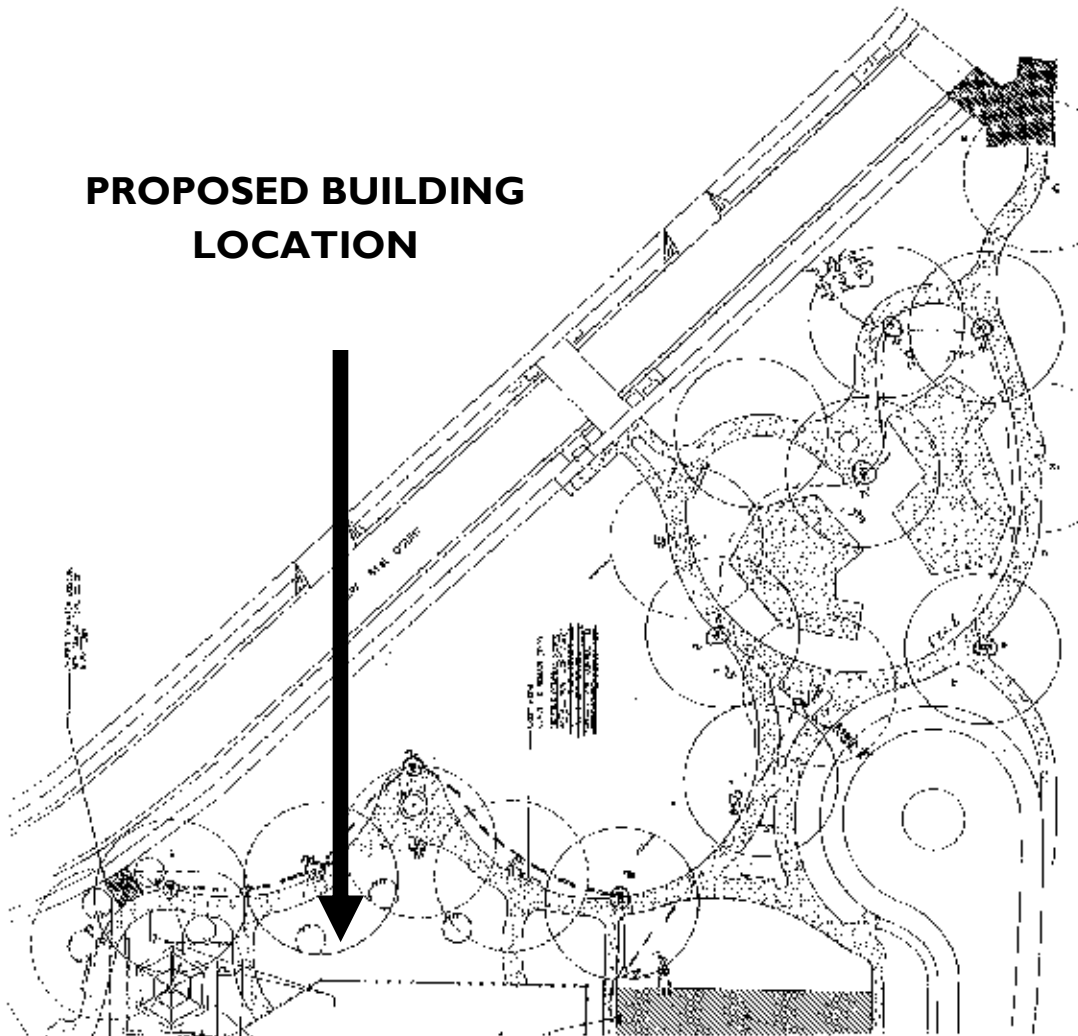
EXHIBIT SECTION



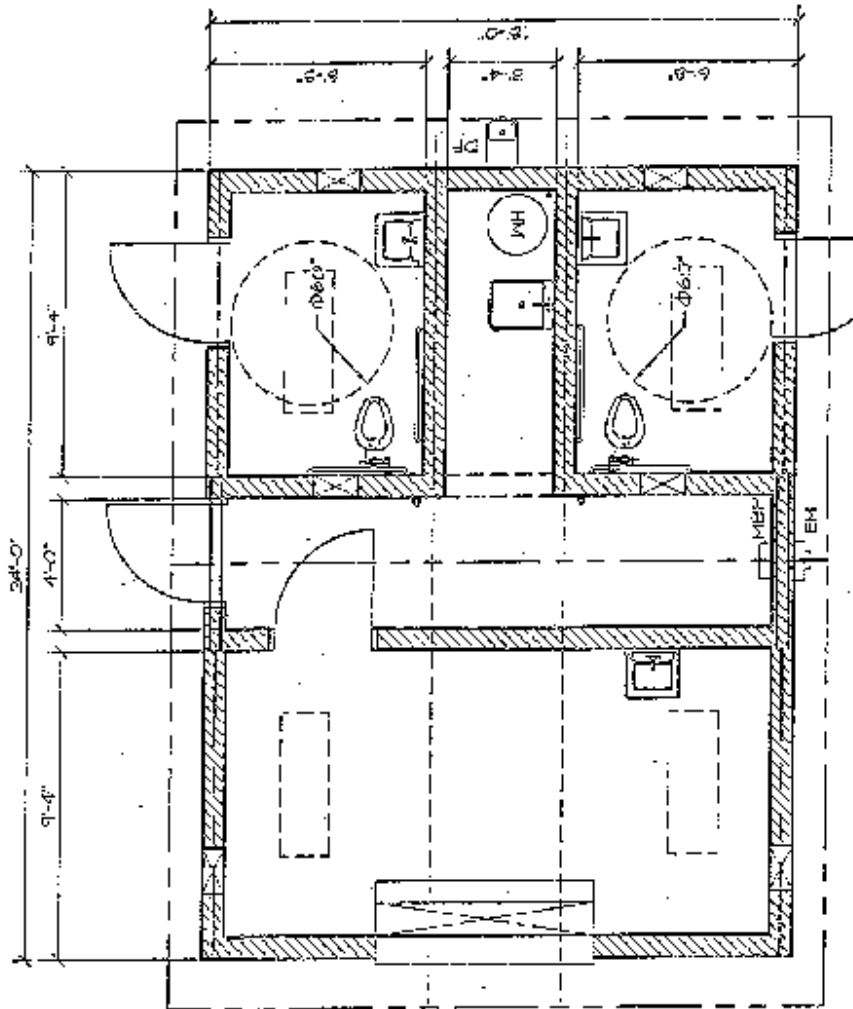
Existing Park Recreational Pavilion



**PROPOSED BUILDING
LOCATION**



Marshall Williamson Park (Site Plan)



Sample Building Floor Plan