

REQUEST FOR QUALIFICATIONS (RFQ)

Master Planner of the North Beach District

RFQ 2015-086-YG

RFQ ISSUANCE DATE: FEBRUARY 3, 2015

STATEMENTS OF QUALIFICATIONS DUE: FEBRUARY 26, 2015

ISSUED BY: YUSBEL GONZALEZ, CPPB

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Alex Denis, *Director*

DEPARTMENT OF PROCUREMENT

1700 Convention Center Drive, Miami Beach, FL 33139

305.673.7490 | adenis@miamibeachfl.gov

www.miamibeachfl.gov

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SECTION 0200 INSTRUCTIONS TO RESPONDENTS & GENERAL CONDITIONS

1. GENERAL. This Request for Qualifications (RFQ) is issued by the City of Miami Beach, Florida (the "City"), as the means for prospective Proposer to submit their qualifications, proposed scopes of work and cost Statement of Qualifications (the "proposal") to the City for the City's consideration as an option in achieving the required scope of services and requirements as noted herein. All documents released in connection with this solicitation, including all appendixes and addenda, whether included herein or released under separate cover, comprise the solicitation, and are complementary to one another and together establish the complete terms, conditions and obligations of the Proposer and, subsequently, the successful proposer(s) (the "contractor[s]") if this RFQ results in an award.

The City utilizes *PublicPurchase* (www.publicpurchase.com) for automatic notification of competitive solicitation opportunities and document fulfillment, including the issuance of any addendum to this RFQ. Any prospective proposer who has received this RFQ by any means other than through *PublicPurchase* must register immediately with *PublicPurchase* to assure it receives any addendum issued to this RFQ. **Failure to receive an addendum may result in disqualification of proposal submitted.**

2. PURPOSE.

The City of Miami Beach is soliciting "Statements of Qualifications" that the City may utilize to select a Master Planner for the North Beach District. The North Beach District Master Plan will be focused on the area of the City that is north of 63rd Street. The City is seeking services from a consulting firm or team with master planning, revitalization, redevelopment, design, development, and implementation experience to assist the City in: 1) developing the scope and deliverables of the desired master plan and 2) completing a master plan of the district within the agreed to scope and deliverables. For the purposes of this RFQ, the selection process will be based on qualifications. No proposal for specifics to the master plan is being requested, nor will be considered, at this time.

The City of Miami Beach, Florida is located on a barrier island between the Biscayne Bay and the Atlantic Ocean, just east of the City of Miami, Florida. It is connected to the City of Miami on the mainland via four causeways. The City is the predominant tourist destination of South Florida. The City has a population of approximately 87,779, in addition to the thousands of tourist that visit each year.

The study area will be the North Beach section of the City, which is located north of 63rd Street to the northern city limit at 87th Terrace. Major developments have been built and historic structures have been restored in all parts of the City in the recent past with the exception of the North Beach area, where investment has been lagging.

The City has been studying ways to encourage and promote appropriate, redevelopment activity for the 71st Street Corridor and Ocean Terrace, as well as encourage the preservation and restoration of contributing buildings in the North Shore and Normandy Isles National Register Districts. In addition the City will be looking at appropriate ways to develop the City-owned "West Lots".

At the request of the Mayor's Blue Ribbon Panel on North Beach the City seeks a qualified world class consultant to establish a North Beach Master Plan. Once a qualified consultant is selected, the City expects to work with the consultant to determine the scope of services for and refined study area for the North Beach Master Plan.

This RFQ is issued pursuant to Chapter 287.055, Florida Statutes, the Consultants Competitive Negotiations Act (CCNA).

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3. SOLICITATION TIMETABLE. The tentative schedule for this solicitation is as follows:

Solicitation Issued	February 3, 2015
Pre-Submittal Meeting	February 10, 2015 at 10:00 AM
Deadline for Receipt of Questions	February 18, 2015 at 5:00 PM
Responses Due	February 26, 2015 at 3:00 PM
Evaluation Committee Review	TBD
Proposer Presentations	TBD
Tentative Commission Approval Authorizing Negotiations	TBD
Contract Negotiations	Following Commission Approval

4. PROCUREMENT CONTACT. Any questions or clarifications concerning this solicitation shall be submitted to the Procurement Contact named herein, in writing, with a copy to the City Clerk's Office, Rafael E. Granado via e-mail: RafaelGranado@miamibeachfl.gov or facsimile: 786-394-4188. The Bid title/number shall be referenced on all correspondence. All questions or requests for clarification must be received no later than seven (7) calendar days prior to the date Statement of Qualifications are due as scheduled in Section 0200-3. All responses to questions/clarifications will be sent to all prospective Proposers in the form of an addendum.

Procurement Contact:
Yusbel Gonzalez, CPPB

Telephone:
305-673-7000 ext. 6230

Email:
yusbelgonzalez@miamibeachfl.gov

5. PRE-STATEMENTS OF QUALIFICATIONS MEETING OR SITE VISIT(S). Only if deemed necessary by the City, a pre-proposal meeting or site visit(s) may be scheduled.

A Pre-PROPOSAL conference will be held as scheduled in Solicitation Timeline above at the following address:

**City of Miami Beach
City Hall - 4th Floor
City Manager's Small Conference Room
1700 Convention Center Drive
Miami Beach, Florida 33139**

Attendance (in person or via telephone) is encouraged and recommended as a source of information, but is not mandatory. Proposers interested in participating in the Pre-Proposal Submission Meeting via telephone must follow these steps:

- (1) Dial the TELEPHONE NUMBER: 1- 888-270-9936 (Toll-free North America)
- (2) Enter the MEETING NUMBER: 4142489

Proposers who are interested in participating via telephone should send an e-mail to the contact person listed in this RFQ expressing their intent to participate via telephone.

6. PRE-STATEMENTS OF QUALIFICATIONS INTERPRETATIONS. Oral information or responses to questions received by prospective Proposers are not binding on the City and will be without legal effect, including any information received at pre-submittal meeting or site visit(s). Only questions answered by written addenda will be

binding and may supersede terms noted in this solicitation. Addendum will be released through *PublicPurchase*.

7. CONE OF SILENCE. Pursuant to Section 2-486 of the City Code, all procurement solicitations once advertised and until an award recommendation has been forwarded to the City Commission by the City Manager are under the "Cone of Silence." The Cone of Silence ordinance is available at:

<http://library.municode.com/index.aspx?clientID=13097&stateID=9&statename=Florida>

Any communication or inquiry in reference to this solicitation with any City employee or City official is strictly prohibited with the of exception communications with the Procurement Director, or his/her administrative staff responsible for administering the procurement process for this solicitation providing said communication is limited to matters of process or procedure regarding the solicitation. Communications regarding this solicitation are to be submitted in writing to the Procurement Contact named herein with a copy to the City Clerk at rafaelgranado@miamibeachfl.gov.

8. SPECIAL NOTICES. You are hereby advised that this solicitation is subject to the following ordinances/resolutions, which may be found on the City Of Miami Beach website:

<http://web.miamibeachfl.gov/procurement/scroll.aspx?id=23510>

- CONE OF SILENCE..... CITY CODE SECTION 2-486
- PROTEST PROCEDURES..... CITY CODE SECTION 2-371
- DEBARMENT PROCEEDINGS..... CITY CODE SECTIONS 2-397 THROUGH 2-485.3
- LOBBYIST REGISTRATION AND DISCLOSURE OF FEES..... CITY CODE SECTIONS 2-481 THROUGH 2-406
- CAMPAIGN CONTRIBUTIONS BY VENDORS..... CITY CODE SECTION 2-487
- CAMPAIGN CONTRIBUTIONS BY LOBBYISTS ON PROCUREMENT ISSUES..... CITY CODE SECTION 2-488
- REQUIREMENT FOR CITY CONTRACTORS TO PROVIDE EQUAL BENEFITS FOR DOMESTIC PARTNERS..... CITY CODE SECTION 2-373
- LIVING WAGE REQUIREMENT..... CITY CODE SECTIONS 2-407 THROUGH 2-410
- PREFERENCE FOR FLORIDA SMALL BUSINESSES OWNED AND CONTROLLED BY VETERANS AND TO STATE-CERTIFIED SERVICE-DISABLED VETERAN BUSINESS ENTERPRISES..... CITY CODE SECTION 2-374
- FALSE CLAIMS ORDINANCE..... CITY CODE SECTION 70-300
- ACCEPTANCE OF GIFTS, FAVORS & SERVICES..... CITY CODE SECTION 2-449

9. POSTPONEMENT OF DUE DATE FOR RECEIPT OF QUALIFICATIONS. The City reserves the right to postpone the deadline for submittal of Statement of Qualifications and will make a reasonable effort to give at least three (3) calendar days written notice of any such postponement to all prospective Proposers through *PublicPurchase*.

10. PROTESTS. Protests concerning the specifications, requirements, and/or terms; or protests after the proposal due date in accordance with City Code Section 2-371, which establishes procedures for protested proposals and proposed awards. Protests not submitted in a timely manner pursuant to the requirements of City Code Section 2-371 shall be barred.

11. VETERAN BUSINESS ENTERPRISES PREFERENCE. Pursuant to City of Miami Beach Ordinance No. 2011-3748, the City shall give a five (5) point preference to a responsive and responsible proposer which is a small business concern owned and controlled by a veteran(s) or which is a service-disabled veteran business enterprise.

12. DETERMINATION OF AWARD. The final ranking results of Step 1 & 2 outlined in Section 0400, Evaluation of Statement of Qualifications, will be considered by the City Manager who may recommend to the City Commission the proposer(s) s/he deems to be in the best interest of the City or may recommend rejection of all Statement of

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Qualifications. The City Manager's recommendation need not be consistent with the scoring results identified herein and takes into consideration Miami Beach City Code Section 2-369, including the following considerations:

- (1) The ability, capacity and skill of the proposer to perform the contract.
- (2) Whether the proposer can perform the contract within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgment, experience and efficiency of the proposer.
- (4) The quality of performance of previous contracts.
- (5) The previous and existing compliance by the proposer with laws and ordinances relating to the contract.

The City Commission shall consider the City Manager's recommendation and may approve such recommendation. The City Commission may also, at its option, reject the City Manager's recommendation and select another Proposer (s) which it deems to be in the best interest of the City, or it may also reject all Statement of Qualifications. Upon approval of selection by the City Commission, negotiations between the City and the selected Proposer (s) will take place to arrive at a mutually acceptable Agreement, including cost of services.

13. ACCEPTANCE OR REJECTION OF RESPONSES. The City reserves the right to reject any or all Statement of Qualifications prior to award. Reasonable efforts will be made to either award the Contract or reject all Statement of Qualifications within one-hundred twenty (120) calendar days after Statement of Qualifications opening date. A proposer may not withdraw its Statement of Qualifications unilaterally before the expiration of one hundred and twenty (120) calendar days from the date of Statement of Qualifications opening.

14. PROPOSER'S RESPONSIBILITY. Before submitting a Statement of Qualifications, each Proposer shall be solely responsible for making any and all investigations, evaluations, and examinations, as it deems necessary, to ascertain all conditions and requirements affecting the full performance of the contract. Ignorance of such conditions and requirements, and/or failure to make such evaluations, investigations, and examinations, will not relieve the Proposer from any obligation to comply with every detail and with all provisions and requirements of the contract, and will not be accepted as a basis for any subsequent claim whatsoever for any monetary consideration on the part of the Proposer.

15. COSTS INCURRED BY RESPONDENTS. All expenses involved with the preparation and submission of Statement of Qualifications, or any work performed in connection therewith, shall be the sole responsibility (and shall be at the sole cost and expense) of the Proposer, and shall not be reimbursed by the City.

16. RELATIONSHIP TO THE CITY. It is the intent of the City, and Proposals hereby acknowledge and agree, that the successful Proposer is considered to be an independent contractor, and that neither the Proposer, nor the Proposer's employees, agents, and/or contractors, shall, under any circumstances, be considered employees or agents of the City.

17. TAXES. The City of Miami Beach is exempt from all Federal Excise and State taxes.

18. MISTAKES. Proposals are expected to examine the terms, conditions, specifications, delivery schedules, proposed pricing, and all instructions pertaining to the goods and services relative to this RFQ. Failure to do so will be at the Proposer's risk and may result in the Statement of Qualifications being non-responsive.

19. PAYMENT. Payment will be made by the City after the goods or services have been received, inspected, and found to comply with contract, specifications, free of damage or defect, and are properly invoiced. Invoices must be consistent with Purchase Order format.

20. PATENTS & ROYALTIES. Proposer shall indemnify and save harmless the City of Miami Beach, Florida, and its officers, employees, contractors, and/or agents, from liability of any nature or kind, including cost and expenses for, or on account of, any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the City of Miami Beach, Florida. If the proposer uses any design, device or materials covered by letters, patent, or copyright, it is mutually understood and agreed, without exception, that the proposal prices shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in the work.

21. MANNER OF PERFORMANCE. Proposer agrees to perform its duties and obligations in a professional manner and in accordance with all applicable Local, State, County, and Federal laws, rules, regulations and codes. Lack of knowledge or ignorance by the proposer with/of applicable laws will in no way be a cause for relief from responsibility. Proposer agrees that the services provided shall be provided by employees that are educated, trained, experienced, certified, and licensed in all areas encompassed within their designated duties. Proposer agrees to furnish to the City any and all documentation, certification, authorization, license, permit, or registration currently required by applicable laws, rules, and regulations. Proposer further certifies that it and its employees will keep all licenses, permits, registrations, authorizations, or certifications required by applicable laws or regulations in full force and effect during the term of this contract. Failure of proposer to comply with this paragraph shall constitute a material breach of this contract.

Where consultant is required to enter or go on to City of Miami Beach property to deliver materials or perform work or services as a result of any contract resulting from this solicitation, the consultant will assume the full duty, obligation and expense of obtaining all necessary licenses, permits, and insurance, and assure all work complies with all applicable laws. The consultant shall be liable for any damages or loss to the City occasioned by negligence of the proposer, or its officers, employees, contractors, and/or agents, for failure to comply with applicable laws.

22. SPECIAL CONDITIONS. Any and all Special Conditions that may vary from these General Terms and Conditions shall have precedence.

23. ANTI-DISCRIMINATION. The proposer certifies that he/she is in compliance with the non-discrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375, relative to equal employment opportunity for all persons without regard to race, color, religion, sex or national origin.

24. DEMONSTRATION OF COMPETENCY.

- A. Pre-award inspection of the Proposer's facility may be made prior to the award of contract.
- B. Statement of Qualifications will only be considered from firms which are regularly engaged in the business of providing the goods and/or services as described in this solicitation.
- C. Proposals must be able to demonstrate a good record of performance for a reasonable period of time, and have sufficient financial capacity, equipment, and organization to ensure that they can satisfactorily perform the services if awarded a contract under the terms and conditions of this solicitation.
- D. The terms "equipment and organization", as used herein shall, be construed to mean a fully equipped and well established company in line with the best business practices in the industry, and as determined by the City of Miami Beach.
- E. The City may consider any evidence available regarding the financial, technical, and other qualifications and abilities of a proposer, including past performance (experience), in making an award that is in the best interest of the City.
- F. The City may require proposer s to show proof that they have been designated as authorized representatives of a manufacturer or supplier, which is the actual source of supply. In these instances, the City may also require material information from the source of supply regarding the quality, packaging, and characteristics of the products to be supply to the City.

25. ASSIGNMENT. The successful proposer shall not assign, transfer, convey, sublet or otherwise dispose of the contract, including any or all of its right, title or interest therein, or his/her or its power to execute such contract, to any person, company or corporation, without the prior written consent of the City.

26. LAWS, PERMITS AND REGULATIONS. The proposer shall obtain and pay for all licenses, permits, and inspection fees required to complete the work and shall comply with all applicable laws.

27. OPTIONAL CONTRACT USAGE. When the successful proposer (s) is in agreement, other units of government or non-profit agencies may participate in purchases pursuant to the award of this contract at the option of the unit of government or non-profit agency.

28. VOLUME OF WORK TO BE RECEIVED BY CONSULTANT. It is the intent of the City to purchase the goods and services specifically listed in this solicitation from the consultant. However, the City reserves the right to purchase any goods or services awarded from state or other governmental contract, or on an as-needed basis through the City's spot market purchase provisions.

29. DISPUTES. In the event of a conflict between the documents, the order of priority of the documents shall be as follows:

- A. Any contract or agreement resulting from the award of this solicitation; then
- B. Addendum issued for this solicitation, with the latest Addendum taking precedence; then
- C. The solicitation; then
- D. The proposer's proposal in response to the solicitation.

30. INDEMNIFICATION. The consultant shall indemnify and hold harmless the City and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the City or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of the agreement by the consultant or its employees, agents, servants, partners, principals or subcontractors. The consultant shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the City, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be incurred thereon. The consultant expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the consultant shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City or its officers, employees, agents and instrumentalities as herein provided. The above indemnification provisions shall survive the expiration or termination of this Agreement.

31. CONTRACT EXTENSION. The City reserves the right to require the Consultant to extend contract past the stated termination date for a period of up to 120 days in the event that a subsequent contract has not yet been awarded. Additional extensions past the 120 days may occur as needed by the City and as mutually agreed upon by the City and the consultant.

32. FLORIDA PUBLIC RECORDS LAW. Proposals are hereby notified that all Bid including, without limitation, any and all information and documentation submitted therewith, are exempt from public records requirements under Section 119.07(1), Florida Statutes, and s. 24(a), Art. 1 of the State Constitution until such time as the City provides notice of an intended decision or until thirty (30) days after opening of the proposals, whichever is earlier. Additionally, Consultant agrees to be in full compliance with Florida Statute 119.0701 including, but not limited to, agreement to (a) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the services; (b) provide the public with access to public records on the same terms and

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conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law; (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; (d) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the consultant upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

33. MODIFICATION/WITHDRAWALS OF QUALIFICATIONS. A Proposer may submit a modified Statement of Qualifications to replace all or any portion of a previously submitted Statement of Qualifications up until the Statement of Qualifications due date and time. Modifications received after the Statement of Qualifications due date and time will not be considered. Statement of Qualifications shall be irrevocable until contract award unless withdrawn in writing prior to the Statement of Qualifications due date, or after expiration of **120** calendar days from the opening of Statement of Qualifications without a contract award. Letters of withdrawal received after the Statement of Qualifications due date and before said expiration date, and letters of withdrawal received after contract award will not be considered.

34. EXCEPTIONS TO RFQ. Proposals must clearly indicate any exceptions they wish to take to any of the terms in this RFQ, and outline what, if any, alternative is being offered. All exceptions and alternatives shall be included and clearly delineated, in writing, in the Statement of Qualifications. The City, at its sole and absolute discretion, may accept or reject any or all exceptions and alternatives. In cases in which exceptions and alternatives are rejected, the City shall require the Proposer to comply with the particular term and/or condition of the RFQ to which Proposer took exception to (as said term and/or condition was originally set forth on the RFQ).

35. ACCEPTANCE OF GIFTS, FAVORS, SERVICES. Proposals shall not offer any gratuities, favors, or anything of monetary value to any official, employee, or agent of the City, for the purpose of influencing consideration of this Statement of Qualifications. Pursuant to Sec. 2-449 of the City Code, no officer or employee of the City shall accept any gift, favor or service that might reasonably tend improperly to influence him in the discharge of his official duties.

SECTION 0300 SUBMITTAL INSTRUCTIONS AND FORMAT

1. SEALED RESPONSES. One original Statement of Qualifications (preferably in 3-ring binder) must be submitted in an opaque, sealed envelope or container on or before the due date established for the receipt of proposals. Additionally, ten (10) bound copies and one (1) electronic format (CD or USB format) are to be submitted. The following information should be clearly marked on the face of the envelope or container in which the proposal is submitted: solicitation number, solicitation title, proposer name, proposer return address. Statement of Qualifications received electronically, either through email or facsimile, are not acceptable and will be rejected.

2. LATE BIDS. Statements of Qualifications are to be received on or before the due date established herein for the receipt of Bids. **Any Bid received after the deadline established for receipt of Statement of Qualifications will be considered late and not be accepted or will be returned to proposer unopened.** The City does not accept responsibility for any delays, natural or otherwise.

3. STATEMENTS OF QUALIFICATIONS FORMAT. In order to maintain comparability, facilitate the review process and assist the Evaluation Committee in review of Statement of Qualifications, it is strongly recommended that Statement of Qualifications be organized and tabbed in accordance with the sections and manner specified below. Hard copy submittal should be tabbed as enumerated below and contain a table of contents with page references. Electronic copies should also be tabbed and contain a table of contents with page references. Statement of Qualifications that do not include the required information will be deemed non-responsive and will not be considered.

TAB 1	Cover Letter & Minimum Qualifications Requirements
<p>1.1 Cover Letter and Table of Contents. The cover letter must indicate Proposer and Proposer Primary Contact for the purposes of this solicitation.</p> <p>1.2 Response Certification, Questionnaire & Requirements Affidavit (Appendix A). Attach Appendix A fully completed and executed.</p> <p>1.3 Minimum Qualifications Requirements. Submit verifiable information documenting compliance with the minimum qualifications requirements established in Appendix C, Minimum Requirements and Specifications.</p>	

TAB 2	Experience & Qualifications
<p>2.1 Qualifications of Proposing Firm. Submit detailed information regarding the firm's history and relevant experience and proven track record of providing the scope of services as identified in this solicitation, including experience in providing scope of services to public sector agencies. Proposer must submit five (5) relevant projects, performed in the last five (5) years as evidence of experience; the following is required: project description, agency name, agency contact, contact telephone & email, and year(s) and term of engagement.</p> <p>2.2 Qualifications of Proposer Team (Architects and Engineers). Provide an organizational chart of all personnel and consultants to be used for this project if awarded, the role that each team member will play in providing the services detailed herein and each team members' qualifications. A resume of each individual, including education, experience, and any other pertinent information, shall be included for each respondent team member to be assigned to this contract.</p> <p>2.3 Similar Experience. Provide detailed responses to the following similar experience factors:</p> <ul style="list-style-type: none"> 2.3.1 Experience with large-scale (100,000 SF) projects that incorporated commercial, residential and/or institutional uses in a complex and dense urban setting. 2.3.2 Experience with pedestrian and bike-friendly Transit Oriented projects and examples of past successes in public/private partnerships. 2.3.3 Experience in establishing development programs for public-private partnerships that have been successfully implemented. 2.3.4 Familiarity and experience with the local and regional development climate and real estate markets. 	

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- 2.3.5 Past successes in dealing with elected officials, community advisory committees and/or neighborhood businesses and residents.
- 2.3.6 Experience with adaptive reuse and historic preservation.
- 2.3.7 Skill and experience in designing public open spaces that contribute to the sense of community and place.
- 2.3.8 Skill and experience designing structured parking that does not detract from urban vitality and design context.
- 2.3.9 Urban design and master planning skills, along with the proven ability to create a sense of community and place, as well as embracing the existing eclectic elements that helps to define an area.
- 2.3.10 Experience conducting public charrettes as a component of public/private engagement.
- 2.3.11 Demonstrated success in embracing and implementing the highest standards of sustainability and environmental sensitivity.
- 2.3.12 Urban design and master planning skills, along with the proven ability to create a sense of community and place, as well as embracing the existing eclectic elements that helps to define an area.
- 2.3.13 Skill and experience in the development of land development regulations that implement a community vision.
- 2.3.14 Ability to work cooperatively and constructively with City staff.

2.4 Standard Form 330. The proposing firm shall submit a completed Standard Form 330 (attached). No proposal will be considered without this required form. In addition to experience and qualifications considerations, the City may use this information to consider the firm's previous and current workload.

2.5 Financial Capacity. Each proposer shall arrange for Dun & Bradstreet to submit a Supplier Qualification Report (SQR) directly to the Procurement Contact named herein. No proposal will be considered without receipt, by the City, of the SQR directly from Dun & Bradstreet. The cost of the preparation of the SQR shall be the responsibility of the Proposer. The Proposer shall request the SQR report from D&B at:

<https://supplierportal.dnb.com/webapp/wcs/stores/servlet/SupplierPortal?storeId=11696>

Proposers are responsible for the accuracy of the information contained in its SQR. It is highly recommended that each proposer review the information contained in its SQR for accuracy prior to submittal to the City and as early as possible in the solicitation process. For assistance with any portion of the SQR submittal process, contact Dun & Bradstreet at 800-424-2495.

TAB 3 Approach and Methodology

Proposal shall describe its approach and methodology in accomplishing the goals of this RFQ as outlined below:

1. Develop the scope and deliverables of the desired master plan in conjunction with City officials and other stakeholders as assigned by the City;
2. Complete a master plan of the district within the agreed to scope and deliverables.

In describing its approach and methodology, proposer shall provide detailed responses on how it will accomplish the desired scopes of the project, by including (but not limited to) the following important elements:

1. Data collection.
2. Public input.
3. Cataloging of historical elements.
4. Environmental, storm water, sea level rise and flooding concerns.
5. Land use considerations.
6. Vision development.
7. Aesthetic standards.

Proposer shall also address how it plans to incorporate Small or Disadvantaged Firms in its delivery of services.

Note: After proposal submittal, the City reserves the right to require additional information from Proposer (or proposer team members or sub-consultants) to determine: qualifications (including, but not limited to, litigation history, regulatory action, or additional references); and financial capability (including, but not limited to, annual reviewed/audited financial statements with the auditors notes for each of their last two complete fiscal years).

SECTION 0400 STATEMENTS OF QUALIFICATIONS EVALUATION

1. Evaluation Committee. An Evaluation Committee, appointed by the City Manager, shall meet to evaluate each Statement of Qualifications in accordance with the requirements set forth in the solicitation. If further information is desired, Proposals may be requested to make additional written submissions of a clarifying nature or oral presentations to the Evaluation Committee. The evaluation of Statement of Qualifications will proceed in a two-step process as noted below. It is important to note that the Evaluation Committee will score the qualitative portions of the Statement of Qualifications only. The Evaluation Committee does not make an award recommendation to the City Manager. The results of Step 1 & Step 2 Evaluations will be forwarded to the City Manager who will utilize the results to make a recommendation to the City Commission.

2. Step 1 Evaluation. Proposals will be categorized into the discipline areas noted in section 0200-2 (Groups A & B) prior to evaluation by the committee in order that proposals may be evaluated by category against other proposers in that category. The first step will consist of the qualitative criteria listed below to be considered by the Evaluation Committee. The second step will consist of quantitative criteria established below to be added to the Evaluation Committee results by the Department of Procurement. An Evaluation Committee, appointed by the City Manager, shall meet to evaluate each Statement of Qualifications in accordance with the qualifications criteria established below for Step 1, Qualitative Criteria. In doing so, the Evaluation Committee may:

- review and score all Statement of Qualifications received, with or without conducting interview sessions; or
- review all Statement of Qualifications received and short-list one or more Proposer to be further considered during subsequent interview session(s) (using the same criteria).

Step 1 - Qualitative Criteria	Maximum Points
Experience and Qualifications	60
Approach and Methodology	40
TOTAL AVAILABLE STEP 1 POINTS	100

3. Step 2 Evaluation. Following the results of Step 1 Evaluation of qualitative criteria, the Proposer may receive additional quantitative criteria points to be added by the Department of Procurement to those points earned in Step 1, as follows.

Step 2 - Quantitative Criteria	
Veterans Preference	5
TOTAL AVAILABLE STEP 2 POINTS	5

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4. Determination of Final Ranking. At the conclusion of the Evaluation Committee Step 1 scoring, Step 2 Points will be added to each evaluation committee member's scores by the Department of Procurement. Step 1 and 2 scores will be converted to rankings in accordance with the example below:

		Proposer A	Proposer B	Proposer C
Committee Member 1	Step 1 Points	82	76	80
	Step 2 Points	10	5	5
	Total	92	81	85
	Rank	1	3	2
Committee Member 2	Step 1 Points	85	85	72
	Step 2 Points	10	5	5
	Total	95	90	77
	Rank	1	2	3
Committee Member 2	Step 1 Points	80	74	66
	Step 2 Points	10	5	5
	Total	90	79	71
	Rank	1	2	3
Low Aggregate Score		3	7	8
Final Ranking*		1	2	3

* Final Ranking is presented to the City Manager for further due diligence and recommendation to the City Commission. Final Ranking does not constitute an award recommendation until such time as the City Manager has made his recommendation to the City Commission, which may be different than final ranking results.

APPENDIX A

MIAMI BEACH

Response Certification, Questionnaire & Requirements Affidavit

RFQ No. 2015-086-YG
Master Planner of the North Beach
District

DEPARTMENT OF PROCUREMENT
1700 Convention Center Drive
Miami Beach, Florida 33139

Solicitation No: RFQ 2015-086-YG	Solicitation Title: Master Planner of the North Beach District	
Procurement Contact: Yusbel Gonzalez, CPPB	Tel: 305-673-7000 Ext. 6230	Email: yusbelgonzalez@miamibeachfl.gov

STATEMENTS OF QUALIFICATIONS CERTIFICATION, QUESTIONNAIRE & REQUIREMENTS AFFIDAVIT

Purpose: The purpose of this Response Certification, Questionnaire and Requirements Affidavit Form is to inform prospective Proposals of certain solicitation and contractual requirements, and to collect necessary information from Proposals in order that certain portions of responsiveness, responsibility and other determining factors and compliance with requirements may be evaluated. **This Statement of Qualifications Certification, Questionnaire and Requirements Affidavit Form is a REQUIRED FORM that must be submitted fully completed and executed.**

1. General Proposer Information.

FIRM NAME:		No. of Employees:
No of Years in Business:		No of Years in Business Locally:
OTHER NAME(S) PROPOSER HAS OPERATED UNDER IN THE LAST 10 YEARS:		
FIRM PRIMARY ADDRESS (HEADQUARTERS):		
CITY:		
STATE:	ZIP CODE:	
TELEPHONE NO.:		
TOLL FREE NO.:		
FAX NO.:		
FIRM LOCAL ADDRESS:		
CITY:		
STATE:	ZIP CODE:	
PRIMARY ACCOUNT REPRESENTATIVE FOR THIS ENGAGEMENT:		
ACCOUNT REP TELEPHONE NO.:		
ACCOUNT REP TOLL FREE NO.:		
ACCOUNT REP EMAIL:		
FEDERAL TAX IDENTIFICATION NO.:		

The City reserves the right to seek additional information from proposer or other source(s), including but not limited to: any firm or principal information, applicable licensure, resumes of relevant individuals, client information, financial information, or any information the City deems necessary to evaluate the capacity of the proposer to perform in accordance with contract requirements.

1. **Veteran Owned Business.** Is proposer claiming a veteran owned business status?
 YES NO

SUBMITTAL REQUIREMENT: Proposals claiming veteran owned business status shall submit a documentation proving that firm is certified as a veteran-owned business or a service-disabled veteran owned business by the State of Florida or United States federal government, as required pursuant to ordinance 2011-3748.

2. **Conflict Of Interest.** All Proposals must disclose, in their Statement of Qualifications, the name(s) of any officer, director, agent, or immediate family member (spouse, parent, sibling, and child) who is also an employee of the City of Miami Beach. Further, all Proposals must disclose the name of any City employee who owns, either directly or indirectly, an interest of ten (10%) percent or more in the Proposer entity or any of its affiliates.

SUBMITTAL REQUIREMENT: Proposals must disclose the name(s) of any officer, director, agent, or immediate family member (spouse, parent, sibling, and child) who is also an employee of the City of Miami Beach. Proposals must also disclose the name of any City employee who owns, either directly or indirectly, an interest of ten (10%) percent or more in the Proposer entity or any of its affiliates

3. **References & Past Performance.** Proposer shall submit at least three (3) references for whom the proposer has completed work similar in size and nature as the work referenced in solicitation.

SUBMITTAL REQUIREMENT: For each reference submitted, the following information is required: 1) Firm Name, 2) Contact Individual Name & Title, 3) Address, 4) Telephone, 5) Contact's Email and 6) Narrative on Scope of Services Provided.

4. **Suspension, Debarment or Contract Cancellation.** Has proposer ever been debarred, suspended or other legal violation, or had a contract cancelled due to non-performance by any public sector agency?
 YES NO

SUBMITTAL REQUIREMENT: If answer to above is "YES," Proposer shall submit a statement detailing the reasons that led to action(s).

5. **Vendor Campaign Contributions.** Proposals are expected to be or become familiar with, the City's Campaign Finance Reform laws, as codified in Sections 2-487 through 2-490 of the City Code. Proposals shall be solely responsible for ensuring that all applicable provisions of the City's Campaign Finance Reform laws are complied with, and shall be subject to any and all sanctions, as prescribed therein, including disqualification of their Statement of Qualifications, in the event of such non-compliance.

SUBMITTAL REQUIREMENT: Submit the names of all individuals or entities (including your sub-consultants) with a controlling financial interest as defined in solicitation. For each individual or entity with a controlling financial interest indicate whether or not each individual or entity has contributed to the campaign either directly or indirectly, of a candidate who has been elected to the office of Mayor or City Commissioner for the City of Miami Beach.

6. **Code of Business Ethics.** Pursuant to City Resolution No.2000-23879, each person or entity that seeks to do business with the City shall adopt a Code of Business Ethics ("Code") and submit that Code to the Procurement Division with its proposal/response or within five (5) days upon receipt of request. The Code shall, at a minimum, require the Proposer, to comply with all applicable governmental rules and regulations including, among others, the conflict of interest, lobbying and ethics provision of the City of Miami Beach and Miami Dade County.

SUBMITTAL REQUIREMENT: Proposer shall submit firm's Code of Business Ethics. In lieu of submitting Code of Business Ethics, proposer may submit a statement indicating that it will adopt, as required in the ordinance, the City of Miami Beach Code of Ethics, available at www.miamibeachfl.gov/procurement/.

7. **Living Wage.** Pursuant to Section 2-408 of the Miami Beach City Code, as same may be amended from time to time, proposers shall be required to pay all covered employees who provide services pursuant to this Agreement, the hourly living wage rates listed below:

- Currently, the hourly living wage rate is \$11.28/hr with health benefits of at least \$1.64 an hour, or a living wage of not less than \$12.92 an hour without health benefits.
- Commencing January 1, 2015, the hourly living wage rate will be \$11.62/hr with health benefits of at least \$1.69 an hour, or a living wage of not less than \$13.31/hr without health benefits.

The living wage rate and health care benefits rate may, by Resolution of the City Commission be indexed annually for inflation using the Consumer Price Index for all Urban Consumers (CPI-U) Miami/Ft. Lauderdale, issued by the U.S. Department of Labor's Bureau of Labor Statistics. Notwithstanding the preceding, no annual index shall exceed three percent (3%). The City may also, by resolution, elect not to index the living wage rate in any particular year, if it determines it would not be fiscally sound to implement same (in a particular year).

Proposers' failure to comply with this provision shall be deemed a material breach under this bid, under which the City may, at its sole option, immediately deem said proposer as non-responsive, and may further subject proposer to additional penalties and fines, as provided in the City's Living Wage Ordinance, as amended. For further information about Living Wage requirements, please contact the City's Contracts Compliance Administrator at 305-673-7490.

SUBMITTAL REQUIREMENT: No additional submittal is required. By virtue of executing this affidavit document, Proposer agrees to the living wage requirement.

8. **Equal Benefits for Employees with Spouses and Employees with Domestic Partners.** When awarding competitively solicited contracts valued at over \$100,000 whose contractors maintain 51 or more full time employees on their payrolls during 20 or more calendar work weeks, the Equal Benefits for Domestic Partners Ordinance 2005-3494 requires certain contractors doing business with the City of Miami Beach, who are awarded a contract pursuant to competitive proposals, to provide "Equal Benefits" to their employees with domestic partners, as they provide to employees with spouses. The Ordinance applies to all employees of a Contractor who work within the City limits of the City of Miami Beach, Florida; and the Contractor's employees located in the United States, but outside of the City of Miami Beach limits, who are directly performing work on the contract within the City of Miami Beach.

- A. Does your company provide or offer access to any benefits to employees with spouses or to spouses of employees?
 YES NO
- B. Does your company provide or offer access to any benefits to employees with (same or opposite sex) domestic partners* or to domestic partners of employees?
 YES NO
- C. Please check all benefits that apply to your answers above and list in the "other" section any additional benefits not already specified. Note: some benefits are provided to employees because they have a spouse or domestic partner, such as bereavement leave; other benefits are provided directly to the spouse or domestic partner, such as medical insurance.

BENEFIT	Firm Provides for Employees with Spouses	Firm Provides for Employees with Domestic Partners	Firm does not Provide Benefit
Health			
Sick Leave			
Family Medical Leave			
Bereavement Leave			

If Proposer cannot offer a benefit to domestic partners because of reasons outside your control, (e.g., there are no insurance providers in your area willing to offer domestic partner coverage) you may be eligible for Reasonable Measures compliance. To comply on this basis, you must agree to pay a cash equivalent and submit a completed Reasonable Measures Application (attached) with all necessary documentation. Your Reasonable Measures Application will be reviewed for consideration by the City Manager, or his designee. Approval is not guaranteed and the City Manager's decision is final. Further information on the Equal Benefits requirement is available at www.miamibeachfl.gov/procurement/.

9. **Public Entity Crimes.** Section 287.133(2)(a), Florida Statutes, as currently enacted or as amended from time to time, states that 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 proposal, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a proposal, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit proposals, Statement of Qualifications, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. [287.017](#) for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

SUBMITTAL REQUIREMENT: No additional submittal is required. By virtue of executing this affidavit document, proposer agrees with the requirements of Section 287.133, Florida Statutes, and certifies it has not been placed on convicted vendor list.

10. **Acknowledgement of Addendum.** After issuance of solicitation, the City may release one or more addendum to the solicitation which may provide additional information to Proposer or alter solicitation requirements. The City will strive to reach every Proposer having received solicitation through the City's e-procurement system, PublicPurchase.com. However, Proposals are solely responsible for assuring they have received any and all addendum issued pursuant to solicitation. This Acknowledgement of Addendum section certifies that the Proposer has received all addendum released by the City pursuant to this solicitation. Failure to obtain and acknowledge receipt of all addendum may result in proposal disqualification.

Initial to Confirm Receipt		Initial to Confirm Receipt		Initial to Confirm Receipt	
	Addendum 1		Addendum 6		Addendum 11
	Addendum 2		Addendum 7		Addendum 12
	Addendum 3		Addendum 8		Addendum 13
	Addendum 4		Addendum 9		Addendum 14
	Addendum 5		Addendum 10		Addendum 15

If additional confirmation of addendum is required, submit under separate cover.

DISCLOSURE AND DISCLAIMER SECTION

The solicitation referenced herein is being furnished to the recipient by the City of Miami Beach (the "City") for the recipient's convenience. Any action taken by the City in response to Statement of Qualifications made pursuant to this solicitation, or in making any award, or in failing or refusing to make any award pursuant to such Statement of Qualifications, or in cancelling awards, or in withdrawing or cancelling this solicitation, either before or after issuance of an award, shall be without any liability or obligation on the part of the City.

In its sole discretion, the City may withdraw the solicitation either before or after receiving Statement of Qualifications, may accept or reject Statement of Qualifications, and may accept Statement of Qualifications which deviate from the solicitation, as it deems appropriate and in its best interest. In its sole discretion, the City may determine the qualifications and acceptability of any party or parties submitting Statement of Qualifications in response to this solicitation.

Following submission of Statement of Qualifications, the applicant agrees to deliver such further details, information and assurances, including financial and disclosure data, relating to the Statement of Qualifications and the applicant including, without limitation, the applicant's affiliates, officers, directors, shareholders, partners and employees, as requested by the City in its discretion.

The information contained herein is provided solely for the convenience of prospective Proposals. It is the responsibility of the recipient to assure itself that information contained herein is accurate and complete. The City does not provide any assurances as to the accuracy of any information in this solicitation.

Any reliance on these contents, or on any permitted communications with City officials, shall be at the recipient's own risk. Proposals should rely exclusively on their own investigations, interpretations, and analyses. The solicitation is being provided by the City without any warranty or representation, express or implied, as to its content, its accuracy, or its completeness. No warranty or representation is made by the City or its agents that any Statement of Qualifications conforming to these requirements will be selected for consideration, negotiation, or approval.

The City shall have no obligation or liability with respect to this solicitation, the selection and the award process, or whether any award will be made. Any recipient of this solicitation who responds hereto fully acknowledges all the provisions of this Disclosure and Disclaimer, is totally relying on this Disclosure and Disclaimer, and agrees to be bound by the terms hereof. Any Statement of Qualifications submitted to the City pursuant to this solicitation are submitted at the sole risk and responsibility of the party submitting such Statement of Qualifications.

This solicitation is made subject to correction of errors, omissions, or withdrawal from the market without notice. Information is for guidance only, and does not constitute all or any part of an agreement.

The City and all Proposals will be bound only as, if and when a Statement of Qualifications, as same may be modified, and the applicable definitive agreements pertaining thereto, are approved and executed by the parties, and then only pursuant to the terms of the definitive agreements executed among the parties. Any response to this solicitation may be accepted or rejected by the City for any reason, or for no reason, without any resultant liability to the City.

The City is governed by the Government-in-the-Sunshine Law, and all Statement of Qualifications and supporting documents shall be subject to disclosure as required by such law. All Statement of Qualifications shall be submitted in sealed proposal form and shall remain confidential to the extent permitted by Florida Statutes, until the date and time selected for opening the responses. At that time, all documents received by the City shall become public records.

Proposals are expected to make all disclosures and declarations as requested in this solicitation. By submission of a Statement of Qualifications, the Proposer acknowledges and agrees that the City has the right to make any inquiry or investigation it deems appropriate to substantiate or supplement information contained in the Statement of Qualifications, and authorizes the release to the City of any and all information sought in such inquiry or investigation. Each Proposer certifies that the information contained in the Statement of Qualifications is true, accurate and complete, to the best of its knowledge, information, and belief.

Notwithstanding the foregoing or anything contained in the solicitation, all Proposals agree that in the event of a final unappealable judgment by a court of competent jurisdiction which imposes on the City any liability arising out of this solicitation, or any response thereto, or any action or inaction by the City with respect thereto, such liability shall be limited to \$10,000.00 as agreed-upon and liquidated damages. The previous sentence, however, shall not be construed to circumvent any of the other provisions of this Disclosure and Disclaimer which imposes no liability on the City.

In the event of any differences in language between this Disclosure and Disclaimer and the balance of the solicitation, it is understood that the provisions of this Disclosure and Disclaimer shall always govern. The solicitation and any disputes arising from the solicitation shall be governed by and construed in accordance with the laws of the State of Florida.

PROPOSER CERTIFICATION

I hereby certify that: I, as an authorized agent of the Proposer, am submitting the following information as my firm's proposal; Proposer agrees to complete and unconditional acceptance of the terms and conditions of this document, inclusive of this solicitation, all attachments, exhibits and appendices and the contents of any Addenda released hereto, and the Disclosure and Disclaimer Statement; proposer agrees to be bound to any and all specifications, terms and conditions contained in the solicitation, and any released Addenda and understand that the following are requirements of this solicitation and failure to comply will result in disqualification of proposal submitted; Proposer has not divulged, discussed, or compared the proposal with other Proposals and has not colluded with any other proposer or party to any other proposal; proposer acknowledges that all information contained herein is part of the public domain as defined by the State of Florida Sunshine and Public Records Laws; all responses, data and information contained in this proposal, inclusive of the Statement of Qualifications Certification, Questionnaire and Requirements Affidavit are true and accurate.

Name of Proposer 's Authorized Representative:	Title of Proposer 's Authorized Representative:
Signature of Proposer 's Authorized Representative:	Date:

State of FLORIDA)
)
 County of _____)
 of _____, a corporation, and that the instrument was signed in behalf of
 the said corporation by authority of its board of directors and acknowledged said
 instrument to be its voluntary act and deed. Before me:

 Notary Public for the State of Florida
 My Commission Expires: _____.

APPENDIX B

MIAMI BEACH

“ No Bid ” Form

RFQ No. 2015-086-YG
Master Planner of the North Beach
District

DEPARTMENT OF PROCUREMENT
1700 Convention Center Drive
Miami Beach, Florida 33139

Note: It is important for those vendors who have received notification of this solicitation but have decided not to respond, to complete and submit the attached “Statement of No Bid.” The “Statement of No Bid” provides the City with information on how to improve the solicitation process. Failure to submit a “Statement of No Bid” may result in not being notified of future solicitations by the City.

Statement of No Bid

WE HAVE ELECTED NOT TO SUBMIT A STATEMENTS OF QUALIFICATIONS AT THIS TIME FOR REASON(S) CHECKED AND/OR INDICATED BELOW:

- Workload does not allow us to proposal
- Insufficient time to respond
- Specifications unclear or too restrictive
- Unable to meet specifications
- Unable to meet service requirements
- Unable to meet insurance requirements
- Do not offer this product/service
- OTHER. (Please specify)

We do do not want to be retained on your mailing list for future proposals of this type product and/or service.

Signature: _____

Title: _____

Legal Company Name: _____

Note: Failure to respond, either by submitting a proposal or this completed form, may result in your company being removed from our vendors list.

PLEASE RETURN TO:
CITY OF MIAMI BEACH
DEPT. OF PROCUREMENT MANAGEMENT
ATTN: **Yusbel Gonzalez**
STATEMENTS OF QUALIFICATIONS #**2015-086-YG**
1700 Convention Center Drive
MIAMI BEACH, FL 33139

APPENDIX C

MIAMI BEACH

Minimum Requirements & Specifications

RFQ No. 2015-086-YG
Master Planner of the North Beach
District

DEPARTMENT OF PROCUREMENT
1700 Convention Center Drive
Miami Beach, Florida 33139

C1. MINIMUM REQUIREMENTS:

The Minimum Eligibility Requirements for this solicitation are listed below. Proposer shall submit detailed verifiable information affirmatively documenting compliance with each minimum requirement. Proposals that fail to comply with minimum requirements will be deemed non-responsive and will not be considered.

1. Proposer must have a minimum of five (5) years' experience and have completed at least five (5) projects similar in scope.
2. Architects and engineers must be licensed by the Florida Department of Business and Professional Regulation.

C2. SCOPE OF WORK REQUIRED. The City of Miami Beach is soliciting "Statements of Qualifications" that the City may utilize to select a Master Planner for the North Beach District. The North Beach District Master Plan will be focused on the area of the City that is north of 63rd Street. The City is seeking services from a consulting firm or team with master planning, revitalization, redevelopment, design, development, and implementation experience to assist the City in the following:

1. develop the scope and deliverables of the desired master plan in conjunction with City officials and other stakeholders as assigned by the City;
2. complete a master plan of the district within the agreed to scope and deliverables.

The study area will be the North Beach section of the City, which is located north of 63rd Street to the northern city limit at 87th Terrace. Major developments have been built and historic structures have been restored in all parts of the City in the recent past with the exception of the North Beach area, where investment has been lagging.

The City has been studying ways to encourage and promote appropriate, redevelopment activity for the 71st Street Corridor and Ocean Terrace, as well as encourage the preservation and restoration of contributing buildings in the North Shore and Normandy Isles National Register Districts. In addition the City will be looking at appropriate ways to develop the City-owned "West Lots".

At the request of the Mayor's Blue Ribbon Panel on North Beach the City seeks a qualified world class consultant to establish a North Beach Master Plan. Once a qualified consultant is selected, the City expects to work with the consultant to determine the scope of services for and refined study area for the North Beach Master Plan.

APPENDIX D

MIAMI BEACH

Special Conditions

RFQ No. 2015-086-YG
Master Planner of the North Beach
District

DEPARTMENT OF PROCUREMENT
1700 Convention Center Drive
Miami Beach, Florida 33139

1. **TERM OF CONTRACT.** Not Applicable.
2. **OPTIONS TO RENEW.** Not Applicable.
3. **PRICES.** Not Applicable.
4. **EXAMINATION OF FACILITIES.** Not Applicable.
5. **INDEMNIFICATION.** Not Applicable.
6. **PERFORMANCE BOND.** Not Applicable.
7. **REQUIRED CERTIFICATIONS.** Not Applicable.
8. **SHIPPING TERMS.** Not Applicable.
9. **DELIVERY REQUIREMENTS.** Not Applicable.
10. **WARRANTY REQUIREMENTS.** Not Applicable.
11. **BACKGROUND CHECKS.** Not Applicable.
12. **PRECLUSIONS.** The selected Proposer(s) will not be precluded from providing architectural/engineering services to the City for a subsequent phase of this project.
13. **COMPETITIVE SPECIFICATIONS.** It is the goal of the City to maximize competition for the project among suppliers & contractors. Consultant shall endeavor to prepare all documents, plans & specifications that are in accordance with this goal. Under no condition shall Consultant include means & methods or product specifications that are considered "sole source" or restricted without prior written approval of the City.

APPENDIX E

MIAMI BEACH

Insurance Requirements

RFQ No. 2015-086-YG
Master Planner of the North Beach
District

DEPARTMENT OF PROCUREMENT MANAGEMENT
1700 Convention Center Drive
Miami Beach, Florida 33139

MIAMI BEACH

INSURANCE REQUIREMENTS

This document sets forth the minimum levels of insurance that the contractor is required to maintain throughout the term of the contract and any renewal periods.

The provider shall furnish to Department of Procurement, City of Miami Beach, 1700 Convention Center Drive, 3rd Floor, Miami Beach, Florida 33139, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Worker's Compensation Insurance for all employees of the vendor as required by Florida Statute 440.
- B. Commercial General Liability on a comprehensive basis in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage. **City of Miami Beach must be shown as an additional insured with respect to this coverage.**
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
- D. Professional Liability Insurance in an amount not less than \$2,000,000 with the deductible per claim, if any, not to exceed 10% of the limit of liability.

A waiver of subrogation in favor of the City must be included for the policies required above. The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the vendor.

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

The company must be rated no less than "B+" as to management, and no less than "Class V" as to financial strength, by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the City Risk Management Division.

or

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

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

**CERTIFICATE HOLDER MUST READ:
CITY OF MIAMI BEACH
1700 CONVENTION CENTER DRIVE
3rd FLOOR
MIAMI BEACH, FL 33139**

Compliance with the foregoing requirements shall not relieve the vendor of his liability and obligation under this section or under any other section of this agreement.

The City of Miami Beach is self-insured. Any and all claim payments made from self-insurance are subject to the limits and provisions of Florida Statute 768.28, the Florida Constitution, and any other applicable Statutes.

APPENDIX F

MIAMI BEACH

Sample Contract

RFQ No. 2015-086-YG
Master Planner of the North Beach
District

DEPARTMENT OF PROCUREMENT
1700 Convention Center Drive
Miami Beach, Florida 33139

AGREEMENT BETWEEN

CITY OF MIAMI BEACH

AND

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

FOR

PROFESSIONAL ARCHITECTURE AND ENGINEERING SERVICES

FOR THE

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Resolution No. _____

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TERMS AND CONDITIONS OF AGREEMENT

BETWEEN THE CITY OF MIAMI BEACH
AND
XXXXXXXXXXXXXXXXXXXXXXXXXXXX
FOR
PROFESSIONAL ARCHITECTURE AND ENGINEERING (A/E) SERVICES

FOR THE

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

This Agreement made and entered into this ___ day of _____, 20XX, by and between the CITY OF MIAMI BEACH, a municipal corporation existing under the laws of the State of Florida, having its principal offices at 1700 Convention Center Drive, Miami Beach, Florida, 33139, (hereinafter referred to as City), and XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX, a Florida XXXXXXXXXXX having its principal office at XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX (hereinafter referred to as Consultant).

WITNESSETH:

WHEREAS, the City intends to undertake a project within the City of Miami Beach, which is more particularly described in the Scope of Services attached as **Schedule "A"** hereto, and wishes to engage the Consultant to provide specific professional services including, without limitation, A/E services, for the Project, at the agreed fees set forth in this Agreement; and

WHEREAS, the Consultant desires to contract with the City for performance of the aforestated professional services relative to the Project, as hereinafter set forth; and

NOW THEREFORE, City and Consultant, in consideration of the mutual covenants and agreement herein contained, agree as follows:

ARTICLE 1. DEFINITIONS

1.1 **CITY (OR OWNER):** The “City” shall mean the City of Miami Beach, a Florida municipal corporation having its principal offices at 1700 Convention Center Drive, Miami Beach, Florida, 33139.

1.2 **CITY COMMISSION:** “City Commission” shall mean the governing and legislative body of the City.

1.3 **CITY MANAGER:** The “City Manager” shall mean the chief administrative officer of the City. The City Manager shall be construed to include any duly authorized representatives designated in writing (including the Project Coordinator) with respect to any specific matter(s) concerning the Services and/or this Agreement (exclusive of those authorizations reserved to the City Commission or regulatory or administrative bodies having jurisdiction over any matter(s) related to the Project, the Services, and/or this Agreement).

1.4 **PROPOSAL DOCUMENTS:** “Proposal Documents” shall mean Request for XXXXXXXXXXXXX No. XXXXXXXXXXXX, entitled “XX” issued by the City in contemplation of this Agreement, together with all amendments thereto (if any), and the Consultant’s proposal in response thereto (Proposal), which is incorporated by reference to this Agreement and made a part hereof; provided, however, that in the event of an express conflict between the Proposal Documents and this Agreement, the Agreement shall prevail.

1.5 **CONSULTANT:** The named entity on page 1 of this Agreement, the “Consultant” shall mean the architect/engineer who has entered into a contract with the City to provide the Services described under this Agreement. When the term “Consultant” is used in this Agreement it shall also be deemed to include any officers, employees, sub-consultants, agents, and any other person or entity acting under the supervision, direction, or control of Consultant. Any sub-consultants retained by Consultant for the Project shall be subject to the prior written approval of the City Manager. Consultant shall provide the Project Coordinator with copies of the contract between Consultant and any sub-consultant’s. Any such contracts shall contain provisions that preserve and protect the rights of the City under this Agreement. Nothing contained in this Agreement shall create any contractual relationship between the City and sub-consultants. Any approval of a sub-consultant by the City shall not, in any way, shift the responsibility for the quality and acceptability by the City of the services performed by the sub-consultant, from the

Consultant to City. Payment of sub-consultants shall be the responsibility of the Consultant, and shall not be cause for any increase in compensation to the Consultant for payment of the Basic Services. The quality of services and acceptability to the City of the services performed by such sub-consultants shall be the sole responsibility of Consultant.

The following sub-consultants are hereby approved by the City Manager for the Project:

XXXXXXXXXXXXXXXXXXXXXXXXXX;
XXXXXXXXXXXXXXXXXXXXXXXXXX.

1.6 **PROJECT COORDINATOR:** The “Project Coordinator” shall mean the individual designated in writing by the City Manager who shall be the City’s authorized representative to coordinate, direct, and review (on behalf of the City) all matters related to the Project during the design and construction of the Project (unless expressly provided otherwise in this Agreement or the Contract Documents).

1.7 [Intentionally Omitted]

1.8 **BASIC SERVICES:** “Basic Services” shall include those services which Consultant shall perform in accordance with the terms of the Agreement (and as required to complete the Project), as further described in Article 2 and Schedule “A” hereto. In addition any Services not specifically addressed as Additional Services (as defined herein) shall be considered Basic Services.

1.9 **PROJECT:** The “Project” shall mean that certain City capital project that has been approved by the City Commission and is described in Schedule “A” hereto.

1.9.1 **Project Cost:** The “Project Cost”, shall mean the estimated total cost of the Project, as prepared and established by the City, including the estimated Construction Cost and Soft Costs. The Project Cost may, from time to time, be revised or adjusted by the City, in its sole discretion, to accommodate approved modifications or changes to the Project or scope of work.

1.9.2 **Project Scope:** The “Project Scope” shall mean the description of the Project in Schedule “A” hereto.

1.10 **CONSTRUCTION COST:** The “Construction Cost” shall mean the sum which is the

actual total cost to the City of the Work (as established in the Contract Documents, as they may be amended from time to time), including a contingency allowance for unforeseen conditions, not to exceed ten percent (10%) of the construction cost for new construction, or twenty percent (20%) of the construction cost for rehabilitation of historic buildings.

For Work not constructed, the Construction Cost shall be the same as the lowest bona fide bid or competitive bid received and accepted from a responsive and responsible bidder or proposer for such Work.

1.10.1 **Construction Cost Budget:** The “Construction Cost Budget” shall mean the amount budgeted by the City for the Construction Cost, as set forth in Schedule “A” hereto.

1.10.2 **Statement Of Probable Construction Cost:** The “Statement of Probable Construction Cost” shall mean the latest approved written estimate of Construction Cost submitted by Consultant to the City, in a format approved by the Project Coordinator.

For Work which bids or proposals have not been let, the Statement of Probable Construction Cost shall be the same as the Construction Cost.

1.11 **FORCE MAJEURE:** “Force Majeure” shall mean any delay occasioned by superior or irresistible force occasioned by violence in nature without the interference of human agency such as hurricanes, tornadoes, floods, loss caused by fire and other similar unavoidable casualties; or by changes in Federal, State or local laws, ordinances, codes or regulations enacted after the date of this Agreement ; or other causes beyond the parties’ control which have, or may be reasonably expected to have, a material adverse effect on the Project, or on the rights and obligations of the parties under this Agreement and which, by the exercise of due diligence, such parties shall not have been able to avoid; provided, however, that inclement weather (except as noted above), the acts or omissions of sub-consultants/sub-contractors, market conditions, labor conditions, construction industry price trends, and similar matters which normally impact on the construction process SHALL NOT be considered a Force Majeure.

If the Consultant is delayed in performing any obligation under this Agreement due to a force majeure, the Consultant shall request a time extension from the Project Coordinator within five (5) business days of said force majeure. Any time extension shall be subject to mutual agreement and shall not be cause for any claim by the Consultant for extra compensation, unless additional services are required, and approved pursuant to Article 5 hereof.

1.12 **CONTRACTOR:** "Contractor" shall mean the individual or individuals, firm, company, corporation, joint venture, or other entity contracting with City for performance of the Work covered in the Contract Documents.

1.13 **CONTRACT DOCUMENTS:** "Contract Documents" shall mean this Agreement (together with all exhibits, addenda, and written amendments issued thereto), and the documents prepared by Consultant in accordance with the requirements of the Scope of Services in Schedule "A" hereto (that form the basis for which the City can receive bids for the Work included in the documents). The Contract Documents shall also include, without limitation (together with all exhibits, addenda, and written amendments issued thereto), the invitation to bid (ITB), instructions to bidders, bid form, bid bond, the Contract for Construction, surety payment and performance bonds, Conditions of the Contract for Construction [General, Supplementary, and other Conditions], Divisions 0-17, Construction Documents, an approved Change Order(s), approved Construction Change Directive(s), and/or approved written order(s) for a minor change in the Work.

1.14 **CONTRACT FOR CONSTRUCTION:** "Contract for Construction" shall mean the legally binding agreement between City and with Contractor for performance of the Work covered in the Contract Documents.

1.15 **CONSTRUCTION DOCUMENTS:** "Construction Documents" shall mean the final plans, technical specifications, drawings, documents, and diagrams prepared by the Consultant pursuant to this Agreement, which show the locations, characters, dimensions and details of the Work to be done, and which are part of the Contract Documents.

1.16 **CONTRACT AMENDMENT:** "Contract Amendment" shall mean a written modification to the Agreement approved by the City (as specified below) and executed between City and Consultant, covering changes, additions, or reductions in the terms of this Agreement including, without limitation, authorizing a change in the Project, or the method and manner of performance thereof, or an adjustment in the fee and/or completion dates.

Contract Amendments shall be approved by the City Commission if they exceed fifty thousand dollars (\$50,000.00) or the City Manager if they are fifty thousand dollars (\$50,000.00) or less (or other such amount as may be specified by the City of Miami Beach Procurement Ordinance, as amended). Even for Contract Amendments for less than twenty-five thousand (\$25,000.00), the City Manager reserves the right to seek and obtain concurrence of the City Commission for

approval of any such Contract Amendment.

1.17 **ADDITIONAL SERVICES:** “Additional Services” shall mean those services, in addition to the Basic Services in this Agreement, which the Consultant shall perform, at the City’s option, and which have been duly authorized, in writing, by the City Manager or his authorized designee, prior to commencement of same.

1.18 **WORK:** “Work” shall mean all labor, materials, tools, equipment, services, methods, procedures, etc. necessary or convenient to performance by Contractor of all duties and obligations proposed by the Contract Documents.

1.19 **SERVICES:** “Services” shall mean all services, work, and actions by the Consultant performed pursuant to or undertaken under this Agreement.

1.20 **SOFT COSTS:** “Soft Costs” shall mean costs related to the Project other than Construction Cost including, without limitation, Consultant’s Basic Services, Additional Services, surveys, testing, general consultant, financing, and permitting fees, etc.

1.21 **BASE BID:** “Base Bid” shall mean the elements contained in the Construction Documents recommended by the Consultant (and approved by the City) as being within the Construction Cost Budget. “Base Bid” shall not include Additive Alternates or Deductive Alternates.

1.22 **SCOPE OF SERVICES:** “Scope of Services” shall include the Project Scope, Basic Services, and any Additional Services (as approved by the City), all as described in Schedule “A” hereto.

1.23 **SCHEDULES:** “Schedules” shall mean the various schedules attached to this Agreement and referred to as follows:

Schedule A – Scope of Services.

Schedule B – Consultant Compensation.

Schedule C – Consultant Hourly Billing Rate Schedule.

Schedule D – Construction Cost Budget.

Schedule E – Project Schedule.

Schedule F – General Conditions of the Contract for Construction

Schedule G – Insurance Requirements and Sworn Affidavits

Schedule H – Best Value Amendment

ARTICLE 2. BASIC SERVICES

2.1 The Consultant shall provide Basic Services for the Project, as required by the Contract Documents and as set forth in Schedule “A” hereto.

2.2 The Services will be commenced upon issuance of the first Notice to Proceed which shall be issued by the Project Coordinator and counter-signed by Consultant. Subsequent Notices to Proceed shall also be issued by the Project Coordinator.

A separate Notice to Proceed shall be required prior to commencement of each Task (as same are set forth in Schedule “A” hereto).

2.3 As it relates to the Services and the Project, Consultant warrants and represents to City that it is knowledgeable of Federal, State, and local laws codes, rules and regulations applicable in the jurisdiction(s) in which the Project is located, including, without limitation, applicable Florida Statutes, and State of Florida codes, rules and regulations, and local (City of Miami Beach and Miami-Dade County) ordinances, codes, and rules and regulations (collectively, “Applicable Laws”). As they relate to the Services and to the Project, the Consultant agrees to comply with all such Applicable Laws, whether now in effect or as may be amended or adopted from time to time, and shall further take into account all known pending changes to the foregoing of which it should reasonably be aware.

Recognizing that the construction of other projects within the City may affect scheduling of the construction for the Project, the Consultant shall diligently coordinate performance of the Services with the City (through the Project Coordinator) in order to provide for the safe, expeditious, economical and efficient completion of the Project, without negatively impacting concurrent work by others. The Consultant shall coordinate the Services with all of its sub-consultants, as well as other consultants, including, without limitation, City provided consultants (if any).

2.4 The Consultant warrants and represents to City that all of the Services required under this Agreement shall be performed in accordance with the standard of care normally exercised in the design of comparable projects in South Florida. Consultant warrants and represents to the City that it is experienced, fully qualified, and properly licensed (pursuant to Applicable Laws) to

perform the Services. Consultant warrants and represents to City that it is responsible for the technical accuracy of the Services (including, without limitation, the Design Documents contemplated in Schedule "A" hereto).

2.5 The Consultant's Basic Services shall consist of five (5) Tasks (inclusive of planning, design, bidding/award, construction administration, and Additional Services [as may be approved]), all as further described in Schedule "A" hereto; and shall also include any and all of Consultant's responsibilities and obligations with respect to the Project, as set forth in the General Conditions of the Contract for Construction (attached as **Schedule "F"** hereto).

2.5.1 **Planning Services:**

Consultant shall provide planning services for the Project, as required by the Contract Documents and as set forth in Task 1 of Schedule "A" hereto (entitled "Planning Services").

2.5.2 **Design Services:**

Consultant shall prepare Design Documents for the Project, as required by the Contract Documents and as set forth in Task 2 of Schedule "A" hereto (entitled "Design Services")

2.5.3 **Bidding And Award Services:**

Consultant shall provide bidding and award services for the Project, as required by the Contract Documents and as set forth in Task 3 of Schedule "A" hereto (entitled "Bidding and Award Services").

2.5.4 **Construction Administration Services:**

Consultant shall provide construction administration services for the Project, as required by the Contract Documents and as set forth in Task 4 of Schedule "A" hereto (entitled "Construction Administration Services").

2.5.5 **Additional Services:**

If required (and so approved) by the City, Consultant shall provide Additional Services, as set forth in Task 5 of Schedule "A" hereto.

2.6 **RESPONSIBILITY FOR CLAIMS AND LIABILITIES:** Written decisions and/or approvals issued by the City shall not constitute nor be deemed a release of the responsibility and liability of the Consultant (or of any of its officers, employees, sub-consultants, agents, and/or servants), for

the accuracy and competency of its/their designs, working drawings, plans, technical specifications, or other technical documents, nor shall such approval and/or decisions be deemed to be an assumption of such responsibility by the City for a defect, error or omission in designs, working drawings, plans, technical specifications, or other technical documents; provided, however, that the Consultant shall be entitled to reasonably rely upon the accuracy and validity of written decisions and approvals furnished by the City pursuant to this Agreement.

2.7 **TIME:** It is understood that time is of the essence in the completion of the Project and, in this respect, the parties agree as follows:

2.7.1 **Term:** The term of this Agreement shall commence upon execution by the parties (subject to approval of the Agreement by the Mayor and City Commission) (the Effective Date), and shall be in effect until all Services are completed or until the work and/or services under the Notices to Proceed in force at the end of the stated period of time have been completed and the Services accepted, whichever may be later.

2.7.2 The Consultant shall perform the Services as expeditiously as is consistent with the standard of professional skill and care required by this Agreement, and the orderly progress of the Work.

2.7.3 The Services shall be performed in a manner that shall conform with the approved Project Schedule, attached to as **Schedule "E"** hereto. The Consultant may submit requests for an adjustment to the Project Schedule, if made necessary because of undue delays resulting from untimely review taken by the City (or other governmental authorities having jurisdiction over the Project) to approve the Consultant's submissions, or any other portion of the Services requiring approval by the City (or other governmental authorities having jurisdiction over the Project). Consultant shall immediately provide the Project Coordinator with written notice stating the reason for the particular delay; the requested adjustment (i.e. extension) to the Project Schedule; and a revised anticipated schedule of completion. Upon receipt and review of Consultant's request (and such other documentation as the Project Coordinator may require), the Project Coordinator may grant a reasonable extension of time for completion of the particular work involved, and authorize that the appropriate adjustment be made to the Project Schedule. The Project Coordinator's approval (if granted) shall be in writing.

2.7.4 Nothing in this Section 2.7 shall prevent the City from exercising its rights to terminate the Agreement, as provided elsewhere herein.

2.8 Consultant shall use its best efforts to maintain a constructive, professional, cooperative working relationship with the Project Coordinator, Contractor, and any and all other individuals and/or firms that have been contracted, or otherwise retained, to perform work on the Project.

2.9 The Consultant shall perform its duties under this Agreement in a competent, timely and professional manner, and shall be responsible to the City for any failure in its performance, except to the extent that acts or omissions by the City make such performance impossible.

The Consultant is responsible for the professional quality, technical accuracy, completeness, performance and coordination of all work required under the Agreement (including the work performed by sub-consultants), within the specified time period and specified cost. The Consultant shall perform the work utilizing the skill, knowledge, and judgment ordinarily possessed and used by a proficient consulting with respect to the disciplines required for the performance of the work in the State of Florida. The Consultant is responsible for, and shall represent to City that the work conforms to City's requirements, as set forth in the Agreement. The Consultant shall be and remain liable to the City for all damages to the City caused by the Consultant's negligent acts or errors or omissions in the performance of the work. In addition to all other rights and remedies, which the City may have, the Consultant shall, at its expense, re-perform all or any portion of the Services to correct any deficiencies which result from the Consultant's failure to perform in accordance with the above standards. The Consultant shall also be liable for the replacement or repair of any defective materials and equipment and re-performance of any non-conforming construction services resulting from such deficient Consultant services for a period from the Effective Date of this Agreement, until twelve (12) months following final acceptance of the Work, and for the period of design liability required by applicable law. The Project Coordinator shall notify the Consultant, in writing, of any deficiencies and shall approve the method and timing of the corrections. Neither the City's inspection, review, approval or acceptance of, nor payment for, any of the work required under the Agreement shall be construed to relieve the Consultant (or any sub-consultant) of its obligations and responsibilities under the Agreement, nor constitute a waiver of any of the City's rights under the Agreement, or of any cause of action arising out of the performance of the Agreement. The Consultant and its sub-consultants shall be and remain liable to the City in accordance with Applicable Laws for all damages to City caused by any failure of the Consultant or its sub-consultants to comply with the terms and conditions of the Agreement or by the Consultant or any sub-consultants' misconduct,

unlawful acts, negligent acts, errors or omissions in the performance of the Agreement. With respect to the performance of work by sub-consultants, the Consultant shall, in approving and accepting such work, ensure the professional quality, completeness, and coordination of the sub-consultant's work.

2.9.1 The Consultant shall be responsible for deficient, defective services and any resulting deficient, defective construction services re-performed within twelve (12) months following final acceptance and shall be subject to further re-performance, repair and replacement for twelve (12) months from the date of initial re-performance, not to exceed twenty-four months (24) from final acceptance.

2.9.2 **Consultant Performance Evaluation:** The Consultant is advised that a performance evaluation of the work rendered throughout this Agreement will be completed by the City and kept in the City's files for evaluation of future solicitations.

2.10 The City shall have the right, at any time, in its sole and absolute discretion, to submit for review to other consultants (engaged by the City at its expense) any or all parts of the Services and the Consultant shall fully cooperate in such review(s). Whenever others are required to verify, review, or consider any work performed by Consultant (including, without limitation, contractors, other design professionals, and/or other consultants retained by the City), the intent of such requirement is to enable the Consultant to receive input from others' professional expertise to identify any discrepancies, errors or omissions that are inconsistent with industry standards for design or construction of comparable projects; or which are inconsistent with Applicable Laws; or which are inconsistent with standards, decisions or approvals provided by the City under this Agreement. Consultant will use reasonable care and skill, in accordance and consistent with customary professional standards, in responding to items identified by other reviewers in accordance with this subsection. Consultant shall receive comments from reviewers, in writing, including, without limitation (and where applicable), via a set of marked-up drawings and specifications. Consultant shall address comments forwarded to it in a timely manner. The term "timely" shall be defined to mean as soon as possible under the circumstances, taking into account the timelines of the Project Schedule.

2.11 [Intentionally Omitted]

2.12 Consultant agrees that when any portion of the Services relates to a professional service which, under Florida Statutes, requires a license, certificate of authorization, or other form of legal entitlement to practice and/or perform such Service(s), it shall employ and/or retain only qualified

duly licensed certified personnel to provide same.

2.13 Consultant agrees to designate, in writing, within five (5) calendar days after issuance of the first Notice to Proceed, a qualified licensed professional to serve as its project manager (hereinafter referred to as the "Project Manager"). The Project Manager shall be authorized and responsible to act on behalf of Consultant with respect to directing, coordinating and administrating all aspects of the Services. Consultant's Project Manager (as well as any replacement) shall be subject to the prior written approval of the City Manager or his designee (who in this case shall be the Project Coordinator). Replacement (including reassignment) of an approved Project Manager shall not be made without the prior written approval of the City Manager or his designee (i.e. the Project Coordinator).

2.13.1 Consultant agrees, within fourteen (14) calendar days of receipt of written notice from the City Manager or his designee (which notice shall state the cause therefore), to promptly remove and replace a Project Manager, or any other personnel employed or otherwise retained by Consultant for the Project (including, without limitation, any sub-consultants).

2.14 Consultant agrees not to divulge, furnish or make available to any third party(ies), any non-public information concerning the Services or the Project, without the prior written consent of the City Manager or his designee (who shall be the Project Coordinator), unless such disclosure is incident to the proper performance of the Services; or the disclosure is required pursuant to Florida Public Records laws; or, in the course of judicial proceedings, where such information has been properly subpoenaed. Consultant shall also require its employees and sub-consultants to comply with this subsection.

2.15 The City and Consultant acknowledge that the Services do not delineate every detail and minor work task required to be performed by Consultant to complete the Project. If, during the course of performing of the Services, Consultant determines that work should be performed to complete the Project which is, in the Consultant's reasonable opinion, outside the level of effort originally anticipated in the Scope of Services, Consultant shall promptly notify the Project Coordinator, in writing, and shall obtain the Project Coordinator's written consent before proceeding with such work. If Consultant proceeds with any such additional work without obtaining the prior written consent of the Project Coordinator, said work shall be deemed to be within the original Scope of Services, and deemed included as a Basic Service (whether or not specifically addressed in the Scope of Services). Mere notice by Consultant to the Project

Coordinator shall not constitute authorization or approval by the City to perform such work. Performance of any such work by Consultant without the prior written consent of the Project Coordinator shall be undertaken at Consultant's sole risk and liability.

2.16 Consultant shall establish, maintain, and categorize any and all Project documents and records pertinent to the Services and shall provide the City, upon request, with copies of any and all such documents and/or records. In addition, Consultant shall provide electronic document files to the City upon completion of the Project.

2.17 The City's participation in the design and construction of the Project shall in no way be deemed to relieve the Consultant of its professional duties and responsibilities under the Contract Documents or under Applicable Laws.

2.18 GREEN BUILDING STANDARDS:

The Consultant shall comply with the requirements of Section 255.2575, Florida Statutes, and Chapter 100 of the City Code, as both may be amended from time to time, addressing applicable Leadership in Energy and Environmental Design (LEED) compliance requirements.

2.19 SUB-CONSULTANTS: All services provided by sub-consultants shall be consistent with those commitments made by the Consultant in its Proposal and during the competitive solicitation selection process and interview. Such services shall be undertaken and performed pursuant to appropriate written agreements between the Consultant and the sub-consultants, which shall contain provisions that preserve and protect the rights of the City under this Agreement. Nothing contained in this Agreement shall create any contractual relationship between the City and the sub-consultants.

The Consultant shall not retain, add, or replace any sub-consultant without the prior written approval of the City Manager, in response to a written request from the Consultant stating the reasons for any proposed substitution. Any approval of a sub-consultant by the City Manager shall not in any way shift the responsibility for the quality and acceptability by the City of the services performed by the sub-consultant from the Consultant to the City. The quality of services and acceptability to the City of the services performed by sub-consultants shall be the sole responsibility of Consultant. The Consultant shall cause the names of sub-consultants responsible for significant portions of the Services to be inserted on the plans and specifications.

ARTICLE 3. THE CITY'S RESPONSIBILITIES

3.1 The City Manager shall designate a Project Coordinator, in writing, who shall be the City's authorized representative to coordinate, direct, and review all matters related to this Agreement and the Project during the design and construction of same (except unless otherwise expressly provided in this Agreement or the Contract Documents). The Project Coordinator shall be authorized (without limitation) to transmit instructions, receive information, and interpret and define City policies and decisions with respect to the Services and the Project. However, the Project Coordinator is not authorized to issue any verbal or written orders or instructions to Consultant that would have the affect (or be interpreted as having the effect) of modifying or changing, (in any way) the following:

- a) the Scope of Services;
- b) the time within which Consultant is obligated to commence and complete the Services;
or
- c) the amount of compensation the City is obligated or committed to pay Consultant.

3.2 The City shall make available to Consultant all information that the City has in its possession pertinent to the Project. Consultant hereby agrees and acknowledges that, in making any such information available to Consultant, the City makes no express or implied certification, warranty, and/or representation as to the accuracy or completeness of such information. The Consultant understands, and hereby agrees and acknowledges, that it is obligated to verify to the extent it deems necessary all information furnished by the City, and that it is solely responsible for the accuracy and applicability of all such information used by Consultant. Such verification shall include, without limitation, visual examination of existing conditions in all locations encompassed by the Project, where such examination can be made without using destructive measures (i.e. excavation or demolition). Survey information shall be spot checked to the extent that Consultant has satisfied itself as to the reliability of the information.

3.3 [Intentionally Omitted]

3.4 At any time, in his/her sole discretion, the City Manager may furnish accounting, and insurance counseling services for the Project (including, without limitation, auditing services to verify the Consultant's applications for payment, or to ascertain that Consultant has properly remitted payment due to its sub-consultants or vendors).

3.5 If the City observes or otherwise becomes aware of any fault or defect in the Project, or non-conformance with the Contract Documents, the City, through the Project Coordinator, shall give prompt written notice thereof to the Consultant.

3.6 The City, acting in its proprietary capacity as Owner and not in its regulatory capacity, shall render any administrative approvals and decisions required under this Agreement, in writing, as reasonably expeditious for the orderly progress of the Services and of the Work. No City administrative (proprietary) approvals and/or decisions required under this Agreement shall be unreasonably conditioned, withheld, or delayed; provided, however, that the City shall at all times have the right to approve or reject any such requests for any reasonable basis.

3.7 The City Commission shall be the final authority to do or to approve the following actions or conduct, by passage of an enabling resolution or amendment to this Agreement:

3.7.1 Except where otherwise expressly noted in the Agreement or the Contract Documents, the City Commission shall be the body to consider, comment upon, or approve any amendments or modifications to this Agreement.

3.7.2 The City Commission shall be the body to consider, comment upon, or approve any assignment, sale, transfer or subletting of this Agreement. Assignment and transfer shall be defined to also include sale of the majority of the stock of a corporate consultant.

3.7.3 Upon written request from Consultant, the City Commission shall hear appeals from administrative decisions of the City Manager or the Project Coordinator. In such cases, the Commission's decision shall be final and binding upon all parties.

3.7.4 The City Commission shall approve or consider all Contract Amendments that exceed the sum of twenty five thousand dollars (\$25,000.00) (or other such amount as may be specified by the City of Miami Beach Procurement Ordinance, as amended).

3.8 Except where otherwise expressly noted in this Agreement, the City Manager shall serve as the City's primary representative to whom administrative (proprietary) requests for decisions and approvals required hereunder by the City shall be made. Except where otherwise expressly noted in this Agreement or the Contract Documents, the City Manager shall issue decisions and authorizations which may include, without limitation, proprietary review, approval, or comment upon the schedules, plans, reports, estimates, contracts, and other documents submitted to the

City by Consultant.

3.8.1 The City Manager shall have prior review and approval of the Project Manager (and any replacements) and of any sub-consultants (and any replacements).

3.8.2 The City Manager shall decide, and render administrative (proprietary) decisions on matters arising pursuant to this Agreement which are not otherwise expressly provided for in this Agreement. In his/her discretion, the City Manager may also consult with the City Commission on such matters.

3.8.3 At the request of Consultant, the City Manager shall be authorized, but not required, to reallocate monies already budgeted toward payment of the Consultant; provided, however, that the Consultant's compensation (or other budgets established by this Agreement) may not be increased without the prior approval of the City Commission, which approval (if granted at all) shall be in its sole and reasonable discretion.

3.8.4 [Intentionally Omitted]

3.8.5 The City Manager may approve Contract Amendments which do not exceed the sum of twenty five thousand dollars (\$25,000.00) (or other such amount as may be specified by the City of Miami Beach Purchasing Ordinance, as amended); provided that no such amendments increase any of the budgets established by this Agreement.

3.8.6 The City Manager may, in his/her sole discretion, form a committee or committees, or inquire of, or consult with, persons for the purpose of receiving advice and recommendations relating to the exercise of the City's powers, duties, and responsibilities under this Agreement or the Contract Documents.

3.8.7 The City Manager shall be the City Commission's authorized representative with regard to acting on behalf of the City in the event of issuing any default notice(s) under this Agreement, and, should such default remain uncured, in terminating the Agreement (pursuant to and in accordance with Article 10 hereof).

ARTICLE 4. RESPONSIBILITY FOR CONSTRUCTION COST

4.1 The City has established the Construction Cost Budget for the Project, as set forth in Schedule "D", attached hereto.

4.2 Consultant shall certify and warrant to the City all estimates of Construction Cost prepared by Consultant.

4.3 Consultant shall warrant and represent to the City that its review and evaluation of the Construction Cost Budget, Statement of Probable Construction Cost, and any other cost estimates prepared (or otherwise provided) by Consultant for the Project, represent Consultant's best judgment as an experienced design professional familiar with the construction industry; provided, however, that Consultant cannot (and does not) guarantee that bids or negotiated prices will not vary from any estimates of Construction Cost or other cost evaluation(s) prepared (or otherwise provided) by Consultant.

4.4 The Construction Cost Budget (as established in **Schedule "D"** hereto) shall not be exceeded without fully justifiable, extraordinary, and unforeseen circumstances (such as Force Majeure) which are beyond the control of the parties. Any expenditure above this amount shall be subject to prior City Commission approval which, if granted at all, shall be at the sole and reasonable discretion of the City Commission. The City Commission shall have no obligation to approve an increase in the Construction Cost Budget and, if such budget is exceeded, the City Commission may, at its sole and reasonable discretion, terminate this Agreement (and the remaining Services) without any further liability to the City.

4.5 If the lowest and best base bid exceeds the Construction Cost Budget by more than five percent (5%), the City Commission may, at its sole option and discretion, elect any of the following options: (1) approve an increase to the Construction Cost Budget; (2) reject all bids, and (at its option) authorize rebidding of the Project; (3) abandon the Project and terminate the remaining Services without any further liability to the City; (4) select as many Deductive Alternatives as may be necessary to bring the lowest and best bid within the Construction Cost Budget; or (5) work with the Consultant to reduce the Project Scope, construction schedule, sequence of Work, or such other action, as deemed necessary, to reduce the Construction Cost Budget. In the event the City elects to reduce the Project Scope, the Consultant shall provide any required revisions to the Contract Documents (including, without limitation, the Construction Documents), and provide re-bidding services, as many times as reasonably requested by the

City, at no additional cost to the City, in order to bring any resulting, responsive and responsible bids within five percent (5%) of the Construction Cost Budget.

ARTICLE 5. ADDITIONAL SERVICES

5.1 Additional Services shall only be performed by Consultant following receipt of written authorization by the Project Coordinator (which authorization must be obtained prior to commencement of any such additional work by Consultant). The written authorization shall contain a description of the Additional Services required; an hourly fee (in accordance with the rates in Schedule "C" hereto), with a "Not to Exceed" amount; Reimbursable Expenses (if any) with a "Not to Exceed" amount; the amended Construction Cost Budget (if applicable); the time required to complete the Additional Services; and an amended Project Schedule (if applicable). "Not to Exceed" shall mean the maximum cumulative hourly fees allowable (or, in the case of Reimbursable Expenses, the maximum cumulative expenses allowable), which the Consultant shall not exceed without further written authorization of the Project Coordinator. The "Not to Exceed" amount is not a guaranteed maximum cost for the additional work requested (or, in the case of Reimbursables, for the expenses), and all costs applicable to same shall be verifiable through time sheets (and, for Reimbursables, expense reviews).

5.2 Additional Services may include, but not be limited to, the following:

5.2.1 Providing additional work relative to the Project which arises from subsequent circumstances and causes which do not currently exist, or which are not contemplated by the parties at the time of execution of this Agreement (excluding circumstances and causes resulting from error, omission, inadvertence, or negligence of Consultant).

5.2.2 Serving as an expert witness in connection with any public hearing, arbitration proceeding, or legal proceeding, unless the subject matter at issue has arisen from the error omission, inadvertence, or negligence of Consultant.

5.2.3 [Intentionally Omitted]

5.2.4 Assistance in connection with bid protests, re-bidding, or re-negotiating contracts (except for Contract Document revisions and re-bidding services required under Section 4.5 hereof, which shall be provided at no additional cost to City).

ARTICLE 6. REIMBURSABLE EXPENSES

6.1 Reimbursable Expenses are an allowance set aside by the City and shall include actual expenditures made by the Consultant in the interest of the Project. The Reimbursable Expenses allowance, as specified in **Schedule “B”** hereto, belongs to, and shall be controlled by, the City. Any money not directed to be used by City for Reimbursable Expenses shall remain with the City (i.e. unused portions will not be paid to Consultant).

Notwithstanding the above, any Reimbursable Expenses in excess of \$500 must be authorized, in advance, in writing, by the Project Coordinator. Invoices or vouchers for Reimbursable Expenses shall be submitted to the Project Coordinator (along with any supporting receipts and other back-up material requested by the Project Coordinator). Consultant shall certify as to each such invoice and/or voucher that the amounts and items claimed as reimbursable are “true and correct and in accordance with the Agreement.”

6.2 Reimbursable Expenses may include, but not be limited to, the following:

6.2.1 Cost of reproduction, courier, and postage and handling of drawings, plans, specifications, and other Project documents (excluding reproductions for the office use of the Consultant and its sub-consultants, and courier, postage and handling costs between the Consultant and its sub-consultants).

6.2.2 Costs for reproduction and preparation of graphics for community workshops.

6.2.3 Permit fees required by City of Miami Beach regulatory bodies having jurisdiction over the Project (i.e. City permit fees).

ARTICLE 7. COMPENSATION FOR SERVICES

7.1 Consultant’s “Not to Exceed” fee for provision of the Services shall be XXXXXXXX, with a Reimbursable Expenses allowance of XXXXXXXX.

7.2 Payments for Services shall be made within forty-five (45) calendar days of receipt and approval of an acceptable invoice by the Project Coordinator. Payments shall be made in proportion to the Services satisfactorily performed, so that the payments for Services never

exceed the progress percentage noted in the Consultant's Progress Schedule (to be submitted with each invoice). No mark-up shall be allowed on subcontracted work.

7.3 Approved Additional Services shall be compensated in accordance with the hourly rates set forth in Schedule "C," attached hereto. Any request for payment of Additional Services shall be included with a Consultant payment request. No mark-up shall be allowed on Additional Services (whether sub-contracted or not).

7.4 Approved Reimbursable Expenses shall be paid in accordance with Article 6 hereto, up to the "Not to Exceed" Reimbursable allowance amount in Schedule "B" hereto. Any request for payment of Reimbursable Expenses shall also be included with Consultant's payment request. No mark-up shall be allowed on Reimbursable Expenses.

7.5 **ESCALATION:** During the Term of this Agreement, the City may, by written directive approved and executed by the City Manager, adjust the fees included in the Hourly Billing Rate Schedule in Schedule "C" hereto, to reflect the change in the Consumer Price Index (CPI) on a year to year basis. Such adjustment will be based on the cumulative change of the CPI for the Miami urban area, provided that in no event shall any the annual increase exceed three percent (3%).

7.6 No retainage shall be made from the Consultant's compensation on account of sums withheld by the City on payments to Contractor.

7.7 **METHOD OF BILLING AND PAYMENT.** Consultant shall invoice the Project Coordinator in a timely manner, but no more than once on a monthly basis. Invoices shall identify the nature and extent of the work performed; the total hours of work performed by employee category; and the respective hourly billing rate associated therewith. In the event sub-consultant work is used, the percentage of completion shall be identified. Invoices shall also itemize and summarize any Additional Services and/or Reimbursable Expenses. A copy of the written approval of the Project Coordinator for the requested Additional Service(s) or Reimbursable Expense(s) shall accompany the invoice.

7.7.1 If requested, Consultant shall provide back-up for past and current invoices that records hours for all work (by employee category), and cost itemizations for Reimbursable Expenses (by category).

7.7 .2 The City shall pay Consultant within forty-five (45) calendar days from receipt and approval of an acceptable invoice by the Project Coordinator.

7.7.3 Upon completion of the Services, Consultant's final payment shall require the prior written approval of the City Manager before disbursement of same.

ARTICLE 8. CONSULTANT'S ACCOUNTING AND OTHER RECORDS

8.1 All books, records (whether financial or otherwise), correspondence, technical documents, and any other records or documents related to the Services and/or Project will be available for examination and audit by the City Manager, or his/her authorized representatives, at Consultant's office (at the address designated in Article 15 ["Notices"]), during customary business hours. All such records shall be kept at least for a period of three (3) years after Consultant's completion of the Services. Incomplete or incorrect entries in such records and accounts relating personnel services and expenses may be grounds for City's disallowance of any fees or expenses based upon such entries. Consultant shall also bind its sub-consultants to the requirements of this Article and ensure compliance therewith

ARTICLE 9. OWNERSHIP OF PROJECT DOCUMENTS

9.1 All notes, correspondence, documents, plans and specifications, designs, drawings, renderings, calculations, specifications, models, photographs, reports, surveys, investigations, and any other documents (whether completed or partially completed) and copyrights thereto for Services performed or produced in the performance of this Agreement, or related to the Project, whether in paper or other hard copy medium or in electronic medium, except with respect to copyrighted standard details and designs owned by the Consultant or owned by a third party and licensed to the Consultant for use and reproduction, shall become the property of the City. Consultant shall deliver all such documents to the Project Coordinator within thirty (30) days of completion of the Services (or within thirty (30) days of expiration or earlier termination of this Agreement as the case may be). However, the City may grant an exclusive license of the copyright to the Consultant for reusing and reproducing copyrighted materials or portions thereof as authorized by the City Manager in advance and in writing, In addition, the Consultant shall not disclose, release, or make available any document to any third party without prior written approval from the City Manager. The Consultant shall warrant to the City that it has been granted a license to use and reproduce any standard details and designs owned by a third party and used

or reproduced by the Consultant in the performance of this Agreement. Nothing contained herein shall be deemed to exclude any document from Chapter 119, Florida Statutes.

g)

g) 9.2 The Consultant is permitted to reproduce copyrighted material described above subject to prior written approval of the City Manager.

g)

g) 9.3 At the City's option, the Consultant may be authorized, as an Additional Service, to adapt copyrighted material for additional or other work for the City; however, payment to the Consultant for such adaptations will be limited to an amount not greater than 50% of the original fee earned to adapt the original copyrighted material to a new site.

g)

g) 9.4 The City shall have the right to modify the Project or any components thereof without permission from the Consultant or without any additional compensation to the Consultant. The Consultant shall be released from any liability resulting from such modification.

g)

9.5 The Consultant shall bind all sub-consultants to the Agreement requirements for re-use of plans and specifications.

ARTICLE 10. TERMINATION OF AGREEMENT

10.1 **TERMINATION FOR LACK OF FUNDS:** The City is a governmental entity and is subject to the appropriation of funds by its legislative body in an amount sufficient to allow continuation of its performance in accordance with the terms and conditions of this Agreement. In the event there is a lack of adequate funding either for the Services or the Project (or both), the City may terminate this Agreement without further liability to the City.

10.2 **TERMINATION FOR CAUSE:** The City, through the City Manager, may terminate this Agreement for cause, upon written notice to Consultant, in the event that the Consultant (1) violates any provision of this Agreement or performs same in bad faith; (2) unreasonably delays the performance of the Services or any portion thereof; or (3) does not perform the Services or any portion thereof in a timely and satisfactory manner. In the case of termination for cause by the City, the Consultant shall first be granted a thirty (30) day cure period (commencing upon receipt of the initial written notice of default from the City).

10.2.1 In the event this Agreement is terminated for cause by the City, the City, at

its sole option and discretion, may take over the remaining Services and complete them by contracting with another consultant(s), or otherwise. The Consultant shall be liable to the City for any additional cost(s) incurred by the City due to such termination. "Additional Cost" is defined as the difference between the actual cost of completion of the Services, and the cost of completion of such Services had the Agreement not been terminated.

10.2.2 In the event of termination for cause by the City, the City shall only be obligated to pay Consultant for those Services satisfactorily performed and accepted prior to the date of termination (as such date is set forth in, or can be calculated from, the City's initial written default notice). Upon payment of any amount which may be due to Consultant pursuant to this subsection 10.2.2, the City shall have no further liability to Consultant.

10.2.3 As a condition precedent to release of any payment which may be due to Consultant under subsection 10.2.2, the Consultant shall promptly assemble and deliver to the Project Coordinator any and all Project documents prepared (or caused to be prepared) by Consultant (including, without limitation, those referenced in subsection 9.1 hereof). The City shall not be responsible for any cost incurred by Consultant for assembly, copy, and/or delivery of Project documents pursuant to this subsection.

10.3 TERMINATION FOR CONVENIENCE: In addition to the City's right to terminate for cause, the City through the City Manager, may also terminate this Agreement, upon fourteen (14) days prior written notice to Consultant, for convenience, without cause, and without penalty, when (in its sole discretion) it deems such termination to be in the best interest of the City. In the event the City terminates the Agreement for convenience, Consultant shall be compensated for all Services satisfactorily performed and accepted up to the termination date (as set forth in the City's written notice), and for Consultant's costs in assembly and delivery to the Project Coordinator of the Project documents (referenced in subsection 10.2.3 above). Upon payment of any amount which may be due to Consultant pursuant this subsection 10.3, the City shall have no further liability to Consultant.

10.4 TERMINATION BY CONSULTANT: The Consultant may only terminate this Agreement for cause, upon thirty (30) days prior written notice to the City, in the event that the City willfully violates any provisions of this Agreement or unreasonably delays payment of the Services or any portion thereof. In the event of a termination for cause by Consultant, the City shall pay Consultant for any Services satisfactorily performed and accepted up to the date of termination;

provided, however, that the City shall first be granted a thirty (30) day cure period (commencing upon receipt of Consultant's initial written notice).

10.4.1 The Consultant shall have no right to terminate this Agreement for convenience.

10.5 **IMPLEMENTATION OF TERMINATION:** In the event of termination (whether for cause or for convenience), the Consultant shall immediately, upon receipt of the City's written notice of termination: (1) stop the performance of Services; (2) place no further orders or issue any other subcontracts, except for those which may have already been approved, in writing, by the Project Coordinator; (3) terminate all existing orders and subcontracts; and (4) promptly assemble all Project documents (for delivery to the Project Coordinator).

ARTICLE 11. INSURANCE

11.1 At all times during the Term of this Agreement, Consultant shall maintain the following required insurance coverage in full force and effect. The Consultant shall not commence any work until satisfactory proof of all required insurance coverage has been furnished to the Project Coordinator:

(a) Professional Liability Insurance, in the amount of one million dollars (\$1,000,000.00), per occurrence, with a maximum deductible of \$150,000 per occurrence, \$450,000 aggregate. Consultant shall notify the Project Coordinator, in writing, within thirty (30) days of any claims filed or made against its Professional Liability Insurance policy.

(b) Comprehensive General Liability Insurance, in the amount of one million dollars (\$1,000,000.00), Single Limit Bodily Injury and Property Damage coverage, for each occurrence, which shall include products, completed operations, and contractual liability coverage. The City of Miami Beach, Florida must be named as an additional insured on this policy.

(c) Worker's Compensation and Employer's Liability coverage within the statutory limits required under Florida law.

11.2 The Consultant must give the Project Coordinator at least thirty (30) days prior written notice of cancellation or of substantial modifications in any required insurance coverage. All certificates and endorsements shall contain this requirement.

11.3 The insurance must be furnished by an insurance company rated B+:VI or better, or its equivalent, according to Bests' Guide Rating Book, and by insurance companies duly authorized to do business in the State of Florida, and countersigned by the company's Florida resident agent.

11.4 Consultant shall provide the Project Coordinator with a certificate of insurance of all required insurance policies. The City reserves the right to require a certified copy of such policies, upon written request to Consultant.

ARTICLE 12. INDEMNIFICATION AND HOLD HARMLESS

12.1 Pursuant to Section 725.08, Florida Statutes, the Consultant shall indemnify and hold harmless the City and its officers, employees, agents, and instrumentalities, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Consultant and other persons employed or utilized by the Consultant in the performance of this Agreement.

The Consultant shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the City, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Consultant expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Consultant shall in no way limit its responsibility to indemnify, keep, and save harmless and defend the City or its officers, employees, agents, and instrumentalities as herein provided.

12.2 The Consultant agrees and recognizes that the City shall not be held liable or responsible for any claims which may result from any negligent, reckless, or intentionally wrongful actions, errors or omissions of the Consultant in which the City participated either through review or concurrence of the Consultant's actions. In reviewing, approving or rejecting any submissions by the Contractor, or other acts of the Consultant, the City in no way assumes or shares any responsibility or liability of the Consultant (including, without limitation its sub-consultants and/or any registered professionals (architects and/or engineers) under this Agreement).

ARTICLE 13. ERRORS AND OMISSIONS

13.1 **ERRORS AND OMISSIONS:** It is specifically agreed that any construction changes categorized by the City as caused by an error, an omission, or any combination thereof in the Contract Documents that were prepared by the Consultant will constitute an additional cost to the City that would not have been incurred without the error. The damages to the City for errors, omissions or any combinations thereof shall be calculated as the total cost of any damages or incremental costs to the City resulting out of the errors or omissions by the Consultant.

Damages shall include delay damages caused by the error, omission, or any combination thereof. Should the Consultant disagree that all or part of such damages are the result of errors, omissions, or any combination thereof, the Consultant may appeal this determination, in writing, to the City's Capital Improvement Projects Director (the Director). The Director's decision on all claims, questions and disputes shall be final, conclusive and binding upon the parties hereto unless such determination is clearly arbitrary or unreasonable. In the event that the Consultant does not agree with the decision of the Director, the Consultant shall present any such objections, in writing, to the City Manager. The Director and the Consultant shall abide by the decision of the City Manager. This paragraph does not constitute a waiver of any party's right to proceed in a court of competent jurisdiction after the above administrative remedies have been exhausted.

ARTICLE 14. LIMITATION OF LIABILITY

The City desires to enter into this Agreement only if in so doing the City can place a limit on its liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds the "not to exceed" amount of the fee paid to Consultant under this Agreement, less any amount(s) actually paid to Consultant hereunder. Consultant hereby expresses its willingness to enter into this Agreement, with Consultant's recovery from the City for any damages for action for breach of contract to be limited to Consultant's "not to exceed" fee under this Agreement, less any amount(s) actually paid by the City to the Consultant hereunder.

Accordingly, and notwithstanding any other term or condition of this Agreement, Consultant hereby agrees that the City shall not be liable to Consultant for money damages due to an alleged breach by the City of this Agreement, in an amount in excess of the "not to exceed

amount” of Consultant’s fees under this Agreement, which amount shall be reduced by any amount(s) actually paid by the City to Consultant hereunder.

Nothing contained in this subsection, or elsewhere in this Agreement, is in any way intended to be a waiver of the limitation placed upon City’s liability, as set forth in Section 768.28, Florida Statutes.

ARTICLE 15. NOTICE

All written notices given to City by Consultant shall be addressed to:

City Manager’s Office
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139
Attn: XXXXXXXXXXXXXXX

With a copy to:

Capital Improvement Projects Office
City of Miami Beach
1700 Convention Center Drive

Miami Beach, Florida 33139
Attn: XXXXXXXXXXXXXXX

All written notices given to the Consultant from the City shall be addressed to:

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
Attn: XXXXXXXXXXXXX

All notices mailed to either party shall be deemed to be sufficiently transmitted if sent by certified mail, return receipt requested.

ARTICLE 16. MISCELLANEOUS PROVISIONS

16.1 **VENUE:** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida, both substantive and remedial, without regard to principles of conflict of laws. The exclusive venue for any litigation arising out of this Agreement shall be Miami-Dade County, Florida, if in state court, and the U.S. District Court, Southern District of Florida, in federal court. BY ENTERING INTO THIS AGREEMENT, CONSULTANT AND CITY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF, THIS AGREEMENT.

16.2 **EQUAL OPPORTUNITY EMPLOYMENT GOALS:** Consultant agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, marital or familial status, or age, and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, national origin, religion, sex, gender identity, sexual orientation, disability, marital or familial status, or age.

16.3 **PUBLIC ENTITY CRIMES ACT:** In accordance with the Public Entity Crimes Act (Section 287.133, Florida Statutes), a person or affiliate who is a consultant, 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 the City, may not submit a bid on a contract with the City for the construction or repair of a public building or public work, may not bid on leases of real property to the City, may not be awarded or perform work as a contractor, supplier, subcontractor, or subconsultant under a contract with the City, and may not transact business with the City in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two, for a period of 36 months from the date of being placed on the convicted vendor list. For violation of this subsection by Consultant, City shall have the right to terminate the Agreement without any liability to City, and pursue debarment of Consultant

16.4 **NO CONTINGENT FEE:** Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this subsection, City shall have

the right to terminate the Agreement, without any liability or, at its discretion, to deduct from the contract price (or otherwise recover) the full amount of such fee, commission, percentage, gift, or consideration.

16.5 **LAWS AND REGULATIONS:**

16.5.1 The Consultant shall, during the Term of this Agreement, be governed by Federal, State, Miami-Dade County, and City laws, ordinances, and codes which may have a bearing on the Services involved in the Project.

16.5.2 Project Documents. In accordance with Section 119.07 (3) (ee), Florida Statutes, entitled "Inspection, Examination, and Duplication of Records; Exemptions," all building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, are exempt from the provisions of Section 119.07(1), Florida Statutes (inspection and copying of public records), and s. 24(a), Article I of the State Constitution. Information made exempt by this paragraph, with prior written approval from the City Manager, may be disclosed to another entity to perform its duties and responsibilities; to a licensed architect, engineer, or contractor who is performing work on or related to the Project; or upon a showing of good cause before a court of competent jurisdiction. The entities or persons receiving such information shall maintain the exempt status of the information.

16.5.2.1 In addition to the requirements in this subsection 16.5.2, the Consultant agrees to abide by all applicable Federal, State, and City procedures, as may be amended from time to time, by which the documents are handled, copied, and distributed which may include, but is not limited to, each employee of Consultant and sub-consultants that will be involved in the Project being required to sign an agreement stating that they will not copy, duplicate, or distribute the documents unless authorized by the City Manager, in writing.

16.5.2.2 The Consultant and its sub-consultants agree in writing that the Project documents are to be kept and maintained in a secure location.

16.5.2.3 Each set of the Project documents are to be numbered and the whereabouts of the documents shall be tracked at all times.

16.5.2.4 A log is developed to track each set of documents logging in the date, time, and name of the individual(s) that work on or view the documents.

16.6 **CORRECTIONS TO CONTRACT DOCUMENTS:** The Consultant shall prepare, without added compensation, all necessary supplemental documents to correct errors, omissions, and/or ambiguities which may exist in the Contract Documents prepared by Consultant, including documents prepared by its sub-consultants. Compliance with this subsection shall not be construed to relieve the Consultant from any liability resulting from any such errors, omissions, and/or ambiguities in the Contract Documents and other documents or Services related thereto.

16.7 **WARRANTY:** The Consultant warrants that the Services furnished to the City under this Agreement shall conform to the quality expected of and usually provided by the profession in the State of Florida applicable to the design and construction of public and commercial facilities.

16.8 **NON-EXCLUSIVITY:** Notwithstanding any provision of this non-exclusive Agreement, the City is not precluded from retaining or utilizing any other architect, engineer, design professional or other consultant to perform any incidental Basic Services, Additional Services, or other professional services within the contract limits defined in the Agreement. The Consultant shall have no claim against the City as a result of the City electing to retain or utilize such other architect, engineer, design professional, or other consultant to perform any such incidental Services.

g) 16.9 **ASSIGNMENT:** The Consultant shall not assign, transfer or convey this Agreement to any other person, firm, association or corporation, in whole or in part, without the prior written consent of the City Commission, which consent, if given at all, shall be at the Commission's sole option and discretion. However, the Consultant will be permitted to cause portions of the Services to be performed by sub-consultants, subject to the prior written approval of the City Manager.

g)

16.10 **SUCCESSORS AND ASSIGNS:** The Consultant and the City each binds himself/herself, his/her partners, successors, legal representatives and assigns to the other party of the Agreement and to the partners, successors, legal representatives, and assigns of such party in respect to all covenants of this Agreement. The Consultant shall afford the City (through the City Commission) the opportunity to approve or reject all proposed assignees, successors or other changes in the ownership structure and composition of the Consultant. Failure to do so constitutes a breach of this Agreement by the Consultant.

16.11 PROVISION OF ITEMS NECESSARY TO COMPLETE SERVICES: In the performance of the Services prescribed herein, it shall be the responsibility of the Consultant to provide all salaries, wages, materials, equipment, sub-consultants, and other purchased services, etc., as necessary to complete said Services.

16.12 INTENT OF AGREEMENT:

g) 16.12.1 The intent of the Agreement is for the Consultant to provide design services, and to include all necessary items for the proper completion of such services for a fully functional Project which, when constructed in accordance with the design, will be able to be used by the City for its intended purpose. The Consultant shall perform, as Basic Services, such incidental work which may not be specifically referenced, as necessary to complete the Project.

g) 16.12.2 This Agreement is for the benefit of the parties only and it does not grant rights to a third party beneficiary, to any person, nor does it authorize anyone not a party to the Agreement to maintain a suit for personal injuries, professional liability, or property damage pursuant to the terms or provisions of the Agreement.

16.12.3 No acceptance, order, payment, or certificate of or by the City, or its employees or agents, shall either stop the City from asserting any rights or operate as a waiver of any provisions hereof or of any power or right herein reserved to the City or of any rights to damages herein provided.

16.13 This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless memorialized in written document approval and executed with the same formality and of equal dignity herewith.

IN WITNESS WHEREOF, the parties hereto have hereunto caused these presents to be signed in their names by their duly authorized officers and principals, attested by their respective witnesses and City Clerk on the day and year first hereinabove written.

Attest

CITY OF MIAMI BEACH:

CITY CLERK

MAYOR

CONSULTANT: XXXXXXXXXXXXXXXXX

Attest

Signature/Secretary

Signature/President

Print Name

Print Name

SCHEDULE A

SCOPE OF SERVICES

SCHEDULE B

CONSULTANT COMPENSATION

:

Schedule of Payments

Planning Services *	\$ 0.00
Design Services*	\$XXXXXXXX
Bidding and Award Services	\$XXXXXXXX
Construction Administration **	\$XXXXXXXX
Reimbursable Allowance***	\$XXXXXXXX
Historic Preservation Board / Design Review Board (if required)	\$ 0.00

Note*: These services will be paid lump sum based on percentage complete of each phase as identified in the individual tasks.

Note:** Construction Administration will be paid on a monthly basis upon commencement of construction.

In the event that, through no fault of the Consultant, Construction Administration services are required to be extended, which extension shall be subject to prior City approval, and what shall be at the City's sole discretion, the Consultant agrees to extend said services for \$XXXXXX, per month, for the duration required to complete the Project.

Note*:** The Reimbursable Allowance belongs to the City and must be approved in writing, in advance, by the Project Coordinator. Unused portions will not be paid to the Consultant.

SCHEDULE C

HOURLY BILLING RATE SCHEDULE

SCHEDULE D

CONSTRUCTION COST BUDGET

SCHEDULE E

PROJECT SCHEDULE

SCHEDULE F

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

SCHEDULE G

INSURANCE REQUIREMENTS AND SWORN AFFIDAVITS.

SCHEDULE H

BEST VALUE AMENDMENT

The Consultant agrees to abide by all the required documentation of the City's Performance Information Procurement System and submit the weekly reports.