

MIAMI BEACH

Request for Qualifications (RFQ) 2024-010-ND Public Relations Services for Arts and Culture

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SECTION 0100

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 Proposers to submit proposals for the City’s consideration in evaluating qualifications to select a firm with whom it may negotiate an agreement for the purpose noted herein.

The City utilizes Periscope S2G (formerly known as BidSync) (www.periscopeholdings.com or www.bidsync.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 Periscope S2G must register immediately with Periscope S2G to assure it receives any addendum issued to this RFQ. Failure to receive an addendum may result in disqualification of proposal submitted.

2. BACKGROUND. Over the past several decades, the cultural landscape of Miami Beach has evolved into a world-class destination for performing and visual arts. Visionary leaders have long understood the transformative potential of the arts and cultural economy for Miami Beach. In 1984, the City launched an Art in Public Places program that allocates two (2%) percent of hard costs for City and public/private projects to purchase public art. In 1998, the City strengthened its commitment to the arts by establishing the Cultural Arts Council (“CAC”) to develop, coordinate, and promote the arts in Miami Beach. Since the program’s inception, the City of Miami Beach Mayor and Commission and the CAC have awarded approximately \$20 million in cultural arts grants, supporting thousands of performances, exhibits, and other cultural activities in the City. At present, the City awards \$1,050,000 in annual grants to cultural anchor institutions and presenting organizations that create cycles of performances and events all year round. In addition, \$2 million is allocated to sponsor cultural, sports, and holiday events throughout the year. These successful programs are innovative, far-reaching, and energetic. The City’s cultural investment is complemented by privately sponsored events. The result is an arts agenda impressive in reach, frequency, and programmatic diversity.

The City provides a full roster of innovative arts and cultural programming. These programs include, but are not limited to the following:

Art in Public Places (“AiPP”) Artworks commissioned by AiPP add value to the public art collection, attract international attention, and celebrate the diversity and heritage of Miami Beach. Since its inception in 1995, the Art in Public Places program has commissioned and acquired twenty-eight (28) works of permanent public art. The latest additions to AiPP collection were by artists **Jaume Plensa** (Spain) and **FriendsWithYou** (Los Angeles) in 2022. In 2019, the program completed six (6) permanent, site-specific permanent works of public art at the newly renovated and expanded Miami Beach Convention Center (“MBCC”). The works include artists—**Franz Ackermann** (Berlin), **Elmgreen & Dragset** (Berlin), **Ellen Harvey** (New York), **Joseph Kosuth** (London/New York), **Joep van Lieshout** (Rotterdam), and **Sarah Morris** (New York). The \$7M investment in public art represented the largest municipal project, of its kind to be installed, in the United States. Notable for more than just the scale, the project grew out of a strident curatorial approach, requiring a complex and collaborative process that stretched over five (5) years from initial planning to final installation.

Temporary Public Art Projects Regarded as an international destination for arts and culture, Miami Beach is dedicated to commissioning works of temporary public art that evoke a unique sense of place and thoughtfully engage our residents and visitors. In 2022, the City launched **Elevate Española**, a dedicated art installation site designed to enhance the Española Way corridor and encourage pedestrian connectivity to Ocean Drive. **Elevate Española** hosts two exhibitions each season, with current commissions by artists Assume Vivid Astro Focus and Beatriz Chachamovits. Previous temporary public art commissions have included Leandro Erlich, *Order of Importance* (2019), Carlos Betancourt, *Milagros!* (2021), FriendsWithYou, *Little Cloud Sky* (2021) and *Starchild* (2022) and Edouard Duval Carrie, *Trapeze Contortionists* (2022).

No Vacancy, Miami Beach is a juried art competition that celebrates artists, provokes critical discourse, and invites the public to experience 10 of Miami Beach’s famed hotels as destination art spaces. For the fourth edition of *No*

Vacancy, \$35,000 in prizes were awarded, divided between a \$10,000 prize determined by public vote and a \$25,000 prize awarded by a jury of art experts. Each selected artist receives a stipend of \$10,000 to realize their project. The project is produced in collaboration with the Miami Beach Visitor and Convention Authority (“MBVCA”). The program exhibits work for a four-week period each November-December.

Legacy Purchase Program is a collaboration with Art Basel Miami Beach, under the direction of the AiPP, which sets out to purchase a work of art each year to add to the AiPP collection within the MBCC campus. The program aims to strengthen the connection between the City, residents and visitors, and Art Basel Miami Beach. By allowing the residents and visitors to participate in the public art collection selection process, we embed the importance of acquiring meaningful public art and expanding our relationship with Art Basel by enhancing our community engagement in the annual event. To date, the program has acquired artworks by Amoako Bofo, Sanford Biggers, Anneke Eussen, Ebony G. Patterson, Farah Al Qasimi, and Juana Valdes.

Culture Crawl brings together some of the world’s best cultural institutions for a night of free, unique, and unforgettable cultural experiences. Every third Thursday of the month, October-May, 6 p.m. to 9 p.m., Miami Beach comes alive with art and culture as various institutions and buildings open their doors to give the public a taste of what they have to offer. From backstage tours, exhibition openings, temporary public art, and free film screenings in the park, the evening is a unique opportunity to experience Miami Beach’s cultural institutions free of charge.

Miami Beach OnStage! is the city’s largest free outdoor performing and visual arts program with live performances and site-specific temporary art installations in Miami Beach’s beautiful parks, pedestrian streets, and other unexpected locations.. These culturally diverse performances include music, movies, dance, and art. Created from the 1-Million Dollars for Cultural Programming approved by the Mayor and City Commission in June 2021, events have taken place in Collins Park, Lummus Park, Normandy Plaza, Scott Rakow Youth Center, Lincoln Road, Pride Park, Collins Canal Park, Muss Park, Altos Del Mar Park, Soundscape Park, Harry Liebman Square, and Española Way. Miami Beach OnStage! is produced in partnership with local cultural presenters, including Miami Beach Jewish Film Festival, South Beach Jazz Festival, Miami Beach Classical Music Festival, O, Miami, Community Arts and Culture, and Global Arts. Through the various events, Miami Beach OnStage! has provided more than 80 free programs to almost 6,000 residents to date. It is scheduled to begin the fourth season in 2024.

3. PURPOSE. The City is seeking proposals from qualified public relations firms interested in being considered for public relations services for arts and culture for the City of Miami Beach Tourism and Culture Department, Art in Public Places Programs¹ and Office of Marketing and Communications. Through this RFQ, the City is seeking a consultant to assist the Tourism and Culture Department with developing its arts and culture strategy, marketing and social media services (related materials), national and international media outreach, and public relations. The anticipated annual budget for the services is \$60,000. In its sole discretion, the City may increase or decrease the budget.

4. SCOPE OF SERVICES REQUIRED. The City is looking to develop a comprehensive public relations strategy that focuses on the City’s entire arts and culture portfolio. Arts, culture, and creativity are essential to Miami Beach’s unique character and identity. The City is seeking a qualified firm to nationally and internationally promote the City’s arts and culture programs and develop a strategic public relations plan that considers the tremendous growth the City’s cultural community has experienced over the past decade. Subject to negotiations with the most qualified firm, the scope of services may include, but is not limited to the following:

Strategy Development:

- Develop communications and marketing strategies, plans/timelines to ensure that PR assets, media invitations, and announcement deadlines are developed and executed;
- Develop key messages and objectives to embed and enhance an understanding of the City’s cultural programs, operations, and communications goals; and,
- Develop media strategies and sample story angles that elevate the awareness of programming, community,

¹ The City of Miami Beach Art in Public Places and cultural programs have been featured in publications such as The New York Times, Vogue International, Financial Times, The Observer, T Magazine, Conde Nast Traveler, designboom, Forbes, Artnet News, Galerie Magazine, Art Newspaper, New York Post, Wallpaper*, Citylab and Hyperallergic, among others

exhibitions, events, and leadership.

Marketing and Social Media:

- Where applicable, review City’s general cultural marketing plans and, working within a set budget, provide recommendations for advertising purchasing and earned media;
- Leverage existing media relationships with publishers to develop favorable advertising/marketing packages;
- Advise on separate advertising/marketing plans for digital platforms (if budget is available);
- Conduct periodic audits of existing social media practices and provide analysis of best practices;
- Identify digital and social media assets to post in a timely manner on City’s platforms to complement the PR initiatives and increase attention and audience to the programs.

Materials Development:

- Review and adapt existing media materials and advise on other collateral relating to the exhibitions and programs;
- Develop media kits to include, at a minimum, fact sheets, leadership biographies, short history/timelines with key dates, institutional image sheets; and,
- Develop news releases for major announcements (up to four per quarter).

Media Outreach:

- Provide recommendations and develop media trips for members of the national and international media to visit and cover arts and culture programs in the City of Miami Beach;
- Perform all national and international media outreach on behalf of the City;
- Facilitate all media relations and appointments between the City, the artists’ studios, cultural institutions, presenting organizations, galleries, and other parties involved with the realization of the programming;
- Pitch media opportunities with City leadership;
- Develop introductions between City leadership and other contemporary art professionals and art journalists;
- Advise on top media that should receive exhibition catalogs and/or other printed materials; and,
- Monitor big-picture stories developing in the media that could pertain to Miami Beach and advise on positioning itself as a source for quotes and information (when appropriate).

General Public Relations Services:

- Serve as national and international media contact on the media materials;
- Review existing media contact list and provide refreshed/expanded set of contacts;
- Send regular updates on new media contacts and staffing changes among media outlets;
- Advise on protocol and methods for expediently correcting inaccuracies published in the media;
- Provide general public relations counsel for the duration of the agreement on any issue that may affect the reputation of the City’s arts and culture portfolio;
- Provide media tracking services with links to coverage and clippings as they happen.

Client Relations:

- Assign one Account Director to work directly with the City to execute services
- Conduct bi-weekly touch-base phone calls and quarterly full team phone calls to keep the City team informed of public relations efforts and to keep updated on the City’s initiatives and programming;
- Provide weekly reports on activities on behalf of the City, including updates on the status of pending press, as well as links and/or clippings of recent coverage; and,
- Provide biannual reports of all coverage, media materials, and reach.

5. ANTICIPATED RFQ TIMETABLE. The tentative schedule for this solicitation is as follows:

RFQ Issued	December 8, 2023
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MIAMI BEACH

Pre-Proposal Meeting	December 27, 2023 @ 9:00 a.m. ET Join on your computer or mobile app Click here to join the meeting Or call in (audio only) +1 786-636-1480 United States, Miami Phone Conference ID: #
Deadline for Receipt of Questions	January 4, 2024 @ 5:00 p.m. ET
Responses Due	January 22, 2024 @ 3:00 p.m. ET To join on your computer or mobile app Click here to join the meeting Or call in (audio only) +1 786-636-1480 United States, Miami Phone Conference ID: #
Evaluation Committee Review	TBD
Tentative Commission Approval	TBD
Contract Negotiations	Following Commission Approval

6. PROCUREMENT CONTACT. Any questions or clarifications concerning this solicitation shall be submitted to the Procurement Contact noted below:

Procurement Contact:
Natalia Delgado

Telephone:
305-673-7000 x26263

Email:
NataliaDelgado@miamibeachfl.gov

Additionally, the City Clerk is to be copied on all communications via e-mail at: RafaelGranado@miamibeachfl.gov; or via facsimile: 786-394-4188.

The Proposal title/number shall be referenced on all correspondence. All questions or requests for clarification must be received no later than ten (10) calendar days prior to the date proposals are due as scheduled in Section 0100-5. All responses to questions/clarifications will be sent to all prospective Proposers in the form of an addendum.

7. PRE-PROPOSAL MEETING OR SITE VISIT(S). A pre-proposal meeting or site visit(s) may be scheduled. Attendance for the pre-proposal meeting shall be via web conference and recommended as a source of information but is not mandatory. Proposers interested in participating in the Pre-Proposal Meeting must follow these steps:

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

+1 786-636-1480 United States, Miami

Phone Conference ID: #

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

8. PRE-PROPOSAL 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). The City by means of Addenda will issue interpretations or written addenda clarifications considered necessary by the City in response to questions. Only questions answered by written addenda will be binding and may supersede terms noted in this solicitation. Addendum will be released through *Periscope S2G*.

Any prospective proposer who has received this RFQ by any means other than through *Periscope S2G* must register immediately with *Periscope S2G* to assure it receives any addendum issued to this RFQ. Failure to receive an addendum may result in disqualification of proposal. Written questions should be received no later than the date outlined in the **Anticipated RFQ Timetable** section.

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9. CONE OF SILENCE. This RFQ is subject to, and all proposers are expected to be or become familiar with, the City's Cone of Silence Requirements, as codified in Section 2-486 of the City Code. Proposers shall be solely responsible for ensuring that all applicable provisions of the City's Cone of Silence are complied with, and shall be subject to any and all sanctions, as prescribed therein, including rendering their response voidable, in the event of such non-compliance. 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

10. ADDITIONAL INFORMATION OR CLARIFICATION. After proposal submittal, the City reserves the right to require additional information from Proposers (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).

11. PROPOSER'S RESPONSIBILITY. Before submitting a response, 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.

12. DETERMINATION OF AWARD. The City Manager may appoint an evaluation committee to assist in the evaluation of proposals received. The evaluation committee is advisory only to the city manager. The city manager may consider the information provided by the evaluation committee process and/or may utilize other information deemed relevant. The City Manager's recommendation need not be consistent with the information provided by the evaluation committee process 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 Manager 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 proposals. 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 Proposal or Proposals which it deems to be in the best interest of the City, or it may also reject all Proposals.

13. NEGOTIATIONS. Following selection, the City reserves the right to enter into further negotiations with the selected Proposer. Notwithstanding the preceding, the City is in no way obligated to enter into a contract with the selected Proposer in the event the parties are unable to negotiate a contract. It is also understood and acknowledged by Proposers that no property, contract or legal rights of any kind shall be created at any time until and unless an Agreement has been agreed to; approved by the City; and executed by the parties.

14. E-VERIFY. As a contractor you are obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." Therefore, you shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the Contract and shall expressly require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term.

15. PERISCOPE S2G (FORMERLY BIDS SYNC). The Procurement Department utilizes Periscope S2G, Supplier-to-Government electronic bidding (e-Bid) platform. If you would like to be notified of available competitive solicitations released by the City you must register and complete your vendor qualifications through Periscope S2G, Supplier-to-Government www.bidsync.com/Miami-Beach. Registration is easy and will only take a few minutes. For detailed instructions on how to register, complete vendor qualifications and submit electronic bids visit <https://www.miamibeachfl.gov/city-hall/procurement/for-approval-how-to-become-a-vendor/>.

Should you have any questions regarding this system or registration, please visit the above link or contact Periscope S2G, Supplier-to-Government at support@bidsync.com or 800.990.9339, option 1, option 1.

16. HOW TO MANAGE OR CREATE A VENDOR PROFILE ON VENDOR SELF SERVICE (VSS). In addition to registering with Periscope S2G, the City encourages vendors to register with our online Vendor Self-Service web page, allowing City vendors to easily update contacts, attachments (W-9), and commodity information. The Vendor Self-Service (VSS) webpage (<https://selfservice.miamibeachfl.gov/vss/Vendors/default.aspx>) will also provide you with purchase orders and payment information.

Should you have any questions and/or comments, do not hesitate to submit them to vendorsupport@miamibeachfl.gov

17. SUPPLIER DIVERSITY. In an effort to increase the number and diversity of supplier options in the procurement of goods and services, the City has established a registry of LGBT-owned businesses, as certified by the National LGBT Chamber of Commerce (NGLCC) and small and disadvantaged businesses, as certified by Miami-Dade County. See authorizing resolutions [here](#).

If your company is certified as an LGBT-owned business by NGLCC, or as a small or disadvantaged business by Miami-Dade County, click on the link below to be added to the City's supplier registry (Vendor Self-Service) and bid system (Periscope S2G, Supplier-to-Government). These are two different systems and it is important that you register for both.

Click to see acceptable certification and to register: <https://www.miamibeachfl.gov/city-hall/procurement/how-to-become-a-vendor/>

SECTION 0200

GENERAL CONDITIONS

FORMAL SOLICITATIONS TERMS & CONDITIONS - GOODS AND SERVICES. By virtue of submitting a proposal in response to this solicitation, proposer agrees to be bound by and in compliance with the Terms and Conditions for Services (dated 10.27.2022), incorporated herein, which may be found at the following link:

<https://www.miamibeachfl.gov/city-hall/procurement/standard-terms-and-conditions/>

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SECTION 0300 PROPOSAL SUBMITTAL INSTRUCTIONS AND FORMAT

1. ELECTRONIC RESPONSES (ONLY). Proposals must be submitted electronically through Periscope S2G (formerly BidSync) on or before the date and time indicated. Hard copy proposals or proposals received through email or facsimile are not acceptable and will be rejected.

A proposer may submit a modified proposal to replace all or any portion of a previously submitted proposal until the deadline for proposal submittals. The City will only consider the latest version of the bid.

Electronic proposal submissions may require the uploading of attachments. All documents should be attached as separate files in accordance with the instructions included in Section 4, below. Attachments containing embedded documents or proprietary file extensions are prohibited. It is the Bidder's responsibility to assure that its bid, including all attachments, is uploaded successfully.

Only proposal submittals received, and time stamped by Periscope S2G (formerly BidSync) prior to the proposal submittal deadline shall be accepted as timely submitted. Late bids cannot be submitted and will not be accepted. Bidders are cautioned to allow sufficient time for the submittal of bids and uploading of attachments. Any technical issues must be submitted to Periscope S2G (formerly BidSync) by contacting (800) 990-9339 (toll free) or S2G@periscopeholdings.com. The City cannot assist with technical issues regarding submittals and will in no way be responsible for delays caused by any technical or other issue.

It is the sole responsibility of each Bidder to ensure its proposal is successfully submitted in Periscope S2G prior to the deadline for proposal submittals.

2. NON-RESPONSIVENESS. Failure to submit the following requirements shall result in a determination of non-responsiveness. Non-responsive proposals will not be considered.

1. Bid Submittal Questionnaire (submitted electronically).

3. OMITTED OR ADDITIONAL INFORMATION. Failure to complete and submit the Bid Submittal Questionnaire (submitted electronically) with the bid and by the deadline for submittals shall render a proposal non-responsive. With the exception of the Bid Submittal Questionnaire (completed and submitted electronically), the City reserves the right to seek any omitted information/documentation or any 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. Failure to submit any omitted or additional information in accordance with the City's request shall result in proposal being deemed non-responsive.

4. ELECTRONIC PROPOSAL FORMAT. In order to maintain comparability, facilitate the review process and assist the Evaluation Committee in review of proposals, it is strongly recommended that proposals be organized and tabbed in accordance with the tabs, and sections as specified below. The electronic submittal should be tabbed as enumerated below and contain a table of contents with page references. The electronic proposal shall be submitted through the "Line Items" attachment tab in Periscope S2G.

TAB 1	Cover Letter & Table of Contents
<p>Cover Letter and Table of Contents. The cover letter must indicate Proposer and Proposer Primary Contact for the purposes of this solicitation. The table of contents should indicate the tabs, sections with tabs and page numbers to facilitate the evaluation committee's review.</p>	

TAB 2

Experience & Qualifications of the Firm

2.1 Qualifications of Proposing Firm. Submit detailed information regarding the relevant experience and proven track record of the firm or its principals in providing the scope of services similar as identified in this solicitation, including experience in providing similar scope of services to a corporate entity, public and/or private. Submit at least three (3) client references within the last five (5) years, exemplifying experience in serving the visual arts, architecture and design communities. For each reference submitted, the following is required.

- agency/client name,
- agency/client contact,
- contact telephone & email,
- scope of services provided, and
- start and completion dates.

For each reference, identify whether the experience is for the firm or for a principal (include name of principal).

TAB 3

Approach and Methodology

Submit detailed information on the approach and methodology that the Proposer has utilized on previous engagements to accomplish a similar scope of work, including detailed information, as applicable, which addresses, but need not be limited to, its approach and methodology to the following areas of work:

- 1. Strategy Development** – developing communications and marketing strategies that elevate the awareness of arts and culture programming, community events, exhibitions, and leadership.
- 2. Marketing and Social Media** - leveraging existing media relationships with publishers to develop favorable advertising/marketing packages, advising on advertising/marketing plans for digital platforms, providing analysis of best social media practices, identifying digital and social media assets to post in a timely manner to increase attention and audience to the programs.
- 3. Materials Development** – developing media kits to include, fact sheets, artist biographies, short history/timelines with key dates, institutional image sheets; and, producing press/news releases for major announcements
- 4. Media Outreach** - coordinating media trips for members of the national and international media to visit and cover arts and culture programs; providing recommendations for media to visit and cover public cultural events; performing national and international media outreach; facilitating media relations and appointments; and pitching media opportunities.
- 5. General Public Relations Services-** leveraging media contact list and providing refreshed/expanded set of contacts; providing general public relations counsel for the duration of the agreement, and compiling media reports
- 6. Client Relations** – maintaining one on one relationship with client; providing reports on activities; conducting regular meetings and providing reports

SECTION 0400

PROPOSAL EVALUATION

1. EVALUATION COMMITTEE. An Evaluation Committee, appointed by the City Manager, may meet to evaluate each Proposal in accordance with the qualitative criteria set forth below. In doing so, the Evaluation Committee may review and score all proposals received, with or without requiring presentations. It is important to note that the Evaluation Committee is advisory only and does not make an award recommendation to the City Manager or the City Commission. The City Manager will utilize the results to take one of the following actions:

- a. In the event that only one responsive proposal is received, the City Manager, after determination that the sole responsive proposal materially meets the requirements of the RFQ, may, without an evaluation committee, recommend to the City Commission that the Administration enter into negotiations; or
- b. The City Manager may recommend that the City Commission authorize negotiations or award a contract to one or more firms in accordance with Section 0100, Sub-section 12; or
- c. The City Manager may Recommend that the City Commission short-list one or more firms for further consideration by the Evaluation Committee; or
- d. The City Manager may recommend to the City Commission that all firms, if more than one (1) responsive submittal is received, be rejected.

2. PRESENTATIONS BY SHORT-LISTED FIRMS. If a short-listing of firms responding to this RFQ is approved, the short-listed firms may be required to make presentations to and be interviewed by the Evaluation Committee. In further considering the short-listed firms, the Evaluation Committee will utilize the criteria set forth in Sub-section 4 below.

3. TECHNICAL ADVISORS. The City, at its discretion, may utilize technical or other advisers to assist the evaluation committee or the City Manager in evaluating proposals.

4. EVALUATION CRITERIA. Responsive, responsible proposals will be evaluated in accordance with the following criteria:

Qualitative Criteria	Maximum Points
Experience and Qualifications	60
Approach and Methodology	40
TOTAL AVAILABLE POINTS for Qualitative Criteria	100
Quantitative Criteria	Maximum Points
Veterans Preference	5
TOTAL AVAILABLE POINTS for Qualitative and Quantitative Criteria	105

5. QUALITATIVE CRITERIA. The Evaluation Committee shall review responsive, responsible proposals and assign points for the qualitative factors only. The Evaluation Committee shall not consider quantitative factors (e.g. veteran’s preference) in its review of proposals. The Evaluation Committee shall act solely in an advisory capacity to the City Manager. The results of the Evaluation Committee process do not constitute an award recommendation. The City Manager may utilize, but is not bound by, the results of the Evaluation Committee process, as well as consider any feedback or information provided by staff, consultants or any other third-party in developing an award recommendation in accordance with Section 0100, Sub-section 11. In its review of proposals received, the Evaluation Committee may review and score all proposals, with or without conducting interview sessions, in accordance with the evaluation criteria.

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6. QUANTITATIVE CRITERIA. Following the results of the evaluation of the qualitative criteria by the Evaluation Committee, the Proposers may receive additional points, to be added by City staff. Veterans' Preference points will be assigned in accordance with Section 2-374 of the City Code.

7. DETERMINATION OF FINAL RANKING. The sum of the evaluation criteria points will be converted to rankings in accordance with the example below:

		Proposer A	Proposer B	Proposer C
Committee Member 1	Qualitative Points	82	74	80
	Quantitative Points	5	5	0
	Total	87	79	80
	Rank	1	3	2
Committee Member 2	Qualitative Points	82	85	72
	Quantitative Points	5	5	0
	Total	87	90	72
	Rank	1	2	3
Committee Member 2	Qualitative Points	90	74	66
	Quantitative Points	5	5	0
	Total	95	79	66
	Rank	1	2	3
Low Aggregate Score		3	7	8
Final Ranking*		1	2	3

It is important to note that the results of the proposal evaluation process in accordance with Section 0400 does not represent an award recommendation. The City Manager will utilize the results of the proposal evaluation process, and any other information he deems appropriate, to develop an award recommendation to the City Commission, which may differ from the results of the proposal evaluation process and final rankings.

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APPENDIX A

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Special Conditions

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1. **TERM OF CONTRACT.** The term of the Agreement resulting from this RFQ shall be for an initial term of three (3) years.
2. **OPTION TO RENEW.** The City, through its City Manager, will have the option to extend for one (1) two-year renewal term at the City Manager's sole discretion. The successful contractor shall maintain, for the entirety of any renewal period, the same cost, terms, and conditions included within the originally awarded contract. Continuation of the contract beyond the initial period, and any option subsequently exercised, is a City prerogative, and not a right of the successful contractor.
3. **COST ADJUSTMENTS.** On or about the anniversary of each contract year, the contractor may request, and the city manager may approve, a cost adjustment based on documented cost increases for the following contract year. Cost adjustments should be limited to changes in the applicable Bureau of Labor Statistics index for the local region or other verifiable evidence of price increases. The Contractor's adjustment request must substantiate the requested increase. The City of Miami Beach, through its city manager, reserves the right to approve a requested adjustment or may terminate the agreement and readvertise for bids for the goods or services.
4. **CHANGE OF PROJECT MANAGER.** A change in the 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 an Assistant City Manager). Replacement (including reassignment) of an approved project manager or public information officer shall not be made without submitting a resume for the replacement staff person and receiving prior written approval of the City Manager or his designee (i.e. the City project manager).

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APPENDIX B

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Insurance Requirements

2024-010-ND

Public Relations Services for Arts and Culture

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PROCUREMENT DEPARTMENT
1755 Meridian Avenue, 3rd Floor
Miami Beach, Florida 33139

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The vendor shall maintain the below required insurance in effect prior to awarding the contract and for the duration of the contract. The maintenance of proper insurance coverage is a material element of the contract and failure to maintain or renew coverage may be treated as a material breach of the contract, which could result in withholding of payments or termination of the contract.

- A. Professional Liability (Errors & Omissions) Insurance appropriate to the Consultant's profession, with limit no less than \$1,000,000.

Additional Insured - City of Miami Beach must be included by endorsement as an additional insured with respect to all liability policies (except Professional Liability and Workers' Compensation) arising out of work or operations performed on behalf of the contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired or borrowed in the form of an endorsement to the contractor's insurance.

Notice of Cancellation - Each insurance policy required above shall provide that coverage shall not be cancelled, except with notice to the City of Miami Beach c/o EXIGIS Insurance Compliance Services.

Waiver of Subrogation – Vendor agrees to obtain any endorsement that may be necessary to affect the waiver of subrogation on the coverages required. However, this provision applies regardless of whether the City has received a waiver of subrogation endorsement from the insurer.

Acceptability of Insurers – Insurance must be placed with insurers with a current A.M. Best rating of A:VII or higher. If not rated, exceptions may be made for members of the Florida Insurance Funds (i.e. FWCIGA, FAJUA). Carriers may also be considered if they are licensed and authorized to do insurance business in the State of Florida.

Verification of Coverage – Contractor shall furnish the City with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this contract. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

CERTIFICATE HOLDER MUST READ:

CITY OF MIAMI BEACH
c/o EXIGIS Insurance Compliance Services
P.O. Box 4668 – ECM #35050
New York, NY 10163-4668

Kindly submit all certificates of insurance, endorsements, exemption letters to our servicing agent, EXIGIS, at:

Certificates-miamibeach@riskworks.com

Special Risks or Circumstances - The City of Miami Beach reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

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.

MIAMI BEACH

APPENDIX C

MIAMI BEACH

Sample Contract

2024-010-ND

Public Relations Services for Arts and Culture

**BY VIRTUE OF SUBMITTING A PROPOSAL THE FIRM HEREBY TAKES NO EXCEPTIONS TO THE TERM AND
CONDITIONS NOTED IN THIS SAMPLE CONTRACT**

PROCUREMENT DEPARTMENT
1755 Meridian Avenue, 3rd Floor
Miami Beach, Florida 33139

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF MIAMI BEACH
AND
[FILL IN CONSULTANT NAME]
FOR
[XXXXXXXXXXXXXXXXXXXX], PURSUANT TO
[FILL IN RFP, RFQ, OR ITB#]**

This Professional Services Agreement (“Agreement”) is entered into this XXXXXX day of XXXXXXXXXXXX, 20____ (“Effective Date”), between the **CITY OF MIAMI BEACH, FLORIDA**, a municipal corporation organized and existing under the laws of the State of Florida, having its principal offices at 1700 Convention Center Drive, Miami Beach, Florida, 33139 (the “City”), and **[FILL IN CONSULTANT NAME]**, a **[FILL IN TYPE OF ENTITY//I.E. CORPORATION, LLC, ETC.]**, whose address is XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX (“Consultant”).

SECTION 1
DEFINITIONS

- Agreement:** This Agreement between the City and Consultant, including any exhibits and amendments thereto.
- City Manager:** The chief administrative officer of the City.
- City Manager’s Designee:** The City staff member who is designated by the City Manager to administer this Agreement on behalf of the City. The City Manager’s designee shall be the _____ Department Director.
- Consultant:** For the purposes of this Agreement, Consultant shall be deemed to be an independent contractor, and not an agent or employee of the City.
- Services:** All services, work and actions by the Consultant performed or undertaken pursuant to the Agreement.
- Fee:** Amount paid to the Consultant as compensation for Services.
- Proposal Documents:** Proposal Documents shall mean City of Miami Beach **[FILL IN RFP, RFQ, OR ITB]** No. **[XXXXXXXXXXXXXXXXXXXX]** for **[XXXXXXXXXXXXXXXXXXXX]**, together with all amendments thereto, issued by the City in contemplation of this Agreement **[FILL IN CORRECT ABBREVIATION RFP, RFQ, OR ITB]**, and the Consultant’s proposal in response thereto (“Proposal”), all of which are hereby incorporated and made a part hereof; provided, however, that in the event of an express conflict between the Proposal Documents and this Agreement, the following order of precedent shall prevail: this Agreement; the **[FILL IN RFP, RFQ, or ITB]**; and the Proposal.

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Risk Manager: The Risk Manager of the City, with offices at 1700 Convention Center Drive, Third Floor, Miami Beach, Florida 33139; telephone number (305) 673-7000, Ext. 26724; and fax number (305) 673-7529.

SECTION 2
SCOPE OF SERVICES

2.1 In consideration of the Fee to be paid to Consultant by the City, Consultant shall provide the work and services described in Exhibit "A" hereto (the "Services").

[NOTE: EXHIBIT "A" MUST INCLUDE DETAILED DESCRIPTION OF SERVICES]

Although Consultant may be provided with a schedule of the available hours to provide its Services, the City shall not control nor have the right to control the hours of the Services performed by the Consultant; where the Services are performed (although the City will provide Consultant with the appropriate location to perform the Services); when the Services are performed, including how many days a week the Services are performed; how the Services are performed, or any other aspect of the actual manner and means of accomplishing the Services provided. Notwithstanding the foregoing, all Services provided by the Consultant shall be performed in accordance with the terms and conditions set forth in Exhibit "A" and to the reasonable satisfaction of the City Manager. If there are any questions regarding the Services to be performed, Consultant should contact the following person:

2.2 Consultant's Services, and any deliverables incident thereto, shall be completed in accordance with the timeline and/or schedule in Exhibit [XXX] hereto.

[NOTE: TIMELINE FOR DELIVERABLES CAN ALSO BE INCLUDED IN EXHIBIT "A" OR IN SEPARATE EXHIBIT]

SECTION 3
TERM

The term of this Agreement ("Term") shall commence upon execution of this Agreement by all parties hereto (the Effective Date set forth on p. 1 hereof), and shall have an initial term of [XXXXXXXXXXXX], with [XXXXXXXXXXXX] renewal options, to be exercised at the City Manager's sole option and discretion, by providing Consultant with written notice of same no less than thirty (30) days prior to the expiration of the initial term.

Notwithstanding the Term provided herein, Consultant shall adhere to any specific timelines, schedules, dates, and/or performance milestones for completion and delivery of the Services, as same is/are set forth in the timeline and/or schedule referenced in Exhibit [XXX] hereto.

SECTION 4

FEE

4.1 In consideration of the Services to be provided, Consultant shall be compensated on a fixed fee basis, in the amount of \$XXXXXXXX, for a total annual amount not to exceed \$XXXXXXXX.

4.2 [NOTE: INCLUDE AMOUNT FOR REIMBURSABLES, IF ANY].

4.3 [NOTE: INCLUDE HOW FEE IS TO BE PAID – I.E. “X” PERCENTAGE UP FRONT; “X” UPON DELIVERY; MONTHLY; LUMP SUM; ETC.].

4.4 **INVOICING**

Upon receipt of an acceptable and approved invoice, payment(s) shall be made within forty-five (45) days for that portion (or those portions) of the Services satisfactorily rendered (and referenced in the particular invoice).

Invoices shall include a detailed description of the Services (or portions thereof) provided, and shall be submitted to the City at the following address:

Accounts Payable: Payables@miamibeachfl.gov

SECTION 5
TERMINATION

5.1 **TERMINATION FOR CAUSE**

If the Consultant shall fail to fulfill in a timely manner, or otherwise violates, any of the covenants, agreements, or stipulations material to this Agreement, the City, through its City Manager, shall thereupon have the right to terminate this Agreement for cause. Prior to exercising its option to terminate for cause, the City shall notify the Consultant of its violation of the particular term(s) of this Agreement, and shall grant Consultant ten (10) days to cure such default. If such default remains uncured after ten (10) days, the City may terminate this Agreement without further notice to Consultant. Upon termination, the City shall be fully discharged from any and all liabilities, duties, and terms arising out of, or by virtue of, this Agreement.

Notwithstanding the above, the Consultant shall not be relieved of liability to the City for damages sustained by the City by any breach of the Agreement by the Consultant. The City, at its sole option and discretion, shall be entitled to bring any and all legal/equitable actions that it deems to be in its best interest in order to enforce the City’s rights and remedies against Consultant. The City shall be entitled to recover all costs of such actions, including reasonable attorneys’ fees.

5.2 **TERMINATION FOR CONVENIENCE OF THE CITY**

THE CITY MAY ALSO, THROUGH ITS CITY MANAGER, AND FOR ITS CONVENIENCE AND WITHOUT CAUSE, TERMINATE THE AGREEMENT AT ANY TIME DURING THE TERM BY GIVING WRITTEN NOTICE TO CONSULTANT OF SUCH TERMINATION; WHICH SHALL BECOME EFFECTIVE WITHIN THIRTY (30) DAYS FOLLOWING RECEIPT BY THE CONSULTANT OF SUCH NOTICE. ADDITIONALLY, IN THE EVENT OF A PUBLIC HEALTH, WELFARE OR SAFETY CONCERN, AS DETERMINED BY THE CITY MANAGER, IN THE CITY MANAGER'S SOLE DISCRETION, THE CITY MANAGER, PURSUANT TO A VERBAL OR WRITTEN NOTIFICATION TO CONSULTANT, MAY IMMEDIATELY SUSPEND THE SERVICES UNDER THIS AGREEMENT FOR A TIME CERTAIN, OR IN THE ALTERNATIVE, TERMINATE THIS AGREEMENT ON A GIVEN DATE. IF THE AGREEMENT IS TERMINATED FOR CONVENIENCE BY THE CITY, CONSULTANT SHALL BE PAID FOR ANY SERVICES SATISFACTORILY PERFORMED UP TO THE DATE OF TERMINATION; FOLLOWING WHICH THE CITY SHALL BE DISCHARGED FROM ANY AND ALL LIABILITIES, DUTIES, AND TERMS ARISING OUT OF, OR BY VIRTUE OF, THIS AGREEMENT.

5.3 TERMINATION FOR INSOLVENCY

The City also reserves the right to terminate the Agreement in the event the Consultant is placed either in voluntary or involuntary bankruptcy or makes an assignment for the benefit of creditors. In such event, the right and obligations for the parties shall be the same as provided for in Section 5.2.

SECTION 6 INDEMNIFICATION AND INSURANCE REQUIREMENTS

6.1 INDEMNIFICATION

Consultant agrees to indemnify, defend and hold harmless the City of Miami Beach and its officers, employees, agents, and contractors, from and against any and all actions (whether at law or in equity), claims, liabilities, losses, and expenses, including, but not limited to, attorneys' fees and costs, for personal, economic or bodily injury, wrongful death, loss of or damage to property, which may arise or be alleged to have arisen from the negligent acts, errors, omissions or other wrongful conduct of the Consultant, its officers, employees, agents, contractors, or any other person or entity acting under Consultant's control or supervision, in connection with, related to, or as a result of the Consultant's performance of the Services pursuant to this Agreement. To that extent, the Consultant shall pay all such claims and losses and shall pay all such costs and judgments which may issue from any lawsuit arising from such claims and losses, and shall pay all costs and attorneys' fees expended by the City in the defense of such claims and losses, including appeals. 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 Consultant's responsibility to indemnify, keep and save harmless and defend the City or its officers, employees, agents and instrumentalities as herein provided.

The parties agree that one percent (1%) of the total compensation to Consultant for performance of the Services under this Agreement is the specific consideration from the City to

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the Consultant for the Consultant's indemnity agreement. The provisions of this Section 6.1 and of this indemnification shall survive termination or expiration of this Agreement.

6.2 INSURANCE REQUIREMENTS [NOTE: INSURANCE TYPES AND LIMITS BELOW SHOULD ALWAYS BE SAME AS WHAT WAS SPECIFIED IN BID DOCUMENTS]

6.3 The Consultant shall maintain the below required insurance in effect prior to awarding the agreement and for the duration of the agreement. The maintenance of proper insurance coverage is a material element of the agreement and failure to maintain or renew coverage may be treated as a material breach of the contract, which could result in withholding of payments or termination of the Agreement.

A. General Liability, in the amount of \$1,000,000 combined single limit, for bodily injury and property damage. The City of Miami Beach must be endorsed as an Additional Insured as their interest may appear.

B. Consultant Professional Liability, in the amount of \$1,000,000; and

C. Workers Compensation & Employers Liability, as required pursuant to Chapter 440, Florida Statutes. A waiver of subrogation endorsement must be provided.

6.4 **Additional Insured** - City of Miami Beach must be included by endorsement as an additional insured with respect to all liability policies (except Professional Liability and Workers' Compensation) arising out of work or operations performed on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired or borrowed in the form of an endorsement to the Consultant's insurance.

6.5 **Notice of Cancellation** - Each insurance policy required above shall provide that coverage shall not be cancelled, except with notice to the City of Miami Beach c/o EXIGIS Insurance Compliance Services.

6.6 **Waiver of Subrogation** – Consultant agrees to obtain any endorsement that may be necessary to affect the waiver of subrogation on the coverages required. However, this provision applies regardless of whether the City has received a waiver of subrogation endorsement from the insurer.

6.7 **Acceptability of Insurers** – Insurance must be placed with insurers with a current A.M. Best rating of A:VII or higher. If not rated, exceptions may be made for members of the Florida Insurance Funds (i.e. FWCIGA, FAJUA). Carriers may also be considered if they are licensed and authorized to do insurance business in the State of Florida.

6.8 **Verification of Coverage** – Consultant shall furnish the City with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this contract. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

CERTIFICATE HOLDER ON ALL COI MUST READ:

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CITY OF MIAMI BEACH
c/o EXIGIS Insurance Compliance Services
P.O. Box 947
Murrieta, CA 92564

Kindly submit all certificates of insurance, endorsements, exemption letters to our servicing agent, EXIGIS, at:

Certificates-miamibeach@riskworks.com

6.9 **Special Risks or Circumstances** - The City of Miami Beach reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

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.

SECTION 7 **LITIGATION JURISDICTION/VENUE/JURY TRIAL WAIVER**

This Agreement shall be construed in accordance with the laws of the State of Florida. This Agreement shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida. By entering into this Agreement, Consultant and the 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.

SECTION 8 **LIMITATION OF CITY'S LIABILITY**

The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's 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 sum of \$10,000. Consultant hereby expresses its willingness to enter into this Agreement with Consultant's recovery from the City for any damage action for breach of contract to be limited to a maximum amount of \$10,000.

Accordingly, and notwithstanding any other term or condition of this Agreement, Consultant hereby agrees that the City shall not be liable to the Consultant for damages in an amount in excess of \$10,000 for any action or claim for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement.

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

SECTION 9

DUTY OF CARE/COMPLIANCE WITH APPLICABLE LAWS/PATENT RIGHTS; COPYRIGHT; AND CONFIDENTIAL FINDINGS

9.1 DUTY OF CARE

With respect to the performance of the Services contemplated herein, Consultant shall exercise that degree of skill, care, efficiency and diligence normally exercised by reasonable persons and/or recognized professionals with respect to the performance of comparable work and/or services.

9.2 COMPLIANCE WITH APPLICABLE LAWS

In its performance of the Services, Consultant shall comply with all applicable laws, ordinances, and regulations of the City, Miami-Dade County, the State of Florida, and the federal government, as applicable.

9.3 PATENT RIGHTS; COPYRIGHT; CONFIDENTIAL FINDINGS

Any work product arising out of this Agreement, as well as all information specifications, processes, data and findings, are intended to be the property of the City and shall not otherwise be made public and/or disseminated by Consultant, without the prior written consent of the City Manager, excepting any information, records etc. which are required to be disclosed pursuant to Court Order and/or Florida Public Records Law.

All reports, documents, articles, devices, and/or work produced in whole or in part under this Agreement are intended to be the sole and exclusive property of the City, and shall not be subject to any application for copyright or patent by or on behalf of the Consultant or its employees or sub-consultants, without the prior written consent of the City Manager.

SECTION 10 GENERAL PROVISIONS

10.1 AUDIT AND INSPECTIONS

Upon reasonable verbal or written notice to Consultant, and at any time during normal business hours (i.e. 9AM – 5PM, Monday through Fridays, excluding nationally recognized holidays), and as often as the City Manager may, in his/her reasonable discretion and judgment, deem necessary, there shall be made available to the City Manager, and/or such representatives as the City Manager may deem to act on the City's behalf, to audit, examine, and/ or inspect, any and all other documents and/or records relating to all matters covered by this Agreement. Consultant shall maintain any and all such records at its place of business at the address set forth in the "Notices" section of this Agreement.

10.2 INSPECTOR GENERAL AUDIT RIGHTS

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- (A) Pursuant to Section 2-256 of the Code of the City of Miami Beach, the City has established the Office of the Inspector General which may, on a random basis, perform reviews, audits, inspections and investigations on all City contracts, throughout the duration of said contracts. This random audit is separate and distinct from any other audit performed by or on behalf of the City.
- (B) The Office of the Inspector General is authorized to investigate City affairs and empowered to review past, present and proposed City programs, accounts, records, contracts and transactions. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of witnesses and monitor City projects and programs. Monitoring of an existing City project or program may include a report concerning whether the project is on time, within budget and in conformance with the contract documents and applicable law. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process including but not limited to project design, bid specifications, (bid/proposal) submittals, activities of the Consultant, its officers, agents and employees, lobbyists, City staff and elected officials to ensure compliance with the contract documents and to detect fraud and corruption. Pursuant to Section 2-378 of the City Code, the City is allocating a percentage of its overall annual contract expenditures to fund the activities and operations of the Office of Inspector General.
- (C) Upon ten (10) days written notice to the Consultant, the Consultant shall make all requested records and documents available to the Inspector General for inspection and copying. The Inspector General is empowered to retain the services of independent private sector auditors to audit, investigate, monitor, oversee, inspect and review operations activities, performance and procurement process including but not limited to project design, bid specifications, (bid/proposal) submittals, activities of the Consultant its officers, agents and employees, lobbyists, City staff and elected officials to ensure compliance with the contract documents and to detect fraud and corruption.
- (D) The Inspector General shall have the right to inspect and copy all documents and records in the Consultant's possession, custody or control which in the Inspector General's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements from and with successful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, (bid/proposal) and contract documents, back-change documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records and supporting documentation for the aforesaid documents and records.
- (E) The Consultant shall make available at its office at all reasonable times the records, materials, and other evidence regarding the acquisition (bid preparation) and

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performance of this Agreement, for examination, audit, or reproduction, until three (3) years after final payment under this Agreement or for any longer period required by statute or by other clauses of this Agreement. In addition:

- i. If this Agreement is completely or partially terminated, the Consultant shall make available records relating to the work terminated until three (3) years after any resulting final termination settlement; and
 - ii. The Consultant shall make available records relating to appeals or to litigation or the settlement of claims arising under or relating to this Agreement until such appeals, litigation, or claims are finally resolved.
- (F) The provisions in this section shall apply to the Consultant, its officers, agents, employees, subcontractors and suppliers. The Consultant shall incorporate the provisions in this section in all subcontracts and all other agreements executed by the Consultant in connection with the performance of this Agreement.
- (G) Nothing in this section shall impair any independent right to the City to conduct audits or investigative activities. The provisions of this section are neither intended nor shall they be construed to impose any liability on the City by the Consultant or third parties.

10.3 ASSIGNMENT, TRANSFER OR SUBCONSULTING

Consultant shall not subcontract, assign, or transfer all or any portion of any work and/or service under this Agreement without the prior written consent of the City Manager, which consent, if given at all, shall be in the Manager's sole judgment and discretion. Neither this Agreement, nor any term or provision hereof, or right hereunder, shall be assignable unless as approved pursuant to this section, and any attempt to make such assignment (unless approved) shall be void.

10.4 PUBLIC ENTITY CRIMES

Prior to commencement of the Services, the Consultant shall file a State of Florida Form PUR 7068, Sworn Statement under Section 287.133(3)(a) Florida Statute on Public Entity Crimes with the City's Procurement Division.

10.5 NO DISCRIMINATION

In connection with the performance of the Services, the Consultant shall not exclude from participation in, deny the benefits of, or subject to discrimination anyone on the grounds of race, color, national origin, sex, age, disability, religion, income or family status.

Additionally, Consultant shall comply fully with the City of Miami Beach Human Rights Ordinance, codified in Chapter 62 of the City Code, as may be amended from time to time, prohibiting discrimination in employment, housing, public accommodations, and public services on account of actual or perceived race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, disability, ancestry, height, weight, domestic partner status, labor organization membership, familial situation, or political affiliation.

10.6 CONFLICT OF INTEREST

Consultant herein agrees to adhere to and be governed by all applicable Miami-Dade County Conflict of Interest Ordinances and Ethics provisions, as set forth in the Miami-Dade County Code, as may be amended from time to time; and by the City of Miami Beach Charter and Code, as may be amended from time to time; both of which are incorporated by reference as if fully set forth herein.

Consultant covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, which could conflict in any manner or degree with the performance of the Services. Consultant further covenants that in the performance of this Agreement, Consultant shall not employ any person having any such interest. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefits arising therefrom.

10.7 CONSULTANT'S COMPLIANCE WITH FLORIDA PUBLIC RECORDS LAW

- (A) Consultant shall comply with Florida Public Records law under Chapter 119, Florida Statutes, as may be amended from time to time.
- (B) The term "public records" shall have the meaning set forth in Section 119.011(12), which means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business of the City.
- (C) Pursuant to Section 119.0701 of the Florida Statutes, if the Consultant meets the definition of "Contractor" as defined in Section 119.0701(1)(a), the Consultant shall:
 - (1) Keep and maintain public records required by the City to perform the service;
 - (2) Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law;
 - (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the contract term and following completion of the Agreement if the Consultant does not transfer the records to the City;
 - (4) Upon completion of the Agreement, transfer, at no cost to the City, all public records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Agreement, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

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(D) REQUEST FOR RECORDS; NONCOMPLIANCE.

- (1) A request to inspect or copy public records relating to the City's contract for services must be made directly to the City. If the City does not possess the requested records, the City shall immediately notify the Consultant of the request, and the Consultant must provide the records to the City or allow the records to be inspected or copied within a reasonable time.
- (2) Consultant's failure to comply with the City's request for records shall constitute a breach of this Agreement, and the City, at its sole discretion, may: (1) unilaterally terminate the Agreement; (2) avail itself of the remedies set forth under the Agreement; and/or (3) avail itself of any available remedies at law or in equity.
- (3) A Consultant who fails to provide the public records to the City within a reasonable time may be subject to penalties under s. [119.10](#).

(E) CIVIL ACTION.

- (1) If a civil action is filed against a Consultant to compel production of public records relating to the City's contract for services, the court shall assess and award against the Consultant the reasonable costs of enforcement, including reasonable attorneys' fees, if:
 - a. The court determines that the Consultant unlawfully refused to comply with the public records request within a reasonable time; and
 - b. At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the Consultant has not complied with the request, to the City and to the Consultant.
- (2) A notice complies with subparagraph (1)(b) if it is sent to the City's custodian of public records and to the Consultant at the Consultant's address listed on its contract with the City or to the Consultant's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.
- (3) A Consultant who complies with a public records request within 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.

(F) **IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**CITY OF MIAMI BEACH
ATTENTION: RAFAEL E. GRANADO, CITY CLERK
1700 CONVENTION CENTER DRIVE
MIAMI BEACH, FLORIDA 33139
E-MAIL: RAFAELGRANADO@MIAMIBEACHFL.GOV
PHONE: 305-673-7411**

10.8 **FORCE MAJEURE**

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- (A) A “Force Majeure” event is an event that (i) in fact causes a delay in the performance of the Consultant or the City’s obligations under the Agreement, and (ii) is beyond the reasonable control of such party unable to perform the obligation, and (iii) is not due to an intentional act, error, omission, or negligence of such party, and (iv) could not have reasonably been foreseen and prepared for by such party at any time prior to the occurrence of the event. Subject to the foregoing criteria, Force Majeure may include events such as war, civil insurrection, riot, fires, epidemics, pandemics, terrorism, sabotage, explosions, embargo restrictions, quarantine restrictions, transportation accidents, strikes, strong hurricanes or tornadoes, earthquakes, or other acts of God which prevent performance. Force Majeure shall not include technological impossibility, inclement weather, or failure to secure any of the required permits pursuant to the Agreement.
- (B) If the City or Consultant’s performance of its contractual obligations is prevented or delayed by an event believed by to be Force Majeure, such party shall immediately, upon learning of the occurrence of the event or of the commencement of any such delay, but in any case within fifteen (15) business days thereof, provide notice: (i) of the occurrence of event of Force Majeure, (ii) of the nature of the event and the cause thereof, (iii) of the anticipated impact on the Agreement, (iv) of the anticipated period of the delay, and (v) of what course of action such party plans to take in order to mitigate the detrimental effects of the event. The timely delivery of the notice of the occurrence of a Force Majeure event is a condition precedent to allowance of any relief pursuant to this section; however, receipt of such notice shall not constitute acceptance that the event claimed to be a Force Majeure event is in fact Force Majeure, and the burden of proof of the occurrence of a Force Majeure event shall be on the requesting party.
- (C) No party hereto shall be liable for its failure to carry out its obligations under the Agreement during a period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations. The suspension of any of the obligations under this Agreement due to a Force Majeure event shall be of no greater scope and no longer duration than is required. The party shall use its reasonable best efforts to continue to perform its obligations hereunder to the extent such obligations are not affected or are only partially affected by the Force Majeure event, and to correct or cure the event or condition excusing performance and otherwise to remedy its inability to perform to the extent its inability to perform is the direct result of the Force Majeure event with all reasonable dispatch.
- (D) Obligations pursuant to the Agreement that arose before the occurrence of a Force Majeure event, causing the suspension of performance, shall not be excused as a result of such occurrence unless such occurrence makes such performance not reasonably possible. The obligation to pay money in a timely manner for obligations and liabilities which matured prior to the occurrence of a Force Majeure event shall not be subject to the Force Majeure provisions.
- (E) Notwithstanding any other provision to the contrary herein, in the event of a Force Majeure occurrence, the City may, at the sole discretion of the City Manager, suspend the City’s payment obligations under the Agreement, and may take such action without regard to the notice requirements herein. Additionally, in the event that an event of Force Majeure delays a party’s performance under the Agreement for a time period

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greater than thirty (30) days, the City may, at the sole discretion of the City Manager, terminate the Agreement on a given date, by giving written notice to Consultant of such termination. If the Agreement is terminated pursuant to this section, Consultant shall be paid for any Services satisfactorily performed up to the date of termination; following which the City shall be discharged from any and all liabilities, duties, and terms arising out of, or by virtue of, this Agreement. In no event will any condition of Force Majeure extend this Agreement beyond its stated term.

10.9 E-VERIFY

- (A) Consultant shall comply with Section 448.095, Florida Statutes, "Employment Eligibility" ("E-Verify Statute"), as may be amended from time to time. Pursuant to the E-Verify Statute, commencing on January 1, 2021, Consultant shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees during the Term of the Agreement. Additionally, Consultant shall expressly require any subconsultant performing work or providing services pursuant to the Agreement to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subconsultant during the contract Term. If Consultant enters into a contract with an approved subconsultant, the subconsultant must provide the Consultant with an affidavit stating that the subconsultant does not employ, contract with, or subcontract with an unauthorized alien. Consultant shall maintain a copy of such affidavit for the duration of the Agreement or such other extended period as may be required under this Agreement.
- (B) **TERMINATION RIGHTS.**
- (1) If the City has a good faith belief that Consultant has knowingly violated Section 448.09(1), Florida Statutes, the City shall terminate this Agreement with Consultant for cause, and the City shall thereafter have or owe no further obligation or liability to Consultant.
 - (2) If the City has a good faith belief that a subconsultant has knowingly violated the foregoing Subsection 10.9(A), but the Consultant otherwise complied with such subsection, the City will promptly notify the Consultant and order the Consultant to immediately terminate the Agreement with the subconsultant. Consultant's failure to terminate a subconsultant shall be an event of default under this Agreement, entitling City to terminate the Consultant's contract for cause.
 - (3) A contract terminated under the foregoing Subsection (B)(1) or (B)(2) is not in breach of contract and may not be considered as such.
 - (4) The City or Consultant or a subconsultant may file an action with the Circuit or County Court to challenge a termination under the foregoing Subsection (B)(1) or (B)(2) no later than 20 calendar days after the date on which the contract was terminated.
 - (5) If the City terminates the Agreement with Consultant under the foregoing Subsection (B)(1), Consultant may not be awarded a public contract for at least 1 year after the date of termination of this Agreement.
 - (6) Consultant is liable for any additional costs incurred by the City as a result of the termination of this Agreement under this Section 10.9.

SECTION 11 NOTICES

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Until changed by notice, in writing, all such notices and communications shall be addressed as follows:

TO CONSULTANT: **[FILL IN]**

TO CITY: **[FILL IN]**

All notices mailed electronically to either party shall be deemed to be sufficiently transmitted.

SECTION 12
MISCELLANEOUS PROVISIONS

12.1 CHANGES AND ADDITIONS

This Agreement cannot be modified or amended without the express written consent of the parties. No modification, amendment, or alteration of the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

12.2 SEVERABILITY

If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected and every other term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

12.3 WAIVER OF BREACH

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

12.4 JOINT PREPARATION

The parties hereto acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been a joint effort of the parties, the language has been agreed to by parties to express their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

12.5 ENTIRETY OF AGREEMENT

The City and Consultant agree that this is the entire agreement between the parties. This Agreement supersedes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein, and there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not

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contained in this document. Title and paragraph headings are for convenient reference and are not intended to confer any rights or obligations upon the parties to this Agreement.

[REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]

SAMPLE

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials, as of the date first entered above.

FOR CITY:

CITY OF MIAMI BEACH, FLORIDA

ATTEST:

By: _____
City Clerk

City Manager

Date: _____

FOR CONSULTANT:

[INSERT NAME]

ATTEST:

By: _____

Print Name and Title

Print Name and Title

Date: _____