

City of Miami

CONTRACT AWARD

Procurement Department

RFP NO.: 272271(20)
DESCRIPTION: TROLLEY ADVERTISEMENT PROGRAM SERVICES
CONTRACT PERIOD: MARCH 20, 2014 THROUGH MARCH 19, 2016
TERM OF CONTRACT: TWO (2) YEARS WITH THE OPTION TO RENEW FOR FOUR
(4) ADDITIONAL ONE-YEAR PERIODS
COMMODITY CODE: 953

SECTION #1 – VENDOR AWARD

Van Wagner Miami, LLC
2610 N. Miami Avenue
Miami, FL 33127
Contact: Pablo Cremaschi
Phone: (305) 400-7355 x101
Fax: (305) 400-9991
Email: pcremaschi@vanwagner.com

Contact: Jonathan Lavallee
Phone: (212) 967-7333 x204
Fax: (212) 967-7337

SECTION #2 – AWARD/BACKGROUND INFORMATION/APPLICABLE ORDINANCES/NOTES

C.C. AWARD DATE:	DECEMBER 12, 2013	AMENDED AMOUNT:	N/A
RESOLUTION NO:	13-0501	INSURANCE REQUIREMENTS:	YES
ANNUAL CONTRACT AMOUNT:	N/A	PERFORMANCE BOND:	N/A
Note: Funds allocated from the various sources of funds from the user departments and agencies, subject to availability of funds and budgetary approval at the time of need.		APPLICABLE ORDINANCES:	N/A

SECTION #3 – REQUESTING DEPARTMENT

DEPARTMENT OF BUILDING
Contract Administrator: Jarice Rodriguez
Phone: (305) 416-1726

SECTION #4 – PROCURING AGENCY

CITY OF MIAMI, PURCHASING DEPARTMENT
Buyer: Maritza Suarez
Phone: (305) 416-1907
Fax: (305) 416-1925

Prepared By: Aimee Gandarilla, 1/28/14

A CONTRACT AWARD SHEET INSTRUCTIONAL GUIDE TO ASSIST YOU WITH THE INFORMATION
CONTAINED HEREIN IS AVAILABLE IN THE SUPPLIER INFORMATION SECTION OF OUR WEBPAGE AT:
www.miamigov.com/procurement



City of Miami

City Hall
3500 Pan American Drive
Miami, FL 33133
www.miamigov.com

Master Report

Resolution R-13-0501

File ID #: 13-01227

Enactment Date: 12/12/13

Version: 2

Controlling Office of the City

Status: Passed

Body: Clerk

Title: A RESOLUTION OF THE MIAMI CITY COMMISSION, WITH ATTACHMENT(S), ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER APPROVING THE FINDINGS OF THE EVALUATION COMMITTEE, PURSUANT TO REQUEST FOR PROPOSALS ("RFP") NO. 272271, THAT VAN WAGNER MIAMI, LLC IS RESPONSIVE TO THE RFP FOR THE PROVISION OF TROLLEY ADVERTISEMENT PROGRAM SERVICES; AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT, IN SUBSTANTIALLY THE ATTACHED FORM, WITH VAN WAGNER MIAMI, LLC, FOR SAID PURPOSE, FOR A PERIOD OF TWO (2) YEARS, WITH OPTIONS TO RENEW FOR FOUR (4) ADDITIONAL ONE (1) YEAR PERIODS, SUBJECT TO CITY COMMISSION APPROVAL.

Reference:

Introduced: 10/18/13

Name: Execute PSA - Van Wagner Miami, LLC

Requester: City Manager's Office

Cost:

Final Action: 12/12/13

Notes:

Sections:

Indexes:

Attachments: 13-01227 Exhibits SUB.pdf, 13-01227 Summary Form.pdf, 13-01227 Trolley Revenue.pdf, 13-01227 Daily Trolley Inventory.pdf, 13-01227 Memo-Recommendation of Eval. Comm..pdf, 13-01227 RFP Eval. Comm. Summary Sheet.pdf, 13-01227 Corporation Detail.pdf, 13-01227 Legislation.pdf

Action History

Ver.	Acting Body	Date	Action	Sent To	Due Date	Returned	Result
1	Office of the City Attorney	11/12/13	Reviewed and Approved				
1	City Commission	11/21/13	CONTINUED				1

A motion was made by Frank Carollo, seconded by Wifredo (Willy) Gort, that this matter be CONTINUED. Note for the Record: Item RE.14 was continued to the December 12, 2013, Regular Commission Meeting. The motion carried by the following vote:

Aye: 5 - Wifredo (Willy) Gort, Marc David Sarnoff, Frank Carollo, Michelle Spence-Jones and Michelle Spence-Jones

Absent: 1 - Francis Suarez

2	City Commission	12/12/13	ADOPTED WITH MODIFICATIONS	1
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A motion was made by Wifredo (Willy) Gort, seconded by Keon Hardemon, that this matter be ADOPTED WITH MODIFICATIONS. Chair Sarnoff: RE.13 I think is what we're up to.

Commissioner Hardemon: You said "RE.13"?

Chair Sarnoff: Thirteen. Page 21.

Kenneth Robertson (Director, Purchasing): Good afternoon, Commissioners. Kenneth Robertson, Procurement director. RE.13 is a resolution approving a contract award to Van Wagner Miami, LLC (Limited Liability Corporation) for the provision of trolley advertisement program services in response to Request for Proposals 272271. This contract has no expenditures for the City, and is a revenue-generating contract in an estimated amount of approximately \$424,000 per year.

Chair Sarnoff: All right, is there a motion?

Vice Chair Gort: Move it.

Chair Sarnoff: Motion by Commissioner Gort.

Commissioner Hardemon: Second.

Chair Sarnoff: Second by Commissioner Hardemon.

Commissioner Carollo: Discussion.

Chair Sarnoff: Yeah, I want to have one, too, but now you're recognized for the record, and then I'll go to Commissioner Gort.

Commissioner Carollo: No, I'll yield; I'll yield to my colleague.

Chair Sarnoff: Do you want to go?

Vice Chair Gort: My understanding, that we had a request that use advertising in the trolley to maintain it, the service for many more years to come, and hopefully, there will come a time when we will not have to charge people for that. For the first three years, the people get used to the ridership, and then after that, we can make a decision.

Mr. Robertson: Correct. My understanding is that the fee structure for the trolleys is currently free for all riders. The intent of this cost -- this contract is to offset the operational expenses of the trolley program. I don't know the exact date and year at which point we would become negative as to the operational side, but this is intended to offset those costs.

Chair Sarnoff: Okay. Did -- will -- question: Will this be special revenue then? Will this be held onto and used to allow us the determination -- well, for us to determine whether we want to continue operating the trolley free for service so that we could get out years? If we're -- I heard we're out -- I heard 1/20/16. I heard we're also out in 2020. The only way I would support this item is if it were special-revenued, and it were designed to maintain the trolley service.

Vice Chair Gort: Right.

Chair Sarnoff: 'Cause I'm not going to support this and put it in the general fund.

Alice Bravo (Chief of Infrastructure): Alice Bravo, Assistant City Manager. Yes, the purpose of this advertisement was to secure the revenue for the furtherance of the trolley service so that we could do that with a restricted fund.

Commissioner Carollo: You said, "was," but I want to hear "is."

Commissioner Carollo: Yeah. No, and I think Commissioner Sarnoff, Chairman Sarnoff also believed in the charging, I think. You know, it's Commissioner Suarez and myself that were very adamant that we should not and give it a test

Aye: 5 - Wifredo (Willy) Gort, Marc David Sarnoff, Frank Carollo, Francis Suarez and Keon Hardemon

2	Office of the Mayor	12/23/13	Signed by the Mayor	Office of the City Clerk
2	Office of the City Clerk	12/23/13	Signed and Attested by City Clerk	
2	Office of the City Attorney	1/27/14	Reviewed and Approved	

**PROFESSIONAL SERVICES AGREEMENT FOR
TROLLEY ADVERTISEMENT PROGRAM SERVICES FOR THE CITY OF MIAMI**

This Professional Services Agreement ("Agreement") entered into this 20th day of MARCH, 2014 (the "Effective Date"), by and between the City of Miami, Florida, ("City"), a municipal corporation organized and existing under and by virtue of the laws of the State of Florida, 444 SW 2 Avenue, Miami, Florida 33130 and, Van Wagner Miami, LLC, ("Firm(s)"), FEI Number 205053402, a foreign limited liability company, having its principal place of business at 800 Third Avenue, 28th Floor, New York, NY 10022.

RECITALS:

WHEREAS, the City requires the services of a Firm(s) to provide management services for trolley advertising products the City wishes to pursue currently and in the future (the "Services"); and

WHEREAS, the City, on August 18, 2011, issued Request for Proposals 272271 ("RFP"), a copy of which in its final amended form is attached as Exhibit "A" hereto and made a part hereof, to engage the services of a professional firm(s) with adequate staff and experience to perform the Services; and

WHEREAS, Firm(s)' response to RFP 272271,9, as amended, a copy of which is attached as Exhibit "B" ("Proposal"), was selected as the most qualified proposal for the provision of the Services; and

WHEREAS, the Agreement, plus Exhibit "A", plus Exhibit "B" comprise the "Agreement Documents"; and

WHEREAS, the Miami City Commission, by Resolution No. R-13-0501, passed and adopted on December 12, 2013, approved the selection of Firm(s) for the provision of the Services, and authorized the City Manager to execute a management agreement, under the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants and obligations herein contained, and subject to the terms and conditions hereinafter stated, the parties hereto understand and agree as follows:

I. DEFINITIONS

1.0 "Advertising/Advertisement Program" shall mean category 6 (Trolley Advertising) as described in Section 3 of RFP 272271 and any amendments or addendums thereto relating to advertising on the City-owned trolleys (the "Trolleys").

1.1 "City Commission" shall mean the local legislative body of the City of Miami.

1.2 "City Manager" shall mean the chief administrator of the City of Miami." "Assistant City Manager" shall mean the Chief of Infrastructure/ Operations who will serve as the City Manager's principal designee for this Agreement. References in this Agreement to the "City" without further designation or definition shall mean the City Manager.

1.3 "Director" shall mean the Assistant City Manager.

1.4 "Third Party Businesses/Advertisers" shall mean those businesses or advertisers who wish to enter into an agreement with the Firm(s), to promote its goods or services for sale or rent, on the Trolleys.

II. INITIAL TERM AND RENEWAL OPTIONS

The term of this agreement shall be two (2) years of operation of service commencing on the Effective Date of this Agreement. The City Commission retains the option to extend this Contract for four (4) additional one (1) year periods. Each renewal of this Contract is subject to the continued satisfactory performance and compliance with the specifications, terms and conditions, as established in the RFP as determined by the City in its reasonable discretion. All activities as described in the Scope of Services which are applicable to this Agreement shall be undertaken, performed and completed within the term provided herein. This Agreement will be in effect during the term indicated below.

III. PRIORITY OF PROVISIONS

3.0 If there is a conflict with this Agreement and the RFP, this Agreement shall prevail. If there is a conflict with this Agreement and the Proposal, this Agreement shall prevail. If there is a conflict with the RFP and the Proposal, the RFP shall prevail. Any conflicts between the Agreement and the RFP and the Proposal will be resolved as set forth in this Article III. The City reserves the right to resolve any contradictions and to correct any errors contained in its proposal documents, provided such corrections do not adversely affect the Firm(s)'s rights hereunder. Any conflicts between the Request for Proposals and Addenda shall be resolved in favor of the provisions of this Agreement.

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into the Agreement Documents by reference, and any term, statement, requirement, or provision of the Agreement Documents, the following order of precedence shall apply:

- 3.1 In the event of conflicts in the Agreement Documents the priorities stated below shall govern;
- Revisions (Amendments) to the Agreement which are executed by each of the City and the Firm(s) shall govern over the Agreement.
 - The Agreement shall govern over any Addendum to the RFP, the RFP, and the Proposal.

IV. SCOPE OF AGREEMENT

Awarded Category 6: Trolley Advertising.

Smaller wraps, to include: (1) the middle section of both sides of the trolley(s) while maintaining the branding on both the left and right sections of each side; and (2) the full back side of the trolley(s), as shown on Exhibit "C" attached hereto.

The Firm(s)'s obligations shall include the Scope of Services outlined in Section 3.1, Category 6, of the RFP and in the Firm(s)'s response to the RFP, the terms of which are incorporated by reference herein. In the event of any conflict, the terms of this Agreement shall prevail. In addition to the aforementioned responsibilities, the Firm(s)'s obligations shall include, but are not limited to the following:

4.0 General Responsibilities

- a. Marketing city-owned properties for the Advertisement Program.
- b. Negotiating the highest return to the City.
- c. Review of all existing and potential codes, laws, other requirements of governmental agencies having jurisdiction over advertising and outdoor advertising, applicable policies, and procedures as they may relate to the City's Advertisement Program.
- d. Providing ongoing management services, including auditing, inspections as prescribed by Sections 18-100 through 18-102 of the City Code, which is deemed as being incorporated by reference herein, and contract compliance and enforcement.
- e. The Firm(s) shall be under the supervision of the Assistant City Manager/Chief of Infrastructure to accomplish the Scope of Services and present its findings and recommendations to the City Commission, if necessary.
- f. As may be directed by the City Manager, the Firm(s) is expected to cooperate and fulfill requests for information that pertain to the work.
- g. The Firm(s) shall provide its own personnel, office, telecommunications, and office/ work space, except as necessary during meetings or presentations held on City-owned properties.

4.1 Marketing and Solicitation Tasks

- a. Market the Trolleys by doing the following, upon request from the City:
- b. Collect and research all information concerning the Trolleys available for the Advertisement Program.
- c. Prepare a comprehensive report with findings, conclusions and recommendations, including a comprehensive timeline for complete analysis and marketing for advertising in or on the Trolleys.
- d. Prepare a marketing campaign that will be disseminated to the appropriate third party businesses/advertisers.
- e. Distribute marketing information to advertisers through e-mail, flyers and/or other acceptable means, to include the following:
 - i. Overview/introductory letter.
 - ii. Firm(s)' detailed description of the City's offers for advertising opportunities.

4.2 Contract Administration Tasks

- a. Evaluate current and future revenue potential of the City's Advertisement Program;
- b. Develop and recommend a plan ("Plan") for optimizing advertising opportunities and increasing revenue to the City;
- c. Implement the Plan upon the City's approval;
- d. Provide ongoing management of the City's Advertisement Program;
- e. Track and manage all issues and requests concerning the operation of the City's Advertisement Program.
- f. Coordinate the installation and/ or removal of advertising equipment under the City's Advertisement Program including notification to all applicable City departments.
- g. For City sponsorships or Public Service Announcements (PSAs), assist with the printing, installation and removal of advertising materials on the inside of the Trolleys, each at the sole cost and expense of the City;
- h. Prevent any additional costs not contemplated under this Agreement to the City;
- i. Prepare specifications for bidding and/or agreements;
- j. Provide all personnel, equipment, and other resources necessary to operate the City's Advertisement Program
- k. Coordinate all necessary requirements pursuant all other City Departments including but not limited to Building, Planning & Zoning, Risk Management, and Finance Departments.
- l. The Firm(s) will be required to maintain separate books and accounting records each category of advertising covered under the agreement. Such books and records shall include any revenues, costs, or other financial items associated with the management and operation of the City's Advertisement Program in a form and manner reasonably satisfactory to the City. These books and records shall be open to inspection and audit by a City representative at all times during regular business hours at the Firm(s) upon reasonable prior notice. Reference is made to the audit and inspection provisions provided in §18-100 through §18-102 of the City Code, which are deemed as being incorporated by reference herein.

4.3 Monitoring & Inspection Services

- a. Monitor all Trolleys where the City's Advertisement Program exists. Once advertising equipment is installed, erected or mounted on a Trolley, with the exception of normal maintenance or repair and copy changes, the structure may not be altered without prior written approval by the City Manager, which may not be unreasonably withheld.
- b. Conduct scheduled inspections to ensure that with the City's Advertisement Program is being managed and operated to the City's satisfaction. The Firm(s) shall provide documentation of inspection activities performed at each location on an annual basis upon request.
- c. Maintain an emergency response plan to address graffiti, major structural defects and other conditions that, in the opinion of the City, requires immediate attention.

V. GRANT OF LICENSING RIGHTS

The City hereby grants to the Firm(s) during the term of this Agreement the exclusive authority to market, negotiate, manage, inspect and sell advertising on the Trolleys where the Advertisement Program exists, and to negotiate and execute agreements with Third Party Businesses/Advertisers with respect to advertisements on the Trolleys in connection with the City's Advertisement Program. The Firm(s) and/or the Third Party Businesses/Advertisers will retain ownership of any personal property, trade fixtures, equipment and other temporary installations where advertising is deemed to be installed, erected or affixed thereto. However, the Firm(s) shall be required remove the same upon the expiration of this Agreement. Furthermore, the Firm(s) shall be required to repair all damage to the Trolleys caused by such installation and removal, at the Firm(s)'s

and/or the communications operators' expense, normal wear and tear accepted. At all times during the term of this Agreement and/or any other agreement with the City concerning the Advertisement Program, the Firm(s) and the Third Party Businesses/Advertisers shall not destroy, deface, damage, impair, or remove any part of the Trolleys therein belonging to the City, nor permit any person under its control to do so.

5.1 Nothing herein contained shall be construed as an intention to grant, or as a grant of, any rights of an exclusive nature or paramount to any rights, permits or licenses heretofore or hereinafter granted or conveyed by the City, except for the exclusivity of the rights granted in the foregoing paragraph. This Agreement shall not be assigned, nor shall any of Firm(s)' duties be delegated or subcontracted to any third-party without the City Manager's express written consent, in the City Manager's sole and absolute discretion, provided, however, the City's consent shall not be required for an assignment by the Firm(s) to (i) to an entity controlling, controlled by, or under common control with, the Firm(s), (ii) in connection with a sale by the Firm(s) of all or substantially all of its business or assets (regardless of the form of transaction through which such result is achieved), and (iii) as a collateral assignment to its senior secured lenders. Notwithstanding the foregoing, and as specified in this Agreement, Firm(s) shall be entitled to market, solicit, negotiate, and prepare agreements with Third Party Businesses/Advertisers for the installation of advertising in or on the Trolleys and to administer such agreements, as provided in this Agreement. However, the City Manager shall review and approve or disapprove the advertising copy sent by Third Party Businesses/Advertisers to be posted on the Trolleys, in its reasonable discretion. The Firm(s) shall provide the City with a copy of such advertising copy for review and the City shall have three (3) business days from receipt to either approve or disapprove such advertising copy. If the City does not respond within such three (3) business day period, the advertising copy provided shall be deemed approved by the City. The City may only withhold its approval of a proposed advertising copy if, in the City's reasonable discretion, the proposed advertisement is pornographic, obscene, lewd, indecent or otherwise offensive or objectionable to public morals.

5.2 In the event that any agreement with any Third Party Business(es)/Advertiser(s) is terminated prior to the expiration of its initial term or option periods for any of the Trolleys, the Firm(s) shall use its commercially reasonable efforts to replace the previous Third Party Business/Advertiser with a new Third Party Business/Advertiser. The term of the agreements with the new Third Party Business(es)/Advertiser(s) shall be determined by the Firm(s) in its reasonable discretion.

5.3 Firm(s) shall not be liable to the City for the monetary default by a Third Party Business/Advertiser of its obligations under its advertising agreement with the Firms(s). However, in the event of a termination or default by any Third Party Business/Advertiser, the Firm(s) shall use commercially reasonable efforts to find a replacement advertiser on the Trolley.

VI. CONDITION OF PROPERTIES

Any City-owned Trolleys that are offered by the City for the Advertisement Program will be offered in their present "as is" condition and state of repair and without any representation by or on behalf of the City. Furthermore, the City shall not be liable for any latent, patent or other defects on its properties.

VII. COMPENSATION

The Firm shall pay to the City as revenue earned 52.5% of gross receipts on a monthly basis, payable within thirty (30) days following the end of each month with respect to the previous month. Gross receipts shall be reduced by: (i) Independent third party agency commissions; and (ii) amount of any sales or excise tax levied upon any sales, rentals, and/or services rendered and payable to the appropriate governmental authority; The City shall not be responsible to pay any expenditures under this Agreement.

VIII. CHANGES TO THE PROPERTIES AND/OR INSTALLATION OF ADDITIONAL EQUIPMENT

The City reserves the right at any time and from time to time to reasonably: (i) make or permit changes or revisions in its plans for its properties, including additions to, subtractions from, rearrangements of, alterations of, modifications of or supplements to the building areas, walkways, parking areas, or driveways, (ii) construct other buildings or improvements on any of its properties and to make alterations thereof or additions thereto. Furthermore, during the term of the Agreement, the City will retain the exclusive right to install and maintain any other equipment unrelated to the Advertisement Program on its facilities, structures, or properties. In the event that other unrelated equipment is installed on City-owned properties, the Firm(s) will cooperate with the City regarding scheduling and other logistics, to facilitate the installation of other unrelated equipment, to the extent applicable.

IX. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

The Firm(s) shall comply with all applicable permits and approval requirements of governments having jurisdiction over advertising or the Advertisement Program, laws, ordinances, codes, rules and regulations of federal, state and local governments, including the City. The Firm(s) shall additionally comply with the provisions of Section 119.0701, Florida Statutes, regarding public records.

X. LABOR STANDARDS

The Firm(s) shall assume any and all liability and responsibility under this Agreement for compliance with all applicable labor standards, rules, requirements and laws relative to their employees and personnel.

XI. GENERAL CONDITIONS

All notices or other communications which shall or may be given pursuant to this Agreement shall be in writing and shall be delivered by personal service, overnight courier or by registered mail addressed to the other party at the address indicated herein or as the same may be changed from time to time. Such notice shall be deemed given upon actual receipt or refusal thereof.

CITY

Johnny Martinez, P.E., City Manager
City of Miami
3500 Pan American Drive
Miami, Florida 33133

FIRM

Pablo Cremaschi
Van Wagner Miami, LLC
2610 N Miami Avenue
Miami, Florida 33127
(305) 400-7355

With a copy to:

Steven S. Pretsfelder, Esq.
Van Wagner Miami, LLC
800 Third Avenue, 28th Floor
New York, New York 10022

XII. OWNERSHIP OF DOCUMENTS

Upon written request, all documents developed in relation to the performance of the work done under this Agreement by the Firm(s) shall be delivered to the City upon completion of the services required and shall become the property of City, without restriction or limitation of its use. The Firm(s) agrees that all documents maintained and generated hereto shall be subject to the applicable provisions of the Public Records Law, Chapter 119, and Florida Statutes.

XIII. AWARD OF AGREEMENT

The Firm(s) warrants that it has not employed or retained any person employed by the City to solicit or secure this Agreement and that it has not offered to pay, paid, or agreed to pay any person employed by the City any fee, commission, percentage, brokerage fee, or gift of any kind contingent upon or resulting from the award of this Agreement.

XIV. CONSTRUCTION OF AGREEMENT

This Agreement shall be construed and enforced according to the laws of the State of Florida.

XV. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon the parties herein, their heirs, executors, legal representatives, successors and assigns.

XVI. INDEMNIFICATION

Firm(s) shall indemnify and hold harmless City, its officers, agents, directors, and employees, from liabilities, damages, losses, judgments, and costs, including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness, negligent act or omission, or intentional wrongful misconduct of Firm(s) and persons employed or utilized by Firm(s) in the performance of this Contract. Firm(s) shall, further, hold the City, its officials and employees, harmless for, and defend the City, its officials and/or employees against, any civil actions, statutory or similar claims, injuries or damages arising or resulting from the permitted work, except to the extent the City, its officials and/or employees were negligent or due to the City's willful misconduct. These indemnifications shall survive the term of this Contract. In the event that any action or

proceeding is brought against City by reason of any such claim or demand, Firm(s) shall, upon written notice from City, resist and defend such action or proceeding by counsel satisfactory to City. The Firm(s) expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by Firm(s) shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City or its officers, employees, agents and instrumentalities as herein provided.

The indemnification provided above shall obligate Firm(s) to defend, at its own expense, to and through appellate, supplemental or bankruptcy proceeding, any and all claims of liability and all suits and actions of every name and description which may be brought against City in connection with this Agreement, as required above, whether performed by Firm(s), or persons employed or utilized by Firm(s).

This indemnity will survive the cancellation or expiration of the Contract. This indemnity will be interpreted under the laws of the State of Florida, including without limitation and interpretation, which conforms to the limitations of §725.06 and/or §725.08, Fla. Statutes, as amended and as applicable.

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

Ten dollars (\$10) of the payments made by the City constitute separate, distinct, and independent consideration for the granting of this Indemnification, the receipt and sufficiency of which is acknowledged by the Firm(s).

XVII. CONFLICT OF INTEREST

17.1 The Firm(s) covenants that no person under its employ who presently exercises any functions or responsibilities on behalf of the City in connection with this Agreement has any personal financial interests, direct or indirect, with the Firm(s). The Firm(s) further covenants that, in the performance of the Agreement, no person having such conflicting interest shall be employed. Any such interest on the part of the Firm(s) or its employees must be disclosed in writing to the City.

17.2 The Firm(s) is aware of the conflict of interest laws of the City, Miami City Code §2-611, Miami-Dade County, Florida, Miami-Dade County Code § 2-11.1; and the State of Florida, Chapter 112, Part III, Florida Statutes, as amended, and agrees that it shall fully comply in all respects with the terms of said laws.

XVIII. INDEPENDENT FIRM(S)

The Firm(s), its employees, agents or representatives, shall be deemed to be independent Firm(s)s and not agents or employees of the City and shall not attain any rights or benefits under the civil service or pension ordinances of the City, or any rights generally afforded classified or unclassified employees. Firm(s), its employees, agents or representatives, shall not be entitled to Florida Workers' Compensation benefits as an employee of the City.

XIX. FIRM(S)' PERSONNEL

The Firm(s) agrees that the personnel identified on Exhibit "D" of this Agreement will be those individuals that are assigned to the Project, and that the assignment of such individuals is a material term of this Agreement. Firm(s) agrees to promptly notify the City in writing of the identity of any individuals that it desires to assign to perform the Services as a replacement for, or in addition to the individuals named and listed in the Proposal. The

Firm(s) shall require the designated manager to remain in charge and available during scheduled activities. The Firm(s) manager must be available to take telephone calls during scheduled activities.

XX. INSURANCE

Within ten (10) days after receipt of the Notice to Proceed, the Firm(s) shall furnish Evidence of Insurance to the Purchasing Department, if applicable. Submitted evidence of coverage shall demonstrate strict compliance to all requirements listed on the Special Conditions entitled "Insurance Requirements." The City shall be listed as an "Additional Insured." Issuance of a Purchase Order is contingent upon the receipt of proper insurance documents. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement the Firm(s) shall be notified in writing of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the City. If the Firm(s) fails to submit the required insurance documents in the manner prescribed in this Agreement within fifteen (15) calendar days after receipt Notice to Proceed, the Firm(s) shall be in default of the contractual terms and conditions and shall not be awarded the contract. The Firm(s) shall furnish to the City of Miami c/o Risk Management, 444 SW 2nd Avenue, 9th Floor, Miami FL, 33130, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meet the requirements as outlined below:

I. Commercial General Liability

A. Limits of Liability

Bodily Injury and Property Damage Liability

Each Occurrence	\$1,000,000
General Aggregate Limit	\$ 2,000,000
Products/Completed Operations	\$ 1,000,000
Personal and Advertising Injury	\$1,000,000

B. Endorsements Required

City of Miami included as an additional insured
Contingent Liability & Contractual Liability
Primary Insurance Clause
Premises & Operations Liability

II. Business Automobile Liability

A. Limits of Liability

Bodily Injury and Property Damage Liability

Combined Single Limit

Any Auto/Owned Autos/Scheduled

Including Hired, Borrowed or Non-Owned Autos

Any One Accident	\$ 1,000,000
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B. Endorsements Required

City of Miami included as an Additional Insured

III. Worker's Compensation

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

Employer's Liability

- A. Limits of Liability

\$500,000 for bodily injury caused by an accident, each accident.
\$500,000 for bodily injury caused by disease, each employee
\$500,000 for bodily injury caused by disease, policy limit

IV. Excess Liability (Excess Follow Form)

- A. Limits of Liability
 - Each Occurrence \$1,000,000
 - Policy Aggregate \$1,000,000

City of Miami listed as an additional insured

V. Professional Liability/Error's & Omissions

- A. Limits of Liability
 - Bodily Injury and Property Damage Liability
 - Each Claim \$1,000,000
 - Aggregate \$1,000,000

The above policies shall provide the City of Miami with written notice of cancellation or material change from the insurer not less than (30) days prior to any such cancellation or material change, or in accordance to policy provisions.

Companies authorized to do business in the State of Florida, with the following qualifications, shall issue all insurance policies required above:

The company must be rated no less than "A-" as to management, and no less than "Class V" as to Financial Strength, by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent. All policies and /or certificates of insurance are subject to review and verification by Risk Management prior to insurance approval.

XXI. TERMINATION

The City Manager on behalf of the City of Miami reserves the right to terminate this contract by written notice to the Firm(s) effective the date specified in the notice should any one of the following apply:

21.1. The Firm(s) is determined by the City to be in breach of any of the terms and conditions of the Agreement and such breach is not cured within thirty (30) days of receipt of written notice thereof (or if such default is of the type that it cannot reasonably be cured within such thirty (30) day period, so long as the Firm(s) has diligently commenced to cure such default, such additional period of time required to cure such default not to exceed an additional thirty (30) days) or of any other Agreement the Firm(s) has with a Florida public agency beyond any applicable notice and cure period;

21.2. The City Manager has determined that such termination will be in the best interest of the City to terminate the Agreement for its own convenience;

21.3. Funds are not available or allocated to cover the cost of the goods and/or services reduction of funds or a change in applicable laws or regulations. The City's obligation is contingent upon the availability and allocation of appropriate funds and applicable regulations.

21.4. The Firm(s) is debarred by the City or by another Florida public agency.

21.5 In the event of a Termination by the City the Firm(s) shall have no recourse against the City other than payment of fees due the Firm(s) prior to the effective date of Cancellation. Neither the City nor the Firm(s) will be liable for lost profits, direct, indirect, special or other damages or for claims for loss of business, business or contract relations or any other claims or actions other than payment of fees due under the Agreement throughout the date of termination.

XXII. NONDISCRIMINATION

The Firm(s) agrees as indicated in the RFP (Section 1.54, Nondiscrimination) that it shall not discriminate as to race, color, creed, national origin, religion, age or disability in connection with its performance hereunder.

XXIII. DEFAULT

If the Firm(s) fails to comply with the terms and conditions of this Agreement, or fails to perform hereunder beyond any applicable notice and cure period, or files for bankruptcy or provides assignment or transfer to creditors, then the City, at its sole option upon written notice, may cancel and terminate this Agreement, and all payments, advances, or other compensation paid to the Firm(s).

XXIV. FORCE MAJEURE

Neither party shall be liable for failure or delay in performing obligations set forth in this Agreement, and neither party shall be deemed in breach of its obligations, if such failure to delay is due to national disasters, strike, lock-out, or other industrial or transportation disturbances, law, regulation or ordinance, or any causes reasonably beyond the control of such party.

XXV. APPLICABLE LAW AND VENUE

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. Venue shall be in Miami-Dade County, Florida. Each party shall bear its own attorney's fees (except if the City must bring a claim to enforce the provisions of Article XIII, Indemnification against the Firm(s).) The parties knowingly, voluntarily and consensually waive the right to a jury trial or to file permissive counterclaims in any dispute between them arising out of this Agreement.

XXVI. AUDIT AND INSPECTIONS

The Firm(s) shall maintain all project records as requested by the City. All project records prepared by the Firm(s) shall be owned by the City and shall be made available to the City at no additional charge. The Firm(s) shall maintain all books, records, documents, accounting ledgers, and similar materials relating to work performed for the City under this Agreement on file for at least four years following the date of final payment to the Firm(s) by the City. The above records retention requirement shall include daily driver logs, medical

examinations, as well as all other books, records, and documents, as applicable and maintained by the Firm(s) in accordance with its normal business practices. Any duly authorized representative of the City shall have access to such records for the purpose of inspection, audit, and copying at reasonable times during the Firm(s)'s usual and customary business hours and upon reasonable prior notice. The Firm(s) shall report in-service hours to the City within twenty-four hours of a written request, unless otherwise specified.

The Firm(s) will develop annual financial reports with respect to the services performed under this Agreement for distribution to the City.

At any time during normal business hours, upon reasonable prior written notice, and as often as the City may deem necessary, there shall be made available to the City and/or representatives of the City to audit, examine, and make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters related to this Agreement. It is further understood that all records and supporting documents pertaining to this Agreement shall be maintained for a minimum period of four years. The retention and access period starts from the date of the submission of the annual performance and evaluation report in which the specific activity is reported for the final time. The Firm(s) must request approval from the City before disposing of any records under this Agreement prior to the expiration of such four (4) year period.

If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the four year period, the records must be retained until completion of the action and resolution of all issues which arise from it or until the end of the four year period, whichever is later. The Firm(s) must maintain records necessary to document compliance with the provisions of the Agreement. The Firm(s) acknowledges that additionally the City has the audit and inspection rights set forth in § 18-100 to § 18-102, City Code, as amended.

XXVII. ENTIRE AGREEMENT

This Agreement and its attachments and exhibits constitute the sole and only Agreement of the parties and accurately set forth the rights, duties, and obligations of each to the other. Any prior Agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect.

XXVIII. AMENDMENT

No amendments to this Agreement shall be binding on either party unless in writing and signed by both parties.

XXIX. MISCELLANEOUS

29.0 Captions, title and paragraph headings are for convenient reference and are not a part of this Agreement. Such captions, title or paragraph headings shall not be deemed in any manner to modify, explain, enlarge or restrict any of the provisions contained in this Agreement.

29.1 Subject to the provision of Article III, in the event of conflict between the terms of this Agreement and any terms or conditions in any attached document; the terms in this Agreement shall prevail.

29.2 No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

29.3 Should any provisions, paragraph, sentence, work or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida or the City of Miami, such provisions, paragraphs, sentences, words or phrases shall be deemed

modified to the extent necessary in order to conform with such laws (provided there is no adverse effect to the Firm(s)), or if not modifiable to conform with such laws, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect.

29.4 Further Assurances. All parties hereto upon the written request of any other party shall execute such further instruments or documents as may be reasonably required by the requesting party to implement the terms, conditions and provisions of this Agreement.

29.5 Third Party Beneficiary. Firm(s) and the City agree that it is not intended that any provision of this Agreement establishes a third party beneficiary giving or allowing any claim or right of action whatsoever by any third party under this Agreement.

29.6 Performance Evaluations. The City conducts performance evaluations during and after completion of agreements with the Firm(s), which are used as a basis for the awarding of future work as well advising the Firm(s) of its performance.

29.7 Discretion of the Director. Any matter not expressly provided for herein or in the Agreement Documents, Proposal or RFP dealing with the City or decisions of the City shall be within the exercise of the reasonable professional discretion of the Director or the Director's authorized designee.

29.8 Public Records. Firm shall comply with the provisions of Section 119.0701, Florida Statutes.

Firm(s) has been procured and is being engaged to provide Services to the City as an independent Firm(s), and not as an agent or employee of the City. Accordingly, Firm(s) shall not attain, nor be entitled to, any rights or benefits under the Civil Service or Pension Ordinances of the City, nor any rights generally afforded classified or unclassified employees. Firm(s) further understands that Florida Workers' Compensation benefits available to employees of the City are not available to Firm(s), and agrees to provide workers' compensation insurance for any employee or agent of Firm(s) rendering services to the City under this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by the respective officials thereunto duly authorized, this the day and year first above written.

CITY OF MIAMI, a municipal
Corporation of the State of Florida

Attest:

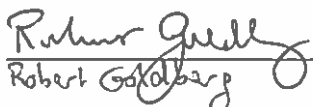

Todd Hannon
City Clerk

(SEAL)

Approved as to Insurance:


Calvin Ellis
Risk Management Director

Attest:


Robert Goldberg

Corporate
(SEAL)
(Corporate Secretary)


Daniel J. Alfonso
City Manager

Approved as to Legal Form:


Victoria Mendez
City Attorney

VAN WAGNER MIAMI, LLC


Signature

Richard A. Silverton
Firm Representative

President, Real Estate + Development
Firm Representative's Title
(Must be Authorized Corporate Officer)



City of Miami

Request for Proposals (RFP)

Purchasing Department

Miami Riverside Center

444 SW 2nd Avenue, 6th Floor

Miami, Florida 33130

Web Site Address: <http://ci.miami.fl.us/procurement>

RFP Number:	272271,9
Title:	Request for Proposals for Advertisement Programs
Issue Date/Time:	03-FEB-2012
RFP Closing Date/Time:	02/15/2012 @ 13:00:00
Pre-Bid Conference:	None
Pre-Bid Date/Time:	
Pre-Bid Location:	
Deadline for Request for Clarification:	Friday, August 26, 2011, at 5:00 p.m.
Buyer:	Suarez, Maritza
Hard Copy Submittal Location:	City of Miami - City Clerk 3500 Pan American Drive Miami FL 33133 US
Buyer E-Mail Address:	msuarez@miamigov.com
Buyer Facsimile:	(305)400-5025

Certification Statement

Please quote on this form, if applicable, net prices for the item(s) listed. Return signed original and retain a copy for your files. Prices should include all costs, including transportation to destination. The City reserves the right to accept or reject all or any part of this submission. Prices should be firm for a minimum of 180 days following the time set for closing of the submissions.

In the event of errors in extension of totals, the unit prices shall govern in determining the quoted prices.

We (I) certify that we have read your solicitation, completed the necessary documents, and propose to furnish and deliver, **F.O.B. DESTINATION**, the items or services specified herein.

The undersigned hereby certifies that neither the contractual party nor any of its principal owners or personnel have been convicted of any of the violations, or debarred or suspended as set in section 18-107 or Ordinance No. 12271.

All exceptions to this submission have been documented in the section below (refer to paragraph and section).

EXCEPTIONS: .

We (I) certify that any and all information contained in this submission is true; and we (I) further certify that this submission is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a submission for the same materials, supplies, equipment, or service, and is in all respects fair and without collusion or fraud. We (I) agree to abide by all terms and conditions of this solicitation and certify that I am authorized to sign this submission for the submitter. Please print the following and sign your name:

SUPPLIER NAME: _____

ADDRESS: _____

PHONE: _____ FAX: _____

EMAIL: _____ BEEPER: _____

SIGNED BY: _____

TITLE: _____ DATE: _____

FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM SHALL DISQUALIFY THIS BID.

Certifications

Legal Name of Firm:

Entity Type: Partnership, Sole Proprietorship, Corporation, etc.

Year Established:

Office Location: City of Miami, Miami-Dade County, or Other

Occupational License Number (a copy must be provided with your proposal submission):

Occupational License Issuing Agency:

Occupational License Expiration Date:

Respondent certifies that (s) he has read and understood the provisions of City of Miami Ordinance No. 10032 (Section 18-105 of the City Code) pertaining to the implementation of a "First Source Hiring Agreement.": (Yes or No)

Do you expect to create new positions in your company in the event your company was awarded a Contract by the City? (Yes or No)

In the event your answer to question above is yes, how many new positions would you create to perform this work?

Please list the title, rate of pay, summary of duties, number of positions, and expected length or duration of all new positions which might be created as a result of this award of a Contract.

Will Subcontractor(s) be used? (Yes or No)

Line: 1

Description: **Disregard this line item. Please refer to the Submission Requirements, Section 7)**
Revenue to the City

Category: **95300-00**

Unit of Measure: **Dollar**

Unit Price: \$_____

Number of Units: **1**

Total: \$_____

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Terms and Conditions

1. General Conditions

1.1. GENERAL TERMS AND CONDITIONS

Intent: The General Terms and Conditions described herein apply to the acquisition of goods/equipment/services with an estimated aggregate cost of \$25,000.00 or more.

Definition: A formal solicitation is defined as issuance of an Invitation for Bids, Request for Proposals, Request for Qualifications, or Request for Letters of Interest pursuant to the City of Miami Procurement Code and/or Florida Law, as amended. Formal Solicitation and Solicitation shall be defined in the same manner herein.

1.1. ACCEPTANCE OF GOODS OR EQUIPMENT - Any good(s) or equipment delivered under this formal solicitation, if applicable, shall remain the property of the seller until a physical inspection and actual usage of the good is made, and thereafter is accepted as satisfactory to the City. It must comply with the terms herein and be fully in accordance with specifications and of the highest quality. In the event the goods/equipment supplied to the City are found to be defective or does not conform to specifications, the City reserves the right to cancel the order upon written notice to the Contractor and return the product to the Contractor at the Contractor's expense.

1.2. ACCEPTANCE OF OFFER - The signed or electronic submission of your solicitation response shall be considered an offer on the part of the bidder/proposer; such offer shall be deemed accepted upon issuance by the City of a purchase order.

1.3. ACCEPTANCE/REJECTION – The City reserves the right to accept or reject any or all responses or parts of after opening/closing date and request re-issuance on the goods/services described in the formal solicitation. In the event of such rejection, the Director of Purchasing shall notify all affected bidders/proposers and make available a written explanation for the rejection. The City also reserves the right to reject the response of any bidder/proposer who has previously failed to properly perform under the terms and conditions of a contract, to deliver on time contracts of a similar nature, and who is not in a position to perform the requirements defined in this formal solicitation. The City further reserves the right to waive any irregularities or minor informalities or technicalities in any or all responses and may, at its discretion, re-issue this formal solicitation.

1.4. ADDENDA – It is the bidder's/proposer's responsibility to ensure receipt of all Addenda. Addenda are available at the City's website at: <http://www.ci.miami.fl.us/procurement>

1.5. ALTERNATE RESPONSES MAY BE CONSIDERED - The City may consider one (1) alternate response from the same Bidder/Proposer for the same formal solicitation; provided, that the alternate response offers a different product that meets or exceeds the formal solicitation requirements. In order for the City to consider an alternate response, the Bidder/Proposer shall complete a separate Price Sheet form and shall mark "Alternate Response". Alternate response shall be placed in the same response. This provision only applies to formal solicitations for the procurement of goods, services, items, equipment, materials, and/or supplies.

1.6. ASSIGNMENT - Contractor agrees not to subcontract, assign, transfer, convey, sublet, or otherwise dispose of the resulting Contract, or any or all of its right, title or interest herein, without City of Miami's prior written consent.

1.7. ATTORNEY'S FEES - In connection with any litigation, mediation and arbitration arising out of this Contract, the prevailing party shall be entitled to recover its costs and reasonable attorney's fees through and including

appellate litigation and any post-judgment proceedings.

1.8. AUDIT RIGHTS AND RECORDS RETENTION - The Successful Bidder/Proposer agrees to provide access at all reasonable times to the City, or to any of its duly authorized representatives, to any books, documents, papers, and records of Contractor which are directly pertinent to this formal solicitation, for the purpose of audit, examination, excerpts, and transcriptions. The Successful Bidder/Proposer shall maintain and retain any and all of the books, documents, papers and records pertinent to the Contract for three (3) years after the City makes final payment and all other pending matters are closed. Contractor's failure to or refusal to comply with this condition shall result in the immediate cancellation of this contract by the City.

1.9. AVAILABILITY OF CONTRACT STATE-WIDE - Any Governmental, not-for-profit or quasi-governmental entity in the State of Florida, may avail itself of this contract and purchase any and all goods/services, specified herein from the successful bidder(s)/proposer(s) at the contract price(s) established herein, when permissible by federal, state, and local laws, rules, and regulations.

Each Governmental, not-for-profit or quasi-governmental entity which uses this formal solicitation and resulting bid contract or agreement will establish its own contract/agreement, place its own orders, issue its own purchase orders, be invoiced there from and make its own payments, determine shipping terms and issue its own exemption certificates as required by the successful bidder(s)/proposer(s).

1.10. AWARD OF CONTRACT:

A. The Formal Solicitation, Bidder's/Proposer's response, any addenda issued, and the purchase order shall constitute the entire contract, unless modified in accordance with any ensuing contract/agreement, amendment or addenda.

B. The award of a contract where there are Tie Bids will be decided by the Director of Purchasing or designee in the instance that Tie Bids can't be determined by applying Florida Statute 287.087, Preference to Businesses with Drug-Free Workplace Programs.

C. The award of this contract may be preconditioned on the subsequent submission of other documents as specified in the Special Conditions or Technical Specifications. Bidder/Proposer shall be in default of its contractual obligation if such documents are not submitted in a timely manner and in the form required by the City. Where Bidder/Proposer is in default of these contractual requirements, the City, through action taken by the Purchasing Department, will void its acceptance of the Bidder's/Proposer's Response and may accept the Response from the next lowest responsive, responsible Bidder or Proposal most advantageous to the City or re-solicit the City's requirements. The City, at its sole discretion, may seek monetary restitution from Bidder/Proposer and its bid/proposal bond or guaranty, if applicable, as a result of damages or increased costs sustained as a result of the Bidder's/Proposer's default.

D. The term of the contract shall be specified in one of three documents which shall be issued to the successful Bidder/Proposer. These documents may either be a purchase order, notice of award and/or contract award sheet.

E. The City reserves the right to automatically extend this contract for up to one hundred twenty (120) calendar days beyond the stated contract term in order to provide City departments with continual service and supplies while a new contract is being solicited, evaluated, and/or awarded. If the right is exercised, the City shall notify the Bidder/Proposer, in writing, of its intent to extend the contract at the same price, terms and conditions for a specific number of days. Additional extensions over the first one hundred twenty (120) day extension may occur, if, the City and the Successful Bidder/Proposer are in mutual agreement of such extensions.

F. Where the contract involves a single shipment of goods to the City, the contract term shall conclude upon completion of the expressed or implied warranty periods.

G. The City reserves the right to award the contract on a split-order, lump sum or individual-item basis, or such combination as shall best serve the interests of the City unless otherwise specified.

H. A Contract/Agreement may be awarded to the Bidder/Proposer by the City Commission based upon the minimum qualification requirements reflected herein. As a result of a RFP, RFQ, or RFLI, the City reserves the right to execute or not execute, as applicable, an Agreement with the Proposer, whichever is determined to be in the City's best interests. Such agreement will be furnished by the City, will contain certain terms as are in the City's best interests, and will be subject to approval as to legal form by the City Attorney.

1.11. BID BOND/ BID SECURITY - A cashier's or certified check, or a Bid Bond signed by a recognized surety company that is licensed to do business in the State of Florida, payable to the City of Miami, for the amount bid is required from all bidders/proposers, if so indicated under the Special Conditions. This check or bond guarantees that a bidder/proposer will accept the order or contract/agreement, as bid/proposed, if it is awarded to bidder/proposer. Bidder/Proposer shall forfeit bid deposit to the City should City award contract/agreement to Bidder/Proposer and Bidder/Proposer fails to accept the award. The City reserves the right to reject any and all surety tendered to the City. Bid deposits are returned to unsuccessful bidders/proposers within ten (10) days after the award and successful bidder's/proposer's acceptance of award. If sixty (60) days have passed after the date of the formal solicitation closing date, and no contract has been awarded, all bid deposits will be returned on demand.

1.12. RESPONSE FORM (HARDCOPY FORMAT) - All forms should be completed, signed and submitted accordingly.

1.13. BID SECURITY FORFEITED LIQUIDATED DAMAGES - Failure to execute an Agreement and/or file an acceptable Performance Bond, when required, as provided herein, shall be just cause for the annulment of the award and the forfeiture of the Bid Security to the City, which forfeiture shall be considered, not as a penalty, but in mitigation of damages sustained. Award may then be made to the next lowest responsive, responsible Bidder or Proposal most advantageous to the City or all responses may be rejected.

1.14. BRAND NAMES - If and wherever in the specifications brand names, makes, models, names of any manufacturers, trade names, or bidder/proposer catalog numbers are specified, it is for the purpose of establishing the type, function, minimum standard of design, efficiency, grade or quality of goods only. When the City does not wish to rule out other competitors' brands or makes, the phrase "OR EQUAL" is added. When bidding/proposing an approved equal, Bidders/Proposers will submit, with their response, complete sets of necessary data (factory information sheets, specifications, brochures, etc.) in order for the City to evaluate and determine the equality of the item(s) bid/proposed. The City shall be the sole judge of equality and its decision shall be final. Unless otherwise specified, evidence in the form of samples may be requested if the proposed brand is other than specified by the City. Such samples are to be furnished after formal solicitation opening/closing only upon request of the City. If samples should be requested, such samples must be received by the City no later than seven (7) calendar days after a formal request is made.

1.15. CANCELLATION - The City reserves the right to cancel all formal solicitations before its opening/closing. In the event of bid/proposal cancellation, the Director of Purchasing shall notify all prospective bidders/proposers and make available a written explanation for the cancellation.

1.16. CAPITAL EXPENDITURES - Contractor understands that any capital expenditures that the firm makes, or prepares to make, in order to deliver/perform the goods/services required by the City, is a business risk which the contractor must assume. The City will not be obligated to reimburse amortized or unamortized capital expenditures, or to maintain the approved status of any contractor. If contractor has been unable to recoup its capital expenditures during the time it is rendering such goods/services, it shall not have any claim upon the City.

1.17. CITY NOT LIABLE FOR DELAYS - It is further expressly agreed that in no event shall the City be liable

for, or responsible to, the Bidder/Proposer/Consultant, any sub-contractor/sub-consultant, or to any other person for, or on account of, any stoppages or delay in the work herein provided for by injunction or other legal or equitable proceedings or on account of any delay for any cause over which the City has no control.

1.18. COLLUSION –Bidder/Proposer, by submitting a response, certifies that its response is made without previous understanding, agreement or connection either with any person, firm or corporation submitting a response for the same items/services or with the City of Miami’s Purchasing Department or initiating department. The Bidder/Proposer certifies that its response is fair, without control, collusion, fraud or other illegal action. Bidder/Proposer certifies that it is in compliance with the Conflict of Interest and Code of Ethics Laws. The City will investigate all potential situations where collusion may have occurred and the City reserves the right to reject any and all bids/responses where collusion may have occurred.

1.19. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS - Contractor understands that contracts between private entities and local governments are subject to certain laws and regulations, including laws pertaining to public records, conflict of interest, records keeping, etc. City and Contractor agree to comply with and observe all applicable laws, codes and ordinances as that may in any way affect the goods or equipment offered, including but not limited to:

A. Executive Order 11246, which prohibits discrimination against any employee, applicant, or client because of race, creed, color, national origin, sex, or age with regard to, but not limited to, the following: employment practices, rate of pay or other compensation methods, and training selection.

B. Occupational, Safety and Health Act (OSHA), as applicable to this Formal Solicitation.

C. The State of Florida Statutes, Section 287.133(3)(A) on Public Entity Crimes.

D. Environment Protection Agency (EPA), as applicable to this Formal Solicitation.

E. Uniform Commercial Code (Florida Statutes, Chapter 672).

F. Americans with Disabilities Act of 1990, as amended.

G. National Institute of Occupational Safety Hazards (NIOSH), as applicable to this Formal Solicitation.

H. National Forest Products Association (NFPA), as applicable to this Formal Solicitation.

I. City Procurement Ordinance City Code Section 18, Article III.

J. Conflict of Interest, City Code Section 2-611;61.

K. Cone of Silence, City Code Section 18-74.

L. The Florida Statutes Sections 218.73 and 218.74 on Prompt Payment.

M. First Source Hiring Agreement, City Ordinance No. 10032, as applicable to this Formal Solicitation. Implemented to foster the creation of new and permanent jobs for City of Miami residents; requires as a condition precedent to the execution of service contracts including professional services.

Lack of knowledge by the bidder/proposer will in no way be a cause for relief from responsibility. Non-compliance with all local, state, and federal directives, orders, and laws may be considered grounds for termination of contract(s).

Copies of the City Ordinances may be obtained from the City Clerk’s Office.

1.20. CONE OF SILENCE - Pursuant to Section 18-74 of the City of Miami Code, a “Cone of Silence” is imposed upon each RFP, RFQ, RFLI, or IFB after advertisement and terminates at the time the City Manager issues a written

recommendation to the Miami City Commission. The Cone of Silence shall be applicable only to Contracts for the provision of goods and services and public works or improvements for amounts greater than \$200,000. The Cone of Silence prohibits any communication regarding RFPs, RFQs, RFLI or IFBs (bids) between, among others:

Potential vendors, service providers, bidders, lobbyists or consultants and the City's professional staff including, but not limited to, the City Manager and the City Manager's staff; the Mayor, City Commissioners, or their respective staffs and any member of the respective selection/evaluation committee.

The provision does not apply to, among other communications:

oral communications with the City purchasing staff, provided the communication is limited strictly to matters of process or procedure already contained in the formal solicitation document; the provisions of the Cone of Silence do not apply to oral communications at duly noticed site visits/inspections, pre-proposal or pre-bid conferences, oral presentations before selection/evaluation committees, contract negotiations during any duly noticed public meeting, or public presentations made to the Miami City Commission during a duly noticed public meeting; or communications in writing or by email at any time with any City employee, official or member of the City Commission unless specifically prohibited by the applicable RFP, RFQ, RFLI or IFB (bid) documents (See Section 2.2. of the Special Conditions); or communications in connection with the collection of industry comments or the performance of market research regarding a particular RFP, RFQ, RFLI OR IFB by City Purchasing staff.

Proposers or bidders must file a copy of any written communications with the Office of the City Clerk, which shall be made available to any person upon request. The City shall respond in writing and file a copy with the Office of the City Clerk, which shall be made available to any person upon request. Written communications may be in the form of e-mail, with a copy to the Office of the City Clerk.

In addition to any other penalties provided by law, violation of the Cone of Silence by any proposer or bidder shall render any award voidable. A violation by a particular Bidder, Proposer, Offeror, Respondent, lobbyist or consultant shall subject same to potential penalties pursuant to the City Code. Any person having personal knowledge of a violation of these provisions shall report such violation to the State Attorney and/or may file a complaint with the Ethics Commission. Proposers or bidders should reference Section 18-74 of the City of Miami Code for further clarification.

This language is only a summary of the key provisions of the Cone of Silence. Please review City of Miami Code Section 18-74 for a complete and thorough description of the Cone of Silence. You may contact the City Clerk at 305-250-5360, to obtain a copy of same.

1.21. CONFIDENTIALITY - As a political subdivision, the City of Miami is subject to the Florida Sunshine Act and Public Records Law. If this Contract/Agreement contains a confidentiality provision, it shall have no application when disclosure is required by Florida law or upon court order.

1.22. CONFLICT OF INTEREST – Bidders/Proposers, by responding to this Formal Solicitation, certify that to the best of their knowledge or belief, no elected/appointed official or employee of the City of Miami is financially interested, directly or indirectly, in the purchase of goods/services specified in this Formal Solicitation. Any such interests on the part of the Bidder/Proposer or its employees must be disclosed in writing to the City. Further, you must disclose the name of any City employee who owns, directly or indirectly, an interest of five percent (5%) or more of the total assets of capital stock in your firm.

A. Bidder/Proposer further agrees not to use or attempt to use any knowledge, property or resource which may be within his/her/its trust, or perform his/her/its duties, to secure a special privilege, benefit, or exemption for himself/herself/itself, or others. Bidder/Proposer may not disclose or use information not available to members of the general public and gained by reason of his/her/its position, except for information relating exclusively to governmental practices, for his/her/its personal gain or benefit or for the personal gain or benefit of any other person

or business entity.

B. Bidder/Proposer hereby acknowledges that he/she/it has not contracted or transacted any business with the City or any person or agency acting for the City, and has not appeared in representation of any third party before any board, commission or agency of the City within the past two years. Bidder/Proposer further warrants that he/she/it is not related, specifically the spouse, son, daughter, parent, brother or sister, to: (i) any member of the commission; (ii) the mayor; (iii) any city employee; or (iv) any member of any board or agency of the City.

C. A violation of this section may subject the Bidder/Proposer to immediate termination of any professional services agreement with the City, imposition of the maximum fine and/or any penalties allowed by law. Additionally, violations may be considered by and subject to action by the Miami-Dade County Commission on Ethics.

1.23. COPYRIGHT OR PATENT RIGHTS – Bidders/Proposers warrant that there has been no violation of copyright or patent rights in manufacturing, producing, or selling the goods shipped or ordered and/or services provided as a result of this formal solicitation, and bidders/proposers agree to hold the City harmless from any and all liability, loss, or expense occasioned by any such violation.

1.24. COST INCURRED BY BIDDER/PROPOSER - All expenses involved with the preparation and submission of Responses to the City, or any work performed in connection therewith shall be borne by the Bidder(s)/Proposer(s).

1.25. DEBARMENT AND SUSPENSIONS (Sec 18-107)

(a) Authority and requirement to debar and suspend. After reasonable notice to an actual or prospective Contractual Party, and after reasonable opportunity for such party to be heard, the City Manager, after consultation with the Chief Procurement Officer and the city attorney, shall have the authority to debar a Contractual Party, for the causes listed below, from consideration for award of city Contracts. The debarment shall be for a period of not fewer than three years. The City Manager shall also have the authority to suspend a Contractual Party from consideration for award of city Contracts if there is probable cause for debarment, pending the debarment determination. The authority to debar and suspend contractors shall be exercised in accordance with regulations which shall be issued by the Chief Procurement Officer after approval by the City Manager, the city attorney, and the City Commission.

(b) Causes for debarment or suspension. Causes for debarment or suspension include the following:

- (1)** Conviction for commission of a criminal offense incident to obtaining or attempting to obtain a public or private Contract or subcontract, or incident to the performance of such Contract or subcontract.
- (2)** Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty.
- (3)** Conviction under state or federal antitrust statutes arising out of the submission of Bids or Proposals.
- (4)** Violation of Contract provisions, which is regarded by the Chief Procurement Officer to be indicative of nonresponsibility. Such violation may include failure without good cause to perform in accordance with the terms and conditions of a Contract or to perform within the time limits provided in a Contract, provided that failure to perform caused by acts beyond the control of a party shall not be considered a basis for debarment or suspension.
- (5)** Debarment or suspension of the Contractual Party by any federal, state or other governmental entity.

- (6) False certification pursuant to paragraph (c) below.
- (7) Found in violation of a zoning ordinance or any other city ordinance or regulation and for which the violation remains noncompliant.
- (8) Found in violation of a zoning ordinance or any other city ordinance or regulation and for which a civil penalty or fine is due and owing to the city.
- (9) Any other cause judged by the City Manager to be so serious and compelling as to affect the responsibility of the Contractual Party performing city Contracts.

(c) Certification. All Contracts for goods and services, sales, and leases by the city shall contain a certification that neither the Contractual Party nor any of its principal owners or personnel have been convicted of any of the violations set forth above or debarred or suspended as set forth in paragraph (b)(5).

(d) Debarment and suspension decisions. Subject to the provisions of paragraph (a), the City Manager shall render a written decision stating the reasons for the debarment or suspension. A copy of the decision shall be provided promptly to the Contractual Party, along with a notice of said party's right to seek judicial relief.

1.26. DEBARRED/SUSPENDED VENDORS –An entity or affiliate who has been placed on the State of Florida debarred or suspended vendor list may not submit a response on a contract to provide goods or services to a public entity, may not submit a response on a contract with a public entity for the construction or repair of a public building or public work, may not submit response on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity.

1.27. DEFAULT/FAILURE TO PERFORM - The City shall be the sole judge of nonperformance, which shall include any failure on the part of the successful Bidder/Proposer to accept the award, to furnish required documents, and/or to fulfill any portion of this contract within the time stipulated.

Upon default by the successful Bidder/Proposer to meet any terms of this agreement, the City will notify the Bidder/Proposer of the default and will provide the contractor three (3) days (weekends and holidays excluded) to remedy the default. Failure on the contractor's part to correct the default within the required three (3) days shall result in the Contract being terminated and upon the City notifying in writing the contractor of its intentions and the effective date of the termination. The following shall constitute default:

- A.** Failure to perform the work or deliver the goods/services required under the Contract and/or within the time required or failing to use the subcontractors, entities and personnel as identified and set forth, and to the degree specified in the Contract.
- B.** Failure to begin the work under this Contract within the time specified.
- C.** Failure to perform the work with sufficient workers and equipment or with sufficient materials to ensure timely completion.
- D.** Neglecting or refusing to remove materials or perform new work where prior work has been rejected as nonconforming with the terms of the Contract.
- E.** Becoming insolvent, being declared bankrupt, or committing any act of bankruptcy or insolvency, or making an assignment for the benefit of creditors, if the insolvency, bankruptcy, or assignment renders the successful Bidder/Proposer incapable of performing the work in accordance with and as required by the Contract.
- F.** Failure to comply with any of the terms of the Contract in any material respect.

All costs and charges incurred by the City as a result of a default or a default incurred beyond the time limits stated, together with the cost of completing the work, shall be deducted from any monies due or which may become due on this Contract.

1.28. DETERMINATION OF RESPONSIVENESS - Each Response will be reviewed to determine if it is responsive to the submission requirements outlined in the Formal Solicitation. A “responsive” response is one which follows the requirements of the formal solicitation, includes all documentation, is submitted in the format outlined in the formal solicitation, is of timely submission, and has appropriate signatures as required on each document. Failure to comply with these requirements may deem a Response non-responsive.

1.29. DISCOUNTS OFFERED DURING TERM OF CONTRACT - Discount Prices offered in the response shall be fixed after the award by the Commission, unless otherwise specified in the Special Terms and Conditions. Price discounts off the original prices quoted in the response will be accepted from successful Bidder(s)/Proposer(s) during the term of the contract. Such discounts shall remain in effect for a minimum of 120 days from approval by the City Commission. Any discounts offered by a manufacturer to Bidder/Proposer will be passed on to the City.

1.30. DISCREPANCIES, ERRORS, AND OMISSIONS - Any discrepancies, errors, or ambiguities in the Formal Solicitation or addenda (if any) should be reported in writing to the City’s Purchasing Department. Should it be found necessary, a written addendum will be incorporated in the Formal Solicitation and will become part of the purchase agreement (contract documents). The City will not be responsible for any oral instructions, clarifications, or other communications.

A. Order of Precedence – Any inconsistency in this formal solicitation shall be resolved by giving precedence to the following documents, the first of such list being the governing documents.

- 1) Addenda (as applicable)
- 2) Specifications
- 3) Special Conditions
- 4) General Terms and Conditions

1.31. EMERGENCY / DISASTER PERFORMANCE - In the event of a hurricane or other emergency or disaster situation, the successful vendor shall provide the City with the commodities/services defined within the scope of this formal solicitation at the price contained within vendor’s response. Further, successful vendor shall deliver/perform for the city on a priority basis during such times of emergency.

1.32. ENTIRE BID CONTRACT OR AGREEMENT - The Bid Contract or Agreement consists of this City of Miami Formal Solicitation and specifically this General Conditions Section, Contractor’s Response and any written agreement entered into by the City of Miami and Contractor in cases involving RFPs, RFQs, and RFLIs, and represents the entire understanding and agreement between the parties with respect to the subject matter hereof and supersedes all other negotiations, understanding and representations, if any, made by and between the parties. To the extent that the agreement conflicts with, modifies, alters or changes any of the terms and conditions contained in the Formal Solicitation and/or Response, the Formal Solicitation and then the Response shall control. This Contract may be modified only by a written agreement signed by the City of Miami and Contractor.

1.33. ESTIMATED QUANTITIES –Estimated quantities or estimated dollars are provided for your guidance only. No guarantee is expressed or implied as to quantities that will be purchased during the contract period. The City is not obligated to place an order for any given amount subsequent to the award of this contract. Said estimates may be used by the City for purposes of determining the low bidder or most advantageous proposer meeting specifications. The City reserves the right to acquire additional quantities at the prices bid/proposed or at lower prices in this Formal Solicitation.

1.34. EVALUATION OF RESPONSES

A.Rejection of Responses

The City may reject a Response for any of the following reasons:

- 1) Bidder/Proposer fails to acknowledge receipt of addenda;
- 2) Bidder/Proposer mistates or conceals any material fact in the Response ;
- 3) Response does not conform to the requirements of the Formal Solicitation;
- 4) Response requires a conditional award that conflicts with the method of award;
- 5) Response does not include required samples, certificates, licenses as required; and,
- 6) Response was not executed by the Bidder's/Proposer(s) authorized agent.

The foregoing is not an all inclusive list of reasons for which a Response may be rejected. The City may reject and re-advertise for all or any part of the Formal Solicitation whenever it is deemed in the best interest of the City.

B. Elimination From Consideration

- 1) A contract shall not be awarded to any person or firm which is in arrears to the City upon any debt or contract, or which is a defaulter as surety or otherwise upon any obligation to the City.
- 2) A contract may not be awarded to any person or firm which has failed to perform under the terms and conditions of any previous contract with the City or deliver on time contracts of a similar nature.
- 3) A contract may not be awarded to any person or firm which has been debarred by the City in accordance with the City's Debarment and Suspension Ordinance.

C. Determination of Responsibility

- 1) Responses will only be considered from entities who are regularly engaged in the business of providing the goods/equipment/services required by the Formal Solicitation. Bidder/Proposer must be able to demonstrate a satisfactory record of performance and integrity; and, have sufficient financial, material, equipment, facility, personnel resources, and expertise to meet all contractual requirements. The terms "equipment and organization" as used herein shall be construed to mean a fully equipped and well established entity in line with the best industry practices in the industry as determined by the City.
- 2) The City may consider any evidence available regarding the financial, technical and other qualifications and abilities of a Bidder/Proposer, including past performance (experience) with the City or any other governmental entity in making the award.
- 3) The City may require the Bidder(s)/Proposer(s) to show proof that they have been designated as an authorized representative of a manufacturer or supplier which is the actual source of supply, if required by the Formal Solicitation.

1.35. EXCEPTIONS TO GENERAL AND/OR SPECIAL CONDITIONS OR SPECIFICATIONS -

Exceptions to the specifications shall be listed on the Response and shall reference the section. Any exceptions to the General or Special Conditions shall be cause for the bid (IFB) to be considered non-responsive. It also may be cause for a RFP, RFQ, or RFLI to be considered non-responsive; and, if exceptions are taken to the terms and conditions of the resulting agreement it may lead to terminating negotiations.

1.36. F.O.B. DESTINATION - Unless otherwise specified in the Formal Solicitation, all prices quoted/proposed by the bidder/proposer must be F.O.B. DESTINATION, inside delivery, with all delivery costs and charges included in the bid/proposal price, unless otherwise specified in this Formal Solicitation. Failure to do so may be cause for

rejection of bid/proposal.

1.37. FIRM PRICES - The bidder/proposer warrants that prices, terms, and conditions quoted in its response will be firm throughout the duration of the contract unless otherwise specified in the Formal Solicitation. Such prices will remain firm for the period of performance or resulting purchase orders or contracts, which are to be performed or supplied over a period of time.

1.38. FIRST-SOURCE HIRING AGREEMENT (Sec. 18-105)

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

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

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

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

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

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

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

(c) The authorized representative shall negotiate each first-source hiring agreement.

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

1.39. FLORIDA MINIMUM WAGE - The Constitution of the State of Florida, Article X, Section 24, states that employers shall pay employee wages no less than the minimum wage for all hours worked in Florida. Accordingly, it is the contractor's and its' subcontractor(s) responsibility to understand and comply with this Florida constitutional minimum wage requirement and pay its employees the current established hourly minimum wage rate, which is subject to change or adjusted by the rate of inflation using the consumer price index for urban wage earners and clerical workers, CPI-W, or a successor index as calculated by the United States Department of Labor. Each adjusted minimum wage rate calculated shall be determined and published by the Agency Workforce Innovation on September 30th of each year and take effect on the following January 1st.

At the time of responding, it is bidder/proposer and his/her subcontractor(s), if applicable, full responsibility to determine whether any of its employees may be impacted by this Florida Law at any given point in time during the term of the contract. If impacted, bidder/proposer must furnish employee name(s), job title(s), job description(s), and current pay rate(s). Failure to submit this information at the time of submitting a response constitute successful bidder's/proposer's acknowledgement and understanding that the Florida Minimum Wage Law will not impact its prices throughout the term of contract and waiver of any contractual price increase request(s). The City reserves the

right to request and successful bidder/proposer must provide for any and all information to make a wage and contractual price increase(s) determination.

1.40. GOVERNING LAW AND VENUE - The validity and effect of this Contract shall be governed by the laws of the State of Florida. The parties agree that any action, mediation or arbitration arising out of this Contract shall take place in Miami-Dade County, Florida.

1.41. HEADINGS AND TERMS - The headings to the various paragraphs of this Contract have been inserted for convenient reference only and shall not in any manner be construed as modifying, amending or affecting in any way the expressed terms and provisions hereof.

1.42. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) - Any person or entity that performs or assists the City of Miami with a function or activity involving the use or disclosure of "individually identifiable health information (IIHI) and/or Protected Health Information (PHI) shall comply with the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the City of Miami Privacy Standards. HIPAA mandates for privacy, security and electronic transfer standards, which include but are not limited to:

- A. Use of information only for performing services required by the contract or as required by law;
- B. Use of appropriate safeguards to prevent non-permitted disclosures;
- C. Reporting to the City of Miami of any non-permitted use or disclosure;
- D. Assurances that any agents and subcontractors agree to the same restrictions and conditions that apply to the Bidder/Proposer and reasonable assurances that IIHI/PHI will be held confidential;
- E. Making Protected Health Information (PHI) available to the customer;
- F. Making PHI available to the customer for review and amendment; and incorporating any amendments requested by the customer;
- G. Making PHI available to the City of Miami for an accounting of disclosures; and
- H. Making internal practices, books and records related to PHI available to the City of Miami for compliance audits.

PHI shall maintain its protected status regardless of the form and method of transmission (paper records, and/or electronic transfer of data). The Bidder/ Proposer must give its customers written notice of its privacy information practices including specifically, a description of the types of uses and disclosures that would be made with protected health information.

1.43. INDEMNIFICATION - Contractor shall indemnify , hold harmless and defend the City, its officials, officers, agents, directors, and employees, from liabilities, damages, losses, and costs, including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of Contractor and persons employed or utilized by Contractor in the performance of this Contract and will indemnify, hold harmless and defend the City, its officials, officers, agents, directors and employees against, any civil actions, statutory or similar claims, injuries or damages arising or resulting from the permitted work, even if it is alleged that the City, its officials and/or employees were negligent, unless such injuries or damages are ultimately proven to be the result of grossly negligent or willful acts or omissions on the part of the City, its officials and/or employees.. These indemnifications shall survive the term of this Contract. In the event that any action or proceeding is brought against City by reason of any such claim or demand, Contractor shall, upon written notice from City, resist and defend such action or proceeding by counsel satisfactory to City. The Contractor expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City or its officers, employees, agents and instrumentalities as herein provided.

The indemnification provided above shall obligate Contractor to defend at its own expense to and through appellate,

supplemental or bankruptcy proceeding, or to provide for such defense, at City's option, any and all claims of liability and all suits and actions of every name and description which may be brought against City whether performed by Contractor, or persons employed or utilized by Contractor.

This indemnity will survive the cancellation or expiration of the Contract. This indemnity will be interpreted under the laws of the State of Florida, including without limitation and which conforms to the limitations of §725.06 and/or §725.08, Fla. Statutes, as amended from time to time as applicable.

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

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

1.44. INFORMATION AND DESCRIPTIVE LITERATURE –Bidders/Proposer must furnish all information requested in the spaces provided in the Formal Solicitation. Further, as may be specified elsewhere, each Bidder/Proposer must submit for evaluation, cuts, sketches, descriptive literature, technical specifications, and Material Safety Data Sheets (MSDS) as required, covering the products offered. Reference to literature submitted with a previous response or on file with the Buyer will not satisfy this provision.

1.45. INSPECTIONS - The City may, at reasonable times during the term hereof, inspect Contractor's facilities and perform such tests, as the City deems reasonably necessary, to determine whether the goods and/or services required to be provided by the Contractor under this Contract conform to the terms and conditions of the Formal Solicitation. Contractor shall make available to the City all reasonable facilities and assistance to facilitate the performance of tests or inspections by City representatives. All tests and inspections shall be subject to, and made in accordance with, the provisions of the City of Miami Ordinance No. 12271 (Section 18-79), as same may be amended or supplemented from time to time.

1.46. INSPECTION OF RESPONSE - Responses received by the City pursuant to a Formal Solicitation will not be made available until such time as the City provides notice of a decision or intended decision or within 10 days after bid closing, whichever is earlier. Bid/Proposal results will be tabulated and may be furnished upon request via fax or e-mail to the Sr. Procurement Specialist issuing the Solicitation. Tabulations also are available on the City's Web Site following recommendation for award.

1.47. INSURANCE - Within ten (10) days after receipt of Notice of Award, the successful Contractor, shall furnish Evidence of Insurance to the Purchasing Department, if applicable. Submitted evidence of coverage shall demonstrate strict compliance to all requirements listed on the Special Conditions entitled "Insurance Requirements". The City shall be listed as an "Additional Insured."

Issuance of a Purchase Order is contingent upon the receipt of proper insurance documents. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Solicitation the Contractor shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the City. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Solicitation within fifteen (15) calendar days after receipt Notice of Award, the contractor shall be in default of the contractual terms and conditions and shall not be awarded the contract. Under such circumstances, the Bidder/Proposer may be prohibited from submitting future responses to the City. Information regarding any insurance requirements shall be directed to the Risk Administrator, Department of Risk Management, at 444 SW 2nd Avenue, 9th Floor, Miami, Florida 33130, 305-416-1604.

The Bidder/Proposer shall be responsible for assuring that the insurance certificates required in conjunction with

this Section remain in effect for the duration of the contractual period; including any and all option terms that may be granted to the Bidder/Proposer.

1.48. INVOICES - Invoices shall contain purchase order number and details of goods and/or services delivered (i.e. quantity, unit price, extended price, etc); and in compliance with Chapter 218 of the Florida Statutes (Prompt Payment Act).

1.49. LOCAL PREFERENCE - City Code Section 18-85, states that the City Commission may offer to a responsible and responsive bidder/proposer, who maintains a Local Office, the opportunity of accepting a bid at the low bid amount, if the original bid amount submitted by the local vendor is not more than ten percent (10%) in excess of the lowest other responsible and responsive bidder/proposer.

1.50. MANUFACTURER'S CERTIFICATION - The City reserves the right to request from bidders/proposers a separate Manufacturer's Certification of all statements made in the bid/proposal. Failure to provide such certification may result in the rejection of bid/proposal or termination of contract/agreement, for which the bidder/proposer must bear full liability.

1.51. MODIFICATIONS OR CHANGES IN PURCHASE ORDERS AND CONTRACTS - No contract or understanding to modify this Formal Solicitation and resultant purchase orders or contracts, if applicable, shall be binding upon the City unless made in writing by the Director of Purchasing of the City of Miami, Florida through the issuance of a change order, addendum, amendment, or supplement to the contract, purchase order or award sheet as appropriate.

1.52. NO PARTNERSHIP OR JOINT VENTURE - Nothing contained in this Contract will be deemed or construed to create a partnership or joint venture between the City of Miami and Contractor, or to create any other similar relationship between the parties.

1.53. NONCONFORMANCE TO CONTRACT CONDITIONS - Items may be tested for compliance with specifications under the direction of the Florida Department of Agriculture and Consumer Services or by other appropriate testing Laboratories as determined by the City. The data derived from any test for compliance with specifications is public record and open to examination thereto in accordance with Chapter 119, Florida Statutes. Items delivered not conforming to specifications may be rejected and returned at Bidder's/Proposer's expense. These non-conforming items not delivered as per delivery date in the response and/or Purchase Order may result in bidder/proposer being found in default in which event any and all re-procurement costs may be charged against the defaulted contractor. Any violation of these stipulations may also result in the supplier's name being removed from the City of Miami's Supplier's list.

1.54. NONDISCRIMINATION –Bidder/Proposer agrees that it shall not discriminate as to race, sex, color, age, religion, national origin, marital status, or disability in connection with its performance under this formal solicitation. Furthermore, Bidder/Proposer agrees that no otherwise qualified individual shall solely by reason of his/her race, sex, color, age, religion, national origin, marital status or disability be excluded from the participation in, be denied benefits of, or be subjected to, discrimination under any program or activity.

In connection with the conduct of its business, including performance of services and employment of personnel, Bidder/Proposer shall not discriminate against any person on the basis of race, color, religion, disability, age, sex, marital status or national origin. All persons having appropriate qualifications shall be afforded equal opportunity for employment.

1.55. NON-EXCLUSIVE CONTRACT/ PIGGYBACK PROVISION - At such times as may serve its best interest, the City of Miami reserves the right to advertise for, receive, and award additional contracts for these herein goods and/or services, and to make use of other competitively bid (governmental) contracts, agreements, or other

similar sources for the purchase of these goods and/or services as may be available.

It is hereby agreed and understood that this formal solicitation does not constitute the exclusive rights of the successful bidder(s)/proposer(s) to receive all orders that may be generated by the City in conjunction with this Formal Solicitation.

In addition, any and all commodities, equipment, and services required by the City in conjunction with construction projects are solicited under a distinctly different solicitation process and shall not be purchased under the terms, conditions and awards rendered under this solicitation, unless such purchases are determined to be in the best interest of the City.

1.56. OCCUPATIONAL LICENSE - Any person, firm, corporation or joint venture, with a business location in the City of Miami and is submitting a Response under this Formal Solicitation shall meet the City's Occupational License Tax requirements in accordance with Chapter 31.1, Article I of the City of Miami Charter. Others with a location outside the City of Miami shall meet their local Occupational License Tax requirements. A copy of the license must be submitted with the response; however, the City may at its sole option and in its best interest allow the Bidder/Proposer to supply the license to the City during the evaluation period, but prior to award.

1.57. ONE PROPOSAL - Only one (1) Response from an individual, firm, partnership, corporation or joint venture will be considered in response to this Formal Solicitation. When submitting an alternate response, please refer to the herein condition for "Alternate Responses May Be Considered".

1.58. OWNERSHIP OF DOCUMENTS - It is understood by and between the parties that any documents, records, files, or any other matter whatsoever which is given by the City to the successful Bidder/Proposer pursuant to this formal solicitation shall at all times remain the property of the City and shall not be used by the Bidder/Proposer for any other purposes whatsoever without the written consent of the City.

1.59. PARTIAL INVALIDITY - If any provision of this Contract or the application thereof to any person or circumstance shall to any extent be held invalid, then the remainder of this Contract or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby, and each provision of this Contract shall be valid and enforced to the fullest extent permitted by law.

1.60. PERFORMANCE/PAYMENT BOND – A Contractor may be required to furnish a Performance/Payment Bond as part of the requirements of this Contract, in an amount equal to one hundred percent (100%) of the contract price.

1.61. PREPARATION OF RESPONSES (HARDCOPY FORMAT) – Bidders/Proposers are expected to examine the specifications, required delivery, drawings, and all special and general conditions. All bid/proposed amounts, if required, shall be either typewritten or entered into the space provided with ink. Failure to do so will be at the Bidder's/Proposer's risk.

A. Each Bidder/Proposer shall furnish the information required in the Formal Solicitation. The Bidder/Proposer shall sign the Response and print in ink or type the name of the Bidder/Proposer, address, and telephone number on the face page and on each continuation sheet thereof on which he/she makes an entry, as required.

B. If so required, the unit price for each unit offered shall be shown, and such price shall include packaging, handling and shipping, and F.O.B. Miami delivery inside City premises unless otherwise specified. Bidder/Proposer shall include in the response all taxes, insurance, social security, workmen's compensation, and any other benefits normally paid by the Bidder/Proposer to its employees. If applicable, a unit price shall be entered in the "Unit Price" column for each item. Based upon estimated quantity, an extended price shall be entered in the "Extended Price" column for each item offered. In case of a discrepancy between the unit price and extended price, the unit price will be presumed correct.

C. The Bidder/Proposer must state a definite time, if required, in calendar days for delivery of goods and/or services.

D. The Bidder/Proposer should retain a copy of all response documents for future reference.

E. All responses, as described, must be fully completed and typed or printed in ink and must be signed in ink with the firm's name and by an officer or employee having authority to bind the company or firm by his/her signature. Bids/Proposals having any erasures or corrections must be initialed in ink by person signing the response or the response may be rejected.

F. Responses are to remain valid for at least 180 days. Upon award of a contract, the content of the Successful Bidder's/Proposer's response may be included as part of the contract, at the City's discretion.

G. The City of Miami's Response Forms shall be used when Bidder/Proposer is submitting its response in hardcopy format. Use of any other forms will result in the rejection of the response. **IF SUBMITTING HARDCOPY FORMAT, THE ORIGINAL AND THREE (3) COPIES OF THESE SETS OF FORMS, UNLESS OTHERWISE SPECIFIED, AND ANY REQUIRED ATTACHMENTS MUST BE RETURNED TO THE CITY OR YOUR RESPONSE MAY BE DEEMED NON-RESPONSIVE.**

1.62. PRICE ADJUSTMENTS – Any price decrease effectuated during the contract period either by reason of market change or on the part of the contractor to other customers shall be passed on to the City of Miami.

1.63. PRODUCT SUBSTITUTES - In the event a particular awarded and approved manufacturer's product becomes unavailable during the term of the Contract, the Contractor awarded that item may arrange with the City's authorized representative(s) to supply a substitute product at the awarded price or lower, provided that a sample is approved in advance of delivery and that the new product meets or exceeds all quality requirements.

1.64. CONFLICT OF INTEREST, AND UNETHICAL BUSINESS PRACTICE PROHIBITIONS - Contractor represents and warrants to the City that it has not employed or retained any person or company employed by the City to solicit or secure this Contract and that it has not offered to pay, paid, or agreed to pay any person any fee, commission, percentage, brokerage fee, or gift of any kind contingent upon or in connection with, the award of this Contract.

1.65. PROMPT PAYMENT –Bidders/Proposers may offer a cash discount for prompt payment; however, discounts shall not be considered in determining the lowest net cost for response evaluation purposes.

Bidders/Proposers are required to provide their prompt payment terms in the space provided on the Formal Solicitation. If no prompt payment discount is being offered, the Bidder/Proposer must enter zero (0) for the percentage discount to indicate no discount. If the Bidder/Proposer fails to enter a percentage, it is understood and agreed that the terms shall be 2% 20 days, effective after receipt of invoice or final acceptance by the City, whichever is later.

When the City is entitled to a cash discount, the period of computation will commence on the date of delivery, or receipt of a correctly completed invoice, whichever is later. If an adjustment in payment is necessary due to damage, the cash discount period shall commence on the date final approval for payment is authorized. If a discount is part of the contract, but the invoice does not reflect the existence of a cash discount, the City is entitled to a cash discount with the period commencing on the date it is determined by the City that a cash discount applies.

Price discounts off the original prices quoted on the Price Sheet will be accepted from successful bidders/proposers during the term of the contract.

1.66. PROPERTY - Property owned by the City of Miami is the responsibility of the City of Miami. Such property furnished to a Contractor for repair, modification, study, etc., shall remain the property of the City of Miami.

Damages to such property occurring while in the possession of the Contractor shall be the responsibility of the Contractor. Damages occurring to such property while in route to the City of Miami shall be the responsibility of the Contractor. In the event that such property is destroyed or declared a total loss, the Contractor shall be responsible for replacement value of the property at the current market value, less depreciation of the property, if any.

1.67. PROVISIONS BINDING - Except as otherwise expressly provided in the resulting Contract, all covenants, conditions and provisions of the resulting Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

1.68. PUBLIC ENTITY CRIMES - A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a response on a contract to provide any goods or services to a public entity, may not submit a response on a contract with a public entity for the construction or repair of a public building or public work, may not submit responses 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 Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

1.69. PUBLIC RECORDS - Contractor understands that the public shall have access, at all reasonable times, to all documents and information pertaining to City contracts, subject to the provisions of Chapter 119, Florida Statutes, and City of Miami Code, Section 18, Article III, and agrees to allow access by the City and the public to all documents subject to disclosure under applicable law. Contractor's failure or refusal to comply with the provision of this section shall result in the immediate cancellation of this Contract by the City.

1.70. QUALITY OF GOODS, MATERIALS, SUPPLIES, PRODUCTS, AND EQUIPMENT - All materials used in the manufacturing or construction of supplies, materials, or equipment covered by this solicitation shall be new. The items bid/proposed must be of the latest make or model, of the best quality, and of the highest grade of workmanship, unless as otherwise specified in this Solicitation.

1.71. QUALITY OF WORK/SERVICES - The work/services performed must be of the highest quality and workmanship. Materials furnished to complete the service shall be new and of the highest quality except as otherwise specified in this Solicitation.

1.72. REMEDIES PRIOR TO AWARD (Sec. 18-106) - If prior to Contract award it is determined that a formal solicitation or proposed award is in violation of law, then the solicitation or proposed award shall be cancelled by the City Commission, the City Manager or the Chief Procurement Officer, as may be applicable, or revised to comply with the law.

1.73. RESOLUTION OF CONTRACT DISPUTES (Sec. 18-105)

(a) Authority to resolve Contract disputes. The City Manager, after obtaining the approval of the city attorney, shall have the authority to resolve controversies between the Contractual Party and the city which arise under, or by virtue of, a Contract between them; provided that, in cases involving an amount greater than \$25,000, the City Commission must approve the City Manager's decision. Such authority extends, without limitation, to controversies based upon breach of Contract, mistake, misrepresentation or lack of complete performance, and shall be invoked by a Contractual Party by submission of a protest to the City Manager.

(b) Contract dispute decisions. If a dispute is not resolved by mutual consent, the City Manager shall promptly render a written report stating the reasons for the action taken by the City Commission or the City Manager which shall be final and conclusive. A copy of the decision shall be immediately provided to the protesting party, along with a notice of such party's right to seek judicial relief, provided that the protesting party shall not be entitled to

such judicial relief without first having followed the procedure set forth in this section.

1.74. RESOLUTION OF PROTESTED SOLICITATIONS AND AWARDS (Sec. 18-104)

(a) Right to protest. The following procedures shall be used for resolution of protested solicitations and awards except for purchases of goods, supplies, equipment, and services, the estimated cost of which does not exceed \$25,000.

Protests thereon shall be governed by the Administrative Policies and Procedures of Purchasing.

1. Protest of Solicitation.

i. Any prospective proposer who perceives itself aggrieved in connection with the solicitation of a Contract may protest to the Chief Procurement Officer. A written notice of intent to file a protest shall be filed with the Chief Procurement Officer within three days after the Request for Proposals, Request for Qualifications or Request for Letters of Interest is published in a newspaper of general circulation. A notice of intent to file a protest is considered filed when received by the Chief Procurement Officer; or

ii. Any prospective bidder who intends to contest the Solicitation Specifications or a solicitation may protest to the Chief Procurement Officer. A written notice of intent to file a protest shall be filed with the Chief Procurement Officer within three days after the solicitation is published in a newspaper of general circulation. A notice of intent to file a protest is considered filed when received by the Chief Procurement Officer.

2. Protest of Award.

i. A written notice of intent to file a protest shall be filed with the Chief Procurement Officer within two days after receipt by the proposer of the notice of the City Manager's recommendation for award of Contract, which will be posted on the City of Miami Purchasing Department website, in the Supplier Corner, Current Solicitations and Notice of Recommendation of Award Section. The notice of the City Manager's recommendation can be found by selecting the details of the solicitation and is listed as Recommendation of Award Posting Date and Recommendation of Award To fields. If "various" is indicated in the Recommendation of Award To field, the Bidder/Proposer must contact the buyer for that solicitation to obtain the suppliers name. It shall be the responsibility of the Bidder/Proposer to check this section of the website daily after responses are submitted to receive the notice; or

ii. Any actual Responsive and Responsible Bidder whose Bid is lower than that of the recommended bidder may protest to the Chief Procurement Officer. A written notice of intent to file a protest shall be filed with the Chief Procurement Officer within two days after receipt by the bidder of the notice of the city's determination of non responsiveness or non responsibility. The receipt by bidder of such notice shall be confirmed by the city by facsimile or electronic mail or U.S. mail, return receipt requested. A notice of intent to file a protest is considered filed when received by the Chief Procurement Officer.

iii. A written protest based on any of the foregoing must be submitted to the Chief Procurement Officer within five (5) days after the date the notice of protest was filed. A written protest is considered filed when received by the Chief Procurement Officer.

The written protest may not challenge the relative weight of the evaluation criteria or the formula for assigning points in making an award determination.

The written protest shall state with particularity the specific facts and law upon which the protest of the solicitation or the award is based, and shall include all pertinent documents and evidence and shall be accompanied by the required Filing Fee as provided in subsection (f). This shall form the basis for review of the written protest and no facts, grounds, documentation or evidence not contained in the protester's submission to the Chief Procurement Officer at the time of filing the protest shall be permitted in the consideration of the written protest.

No time will be added to the above limits for service by mail. In computing any period of time prescribed or allowed by this section, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. Intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation of the time for filing.

(b) Authority to resolve protests. The Chief Procurement Officer shall have the authority, subject to the approval of the City Manager and the city attorney, to settle and resolve any written protest. The Chief Procurement Officer shall obtain the requisite approvals and communicate said decision to the protesting party and shall submit said decision to the City Commission within 30 days after he/she receives the protest. In cases involving more than \$25,000, the decision of the Chief Procurement Officer shall be submitted for approval or disapproval thereof to the City Commission after a favorable recommendation by the city attorney and the City Manager.

(c) Compliance with filing requirements. Failure of a party to timely file either the notice of intent to file a protest or the written protest, together with the required Filing Fee as provided in subsection (f), with the Chief Procurement Officer within the time provided in subsection (a), above, shall constitute a forfeiture of such party's right to file a protest pursuant to this section. The protesting party shall not be entitled to seek judicial relief without first having followed the procedure set forth in this section

(d) Stay of Procurements during protests. Upon receipt of a written protest filed pursuant to the requirements of this section, the city shall not proceed further with the solicitation or with the award of the Contract until the protest is resolved by the Chief Procurement Officer or the City Commission as provided in subsection (b) above, unless the City Manager makes a written determination that the solicitation process or the Contract award must be continued without delay in order to avoid an immediate and serious danger to the public health, safety or welfare.

(e) Costs. All costs accruing from a protest shall be assumed by the protestor.

(f) Filing Fee. The written protest must be accompanied by a filing fee in the form of a money order or cashier's check payable to the city in an amount equal to one percent of the amount of the Bid or proposed Contract, or \$5000.00, whichever is less, which filing fee shall guarantee the payment of all costs which may be adjudged against the protestor in any administrative or court proceeding. If a protest is upheld by the Chief Procurement Officer and/or the City Commission, as applicable, the filing fee shall be refunded to the protestor less any costs assessed under subsection (e) above. If the protest is denied, the filing fee shall be forfeited to the city in lieu of payment of costs for the administrative proceedings as prescribed by subsection (e) above.

1.75. SAMPLES - Samples of items, when required, must be submitted within the time specified at no expense to the City. If not destroyed by testing, bidder(s)/proposer(s) will be notified to remove samples, at their expense, within 30 days after notification. Failure to remove the samples will result in the samples becoming the property of the City.

1.76. SELLING, TRANSFERRING OR ASSIGNING RESPONSIBILITIES - Contractor shall not sell, assign, transfer or subcontract at any time during the term of the Contract, or any part of its operations, or assign any portion of the performance required by this contract, except under and by virtue of written permission granted by the City through the proper officials, which may be withheld or conditioned, in the City's sole discretion.

1.77. SERVICE AND WARRANTY –When specified, the bidder/proposer shall define all warranty, service and replacements that will be provided. Bidders/Proposer must explain on the Response to what extent warranty and service facilities are available. A copy of the manufacturer's warranty, if applicable, should be submitted with your response.

1.78. SILENCE OF SPECIFICATIONS - The apparent silence of these specifications and any supplemental specification as to any detail or the omission from it of detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail and that only materials of first quality and correct type, size and design are to be used. All workmanship and services is to be first quality.

All interpretations of these specifications shall be made upon the basis of this statement.

If your firm has a current contract with the State of Florida, Department of General Services, to supply the items on this solicitation, the bidder/proposer shall quote not more than the contract price; failure to comply with this request will result in disqualification of bid/proposal.

1.79. SUBMISSION AND RECEIPT OF RESPONSES - Responses shall be submitted electronically via the Oracle System or responses may be submitted in hardcopy format to the City Clerk, City Hall, 3500 Pan American Drive, Miami, Florida 33133-5504, at or before, the specified closing date and time as designated in the IFB, RFP, RFQ, or RFLI. NO EXCEPTIONS. Bidders/Proposers are welcome to attend the solicitation closing; however, no award will be made at that time.

A. Hardcopy responses shall be enclosed in a sealed envelope, box package. The face of the envelope, box or package must show the hour and date specified for receipt of responses, the solicitation number and title, and the name and return address of the Bidder/Proposer. Hardcopy responses not submitted on the requisite Response Forms may be rejected. Hardcopy responses received at any other location than the specified shall be deemed non-responsive.

Directions to City Hall:

FROM THE NORTH: I-95 SOUTH UNTIL IT TURNS INTO US1. US1 SOUTH TO 27TH AVE., TURN LEFT, PROCEED SOUTH TO SO. BAYSHORE DR. (3RD TRAFFIC LIGHT), TURN LEFT, 1 BLOCK TURN RIGHT ON PAN AMERICAN DR. CITY HALL IS AT THE END OF PAN AMERICAN DR. PARKING IS ON RIGHT.

FROM THE SOUTH: US1 NORTH TO 27TH AVENUE, TURN RIGHT, PROCEED SOUTH TO SO. BAYSHORE DR. (3RD TRAFFIC LIGHT), TURN LEFT, 1 BLOCK TURN RIGHT ON PAN AMERICAN DR. CITY HALL IS AT THE END OF PAN AMERICAN DR. PARKING IS ON RIGHT.

B. Facsimile responses will not be considered.

C. Failure to follow these procedures is cause for rejection of bid/proposal.

D. The responsibility for obtaining and submitting a response on or before the close date is solely and strictly the responsibility of Bidder/Proposer. The City of Miami is not responsible for delays caused by the United States mail delivery or caused by any other occurrence. Responses received after the solicitation closing date and time will be returned unopened, and will not be considered for award.

E. Late responses will be rejected.

F. All responses are subject to the conditions specified herein. Those which do not comply with these conditions are subject to rejection.

G. Modification of responses already submitted will be considered only if received at the City before the time and date set for closing of solicitation responses. All modifications must be submitted via the Oracle System or in writing. Once a solicitation closes (closed date and/or time expires), the City will not consider any subsequent submission which alters the responses.

H. If hardcopy responses are submitted at the same time for different solicitations, each response must be placed in a separate envelope, box, or package and each envelope, box or package must contain the information previously

stated in 1.82.A.

1.80. TAXES - The City of Miami is exempt from any taxes imposed by the State and/or Federal Government. Exemption certificates will be provided upon request. Notwithstanding, Bidders/Proposers should be aware of the fact that all materials and supplies which are purchased by the Bidder/Proposer for the completion of the contract is subject to the Florida State Sales Tax in accordance with Section 212.08, Florida Statutes, as amended and all amendments thereto and shall be paid solely by the Bidder/Proposer.

1.81. TERMINATION –The City Manager on behalf of the City of Miami reserves the right to terminate this contract by written notice to the contractor effective the date specified in the notice should any of the following apply:

- A.** The contractor is determined by the City to be in breach of any of the terms and conditions of the contract.
- B.** The City has determined that such termination will be in the best interest of the City to terminate the contract for its own convenience;
- C.** Funds are not available to cover the cost of the goods and/or services. The City’s obligation is contingent upon the availability of appropriate funds.

1.82. TERMS OF PAYMENT - Payment will be made by the City after the goods and/or services awarded to a Bidder/Proposer have been received, inspected, and found to comply with award specifications, free of damage or defect, and properly invoiced. No advance payments of any kind will be made by the City of Miami.

Payment shall be made after delivery, within 45 days of receipt of an invoice and authorized inspection and acceptance of the goods/services and pursuant to Section 218.74, Florida Statutes and other applicable law.

1.83. TIMELY DELIVERY - Time will be of the essence for any orders placed as a result of this solicitation. The City reserves the right to cancel such orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on their Response. Deliveries are to be made during regular City business hours unless otherwise specified in the Special Conditions.

1.84. TITLE - Title to the goods or equipment shall not pass to the City until after the City has accepted the goods/equipment or used the goods, whichever comes first.

1.85. TRADE SECRETS EXECUTION TO PUBLIC RECORDS DISCLOSURE- All Responses submitted to the City are subject to public disclosure pursuant to Chapter 119, Florida Statutes. An exception may be made for “trade secrets.”

If the Response contains information that constitutes a “trade secret”, all material that qualifies for exemption from Chapter 119 must be submitted in a separate envelope, clearly identified as “TRADE SECRETS EXCEPTION,” with your firm’s name and the Solicitation number and title marked on the outside.

Please be aware that the designation of an item as a trade secret by you may be challenged in court by any person. By your designation of material in your Response as a “trade secret” you agree to indemnify and hold harmless the City for any award to a plaintiff for damages, costs or attorney’s fees and for costs and attorney’s fees incurred by the City by reason of any legal action challenging your claim.

1.86. UNAUTHORIZED WORK OR DELIVERY OF GOODS- Neither the qualified Bidder(s)/Proposer(s) nor any of his/her employees shall perform any work or deliver any goods unless a change order or purchase order is issued and received by the Contractor. The qualified Bidder(s)/Proposer(s) shall not be paid for any work performed or goods delivered outside the scope of the contract or any work performed by an employee not otherwise

previously authorized.

1.87. USE OF NAME - The City is not engaged in research for advertising, sales promotion, or other publicity purposes. No advertising, sales promotion or other publicity materials containing information obtained from this Solicitation are to be mentioned, or imply the name of the City, without prior express written permission of the City Manager or the City Commission.

1.88. VARIATIONS OF SPECIFICATIONS - For purposes of solicitation evaluation, bidders/proposers must indicate any variances from the solicitation specifications and/or conditions, no matter how slight. If variations are not stated on their Response, it will be assumed that the product fully complies with the City's specifications.

2. Special Conditions

2.1. PURPOSE

The purpose of this Solicitation is to establish a contract, for Advertisement Programs, as specified herein, from a source(s) of supply that will give prompt and efficient service fully compliant with the terms, conditions and stipulations of the solicitation.

2.2. DEADLINE FOR RECEIPT OF REQUEST FOR ADDITIONAL INFORMATION/CLARIFICATION

Any questions or clarifications concerning this solicitation shall be submitted by email or facsimile to the Purchasing Department, Attn: Maritza Suarez, CPPB; fax: (305) 400-5025 or email: msuarez@ci.miami.fl.us. The solicitation title and number shall be referenced on all correspondence. All questions must be received no later than Friday, August 26, 2011, at 5:00 p.m.. All responses to questions will be sent to all prospective bidders/proposers in the form on an addendum. **NO QUESTIONS WILL BE RECEIVED VERBALLY OR AFTER SAID DEADLINE.**

2.3. TERM OF CONTRACT

The proposer(s) qualified to provide the service(s) requested herein (the "Successful Proposer(s)") shall be required to execute a contract ("Contract") with the City, which shall include, but not be limited to, the following terms:

- (1) The term of the Contract(s) shall be for two (2) years with an option to renew for four (4) additional one (1) year periods.
- (2) The City shall have the option to extend or terminate the Contract.

Continuation of the contract beyond the initial period is a City prerogative; not a right of the bidder/proposer. This prerogative will be exercised only when such continuation is clearly in the best interest of the City.

2.4. CONDITIONS FOR RENEWAL

Each renewal of this contract is subject to the following:

- (1) Continued satisfactory performance compliance with the specifications, terms and conditions established herein.
- (2) Availability of funds

2.5. NON-APPROPRIATION OF FUNDS

In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable in any fiscal period for payments due under this contract, then the City, upon written notice to Contractor or his assignee of such occurrence, shall have the unqualified right to terminate the contract without any penalty or expense to the City. No guarantee, warranty or representation is made that any particular or any project(s) will be awarded to any firm(s).

2.6. PROPOSER'S MINIMUM QUALIFICATIONS

The following represent the minimum qualification requirements for a Proposer to be deemed responsive by the City, and Proposers shall satisfy each of the following minimum requirements cited below. Each of these minimum qualifications must be addressed in detail in Proposal submission to determine Proposer's responsiveness. Failure to meet each of the following qualification requirements, and/or failure to provide sufficient detail and/or documentation in its Proposal to determine responsiveness by the City, will result in the Proposal being deemed non-responsive.

Advertising programs:

(1) The successful Proposer must provide evidence of sufficient financial stability to produce, install and maintain the advertising program proposed, including the quantity of products proposed

(2) The successful Proposer must demonstrate a level of expertise, technical knowledge, innovation, and overall capacity to provide the proposed advertising program

Additionally,

(4) Proposer shall have no record of judgments, bankruptcy, pending lawsuits against the City or criminal activities involving moral turpitude and not have any conflicts of interest that have not been waived by the City Commission.

(5) Neither Proposer nor any principal, officer, owner, or stockholder of Proposer shall be in arrears or in default of any debt or contract involving the City, (as a party to a contract, or otherwise); nor have failed to perform faithfully on any previous contract with the City.

See "Instructions for Submitting a Response: (Submission Requirements)." **Submittals that do not respond completely to all requirements may be considered non-responsive and eliminated from the process.**

CONTRACT EXECUTION

The selected Proposer(s) evaluated and ranked in accordance with the requirements of this Solicitation, shall be awarded an opportunity to negotiate a contract ("Contract") with the City in substantially the attached form labeled "Attachment A - Professional Services Agreement" and available via the Header section to this RFP. The City reserves the right to execute or not execute, as applicable a Contract with the selected Proposer(s) that is determined to be most advantageous and in the City's best interest. Such Contract will be furnished by the City, will contain certain terms as are in the City's best interests, and will be subject to approval as to legal form by the City Attorney.

2.8. FAILURE TO PERFORM

Should it not be possible to reach the contractor or supervisor and/or should remedial action not be taken within 48 hours of any failure to perform according to specifications, the City reserves the right to declare Contractor in default of the contract or make appropriate reductions in the contract payment.

2.9. INSURANCE REQUIREMENTS

INDEMNIFICATION

Bidder shall pay on behalf of, indemnify and save City and its officials harmless, from and against any and all claims, liabilities, losses, and causes of action, which may arise out of bidder's performance under the provisions of the contract, including all acts or omissions to act on the part of bidder, including any person performing under this Contract for or on bidder's behalf, provided that any such claims, liabilities, losses and causes of such action are not attributable to the negligence or misconduct of the City and, from and against any orders, judgments or decrees

which may be entered and which may result from this Contract, unless attributable to the negligence or misconduct of the City, and from and against all costs, attorneys' fees, expenses and liabilities incurred in the defense of any such claim, or the investigation thereof.

The bidder shall furnish to City of Miami, c/o Purchasing Department, 444 SW 2nd Avenue, 6th Floor, Miami, Florida 33130, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

(1) Worker's Compensation

A. Limits of Liability - Statutory - State of Florida

Waiver of subrogation

(2) Commercial General Liability:

A. Limits of Liability

Bodily Injury and Property Damage Liability - Each Occurrence: \$1,000,000

General Aggregate Limit: \$2,000,000

Personal and Adv. Injury. Products and Completed Operations and Fire Damage: \$1,000,000.

B. Endorsements Required:

City of Miami included as an Additional insured. Employees included as insured. Contingent Liability & Contractual Liability. Primary Insurance Clause. Premises & Operations Liability.

(3) BusinessAutomobile Liability

A. Limits of Liability

Bodily injury and property damage liability combined single limits. Owned/Scheduled Autos, including hired, borrowed or owned, or non-owned autos used in connection with the work -

Any One Accident: \$1,000,000

B. Endorsements Required:

City of Miami included as an Additional Insured

(4) Employer's Liability

A. Limits of Liability

\$500,000 for bodily injury caused by an accident, each accident

\$500,000 for bodily injury caused by disease, each employee

\$500,000 for bodily injury caused by disease, policy limit

(5) Professional Liability/Errors and Omissions Coverage

A. Limits of Liability

Combined Single Limit. Each Claim	\$1,000,000 General Aggregate Limit
\$1,000,000	

(6) Excess Liability (Excess Follow Form)

A. Limits of Liability

Each Occurrence	\$1,000,000
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Policy Aggregate	\$1,000,000
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The above policies shall provide the City of Miami with written notice of cancellation or material change from the insurer in accordance with policy provisions.

BINDERS ARE UNACCEPTABLE.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the bidder.

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 "A" as to management, and no less than "Class V" as to financial strength, by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent. All policies and/or certificates of insurance are subject to review and verification by Risk Management prior to insurance approval.

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

NOTE: CITY BID NUMBER AND/OR TITLE OF BID MUST APPEAR ON EACH CERTIFICATE.

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

--If insurance certificates are scheduled to expire during the contractual period, the Bidder shall be responsible for submitting new or renewed insurance certificates to the City at a minimum of ten (10) calendar days in advance of such expiration.

--In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the City shall:

(4) Suspend the contract until such time as the new or renewed certificates are received by the City in the manner prescribed in the Invitation To Bid.

(5) The City may, at its sole discretion, terminate this contract for cause and seek re-procurement damages from the Bidder in conjunction with the General and Special Terms and Conditions of the Bid.

The Bidder shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period; including any and all option terms that may be granted to the Bidder.

2.10. CONTRACT ADMINISTRATOR

Upon award, contractor shall report and work directly with Zari Watkins, Esq., who shall be designated as the Contract Administrator.

2.11. SUBCONTRACTOR(S) OR SUBCONSULTANT(S)

A Sub-Consultant, herein known as Sub-Contractor(s) is an individual or firm contracted by the Proposer or Proposer's firm to assist in the performance of services required under this Solicitation. A Sub-Contractor shall be paid through Proposer or Proposer's firm and not paid directly by the City. Sub-Contractors are allowed by the City in the performance of the services delineated within this Solicitation. Proposer must clearly reflect in its Proposal the major Sub-Contractors to be utilized in the performance of required services. The City retains the right to accept or reject any Sub-Contractors proposed in the response of Successful Proposer or prior to contract execution. Any and all liabilities regarding the use of a Sub-Contractor shall be borne solely by the Successful Proposer and insurance for each Sub-Contractors must be maintained in good standing and approved by the City throughout the duration of the Contract. Neither Successful Proposer nor any of its Sub-Contractors are considered to be employees or agents

of the City. Failure to list all Sub-Contractors and provide the required information may disqualify any proposed Sub-Contractors from performing work under this Solicitation.

Proposers shall include in their Responses the requested Sub-Contractor information and include all relevant information required of the Proposer. In addition, within five (5) working days after the identification of the award to the Successful Proposer, the Successful Proposer shall provide a list confirming the Sub-Contractors that the Successful Proposer intends to utilize in the Contract, if applicable. The list shall include, at a minimum, the name, location of the place of business for each Sub-Contractor, the services Sub-Contractor will provide relative to any contract that may result from this Solicitation, any applicable licenses, references, ownership, and other information required of Proposer.

2.12. SPECIFICATION EXCEPTIONS

Specifications are based on the most current literature available. Bidder shall notify the City of Miami Purchasing Department, in writing, no less than ten (10) days prior to solicitation closing date of any change in the manufacturers' specifications which conflict with the specifications. For hard copy bid submittals, bidders must explain any deviation from the specifications in writing as a footnote on the applicable specification page and enclose a copy of the manufacturer's specifications data detailing the changed item(s) with his/her submission. For electronic bid submittals, bidders must explain in the Header Section or by an Attachment and, if applicable, enclose a scanned copy of the manufacturer's specifications data detailing the changed item(s) with his/her submission. Additionally, bidders must indicate any options requiring the addition of other options, as well as those which are included as a part of another option. Failure of bidders to comply with these provisions will result in bidders being held responsible for all costs required to bring the item(s) in compliance with contract specifications.

2.13. TERMINATION

A. FOR DEFAULT

If Contractor defaults in its performance under this Contract and does not cure the default within 30 days after written notice of default, the City Manager may terminate this Contract, in whole or in part, upon written notice without penalty to the City of Miami. In such event the Contractor shall be liable for damages including the excess cost of procuring similar supplies or services: provided that if, (1) it is determined for any reason that the Contractor was not in default or (2) the Contractor's failure to perform is without his or his subcontractor's control, fault or negligence, the termination will be deemed to be a termination for the convenience of the City of Miami.

B. FOR CONVENIENCE

The City Manager may terminate this Contract, in whole or in part, upon 30 days prior written notice when it is in the best interests of the City of Miami. If this Contract is for supplies, products, equipment, or software, and so terminated for the convenience by the City of Miami the Contractor will be compensated in accordance with an agreed upon adjustment of cost. To the extent that this Contract is for services and so terminated, the City of Miami shall be liable only for payment in accordance with the payment provisions of the Contract for those services rendered prior to termination.

2.14. ADDITIONAL TERMS AND CONDITIONS

No additional terms and conditions included with the solicitation response shall be evaluated or considered, and any and all such additional terms and conditions shall have no force or effect and are inapplicable to this solicitation. If submitted either purposely, through intent or design, or inadvertently, appearing separately in transmittal letters, specifications, literature, price lists or warranties, it is understood and agreed that the General and Special Conditions in this solicitation are the only conditions applicable to this solicitation and that the bidder's/proposer's authorized signature affixed to the bidder's/proposer's acknowledgment form attests to this.

2.15. PRIMARY CLIENT (FIRST PRIORITY)

The successful bidder(s)/proposer(s) agree upon award of this contract that the City of Miami shall be its primary client and shall be serviced first during a schedule conflict arising between this contract and any other contract. Successful bidder(s)/proposer(s) may have with any other cities and/or counties to perform similar services as a result of any catastrophic events such as tornadoes, hurricanes, severe storms or any other public emergency impacting various areas during or approximately the same time.

2.16. UNAUTHORIZED WORK

The Successful Proposer(s) shall not begin work until a Purchase Order is received.

2.17. CHANGES/ALTERATIONS

Proposer may change or withdraw a Proposal at any time **prior to** Proposal submission deadline; however, no oral modifications will be allowed. Written modifications shall not be allowed following the proposal deadline.

2.18. COMPENSATION PROPOSAL

Each Proposer shall detail any and all fees and costs to provide the required services as detailed in Section 3. Scope of Services. The City reserves the right to add or delete any service, at any time. Should the City determine to add an additional service for which pricing was not previously secured, the City shall seek the Successful Proposer to provide reasonable cost(s) for same. Should the City determine the pricing unreasonable, the City reserves the right to negotiate cost(s) or seek another vendor for the provision of said service(s).

Failure to submit compensation proposal as required shall disqualify Proposer from consideration.

2.19. EVALUATION/SELECTION PROCESS AND CONTRACT AWARD

The procedure for response evaluation, selection and award is as follows:

- (1) Solicitation issued.
- (2) Receipt of responses
- (3) Opening and listing of all responses received
- (4) Purchasing staff will review each submission for compliance with the submission requirements of the Solicitation, including verifying that each submission includes all documents required.
- (5) An Evaluation Committee, appointed by the City Manager, comprised of appropriate City Staff and members

of the community, as deemed necessary, with the appropriate technical expertise and/or knowledge, shall meet to evaluate each response in accordance with the requirements of this Solicitation and based upon the evaluation criteria as specified herein.

(6) The Evaluation Committee reserves the right, in its sole discretion, to request Proposers to make oral presentations before the Committee as part of the evaluation process. The presentation may be scheduled at the convenience of the Evaluation Committee and shall be recorded.

(7) The Evaluation Committee reserves the right to rank the Proposals and shall submit its recommendation to the City Manager for acceptance. If the City Manager accepts the Committee's recommendation, the City Manager's recommendation for award of contract will be posted on the City of Miami Purchasing Department website, in the Supplier Corner, Current Solicitations and Notice of Recommendation of Award Section. The notice of the City Manager's recommendation can be found by selecting the details of the solicitation and is listed as Recommendation of Award Posting Date and Recommendation of Award To fields. If "various" is indicated in the Recommendation of Award To field, the Bidder/Proposer must contact the buyer for that solicitation to obtain the suppliers name. The City Manager shall make his recommendation to the City Commission requesting the authorization to negotiate and/or execute an agreement with the recommended Proposer(s). No Proposer(s) shall have any rights against the City arising from such negotiations or termination thereof.

(8) The City Manager reserves the right to reject the Committee's recommendation, and instruct the Committee to re-evaluate and make another recommendation, reject all proposals, or recommend that the City Commission reject all proposals.

(9) The City Commission shall consider the City Manager's and Evaluation Committees' recommendation(s) and, if appropriate and required, approve the City Manager's recommendation(s). The City Commission may also reject any or all response.

(10) If the City Commission approves the recommendations, the City will enter into negotiations with the selected Proposer(s) for a contract for the required services. Such negotiations may result in contracts, as deemed appropriate by the City Manager.

(11) The City Commission shall review and approve the negotiated Contract with the selected Proposer(s).

2.20. ADDITIONAL SERVICES

Services not specifically identified in this request may be added to any resultant contract upon successful negotiation and mutual consent of the contracting parties.

2.21. RECORDS

During the contract period, and for a least five (5) subsequent years thereafter, Successful Proposer shall provide City access to all files and records maintained on the City's behalf.

2.22. TRUTH IN NEGOTIATION CERTIFICATE

Execution of the resulting agreement by the Successful Proposer shall act as the execution of truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of the resulting Agreement are accurate, complete, and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which City determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract

adjustments shall be made within one (1) year following the end of the Agreement.

2.23. PRE-BID/PRE-PROPOSAL CONFERENCE

None

3. Specifications

3.1. SPECIFICATIONS/SCOPE OF WORK

The City of Miami (City) is soliciting proposals from qualified firms to identify potential partners for certain current advertising products the City wishes to pursue immediately, as well as potential products the City may wish to pursue in the future.

This RFP process would be used to secure the services of one or more companies, for one or more of the following advertising categories:

- 1) Parking Stripes advertising
- 2) Digital/Display Elevator Advertising (elevators in City buildings)
- 3) Other advertising opportunities (non-Parking)
- 4) Naming Rights to City Parks
- 5) Trolley Advertising

The City would require interested proposers to respond to each category for which they are interested in partnering, allowing the flexibility to select the vendor that would provide the best value and financial return to the City in each, stand-alone category. However, vendors would be permitted to submit proposals that reflect potential benefits to the City if they are selected for more than one category (for example, increased revenues if selected to provide both mast arm and parking stripe advertising). Responses to #3 above will be open-ended, allowing proposers to recommend additional concepts for our consideration. All of the proposals will be reviewed to ensure consistency with existing Code, as well as to ensure that the proposal meets our aesthetic expectations. The City will retain the right and ability to identify the quantity and location of any proposed advertising program to ensure that it meets our expectations in terms of aesthetics.

Trolley Advertisement Program and Sales Support Objective(Refer to Header Attachments for pictures and technical specifications of the Trolleys)

The City wishes to engage a qualified firm to provide project management services for advertising and sales support services for the proposed City of Miami Trolley System. The City desires to maximize revenue potential from the sale of advertising space on the interior and exterior of the trolleys in order to help defray the cost of operating the trolley service.

Trolley System

The City's proposed trolley system consists of four (4) interconnected routes (as further described below and as depicted on the attached route map) totaling over 30 miles in length with the objective of augmenting the existing regional transit system (MetroBus, MetroRail, and MetroMover) and providing premium public transportation service to the following corridors and communities in the City of Miami: Health District/Civic Center, Marlins Stadium, Brickell Avenue, Biscayne Boulevard, Omni, Allapattah, Overtown, and Coral Way. A future extension of the Brickell/Biscayne Trolley route is being proposed to serve Midtown and the Design District. At this time, operating hours for the trolley service currently consists of Monday – Saturday service from 6:30AM – 8:00PM and are subject to change. Frequency of service is anticipated to range from 10 minutes during peak times to 20 minutes during off-peak periods. The City anticipates using its trolleys to also provide charter service for special events as well as extended hours of service at its sole discretion. The trolley system is anticipated to attract over 5,000 riders per day, and, at this time, it has not been determined if the City will charge a fare.

Health/Stadium District Trolley

The City, in collaboration with the Miami Partnership (coalition of major area stakeholders in the Health District/Civic Center) and the FDOT, has finalized the routes and stop locations for the Health District Trolley. The

proposed loop has been endorsed by the Miami Partnership, City Commission, and the FDOT which is providing state funds for the operation and maintenance of the initial route for a 3-year period. The trolley will operate on a 2-way loop within the Health District area, the second largest employment center in the County, and the route will extend to the Marlins Stadium via NW 12th Avenue. This trolley will connect to the Civic Center Metrorail Station on NW 12th Avenue and to the Allapattah/Overtown route described below. In addition, the trolley service will serve over 14 major facilities and 9 parking garages in the area, including University of Miami Hospital, Jackson Memorial Hospital, Veterans Administration Hospital, Miami-Dade College, County Courts, State Attorney's Office, and other judicial, educational, research, and civic institutions in the area, as well as service the Marlins Stadium as part of its scheduled route. Based on a systemwide modeling analysis completed in November 2010, this route is anticipated to attract over 900 riders daily with a proposed \$1.00 fare structure.

Brickell/Biscayne Trolley

This trolley will connect to the Brickell Metrorail/Metromover Station located at SW 1st Avenue where a connection to the future Coral Way Trolley will be provided. The loop extends from SE 26th Road on the south to the Omni/Margaret Pace Park on the north serving the Brickell, Downtown, and Omni areas and connecting to numerous Metromover stations along the route. In addition, the trolley will operate along Flagler Street to serve the downtown core as well as venues along the route such as the Adrienne Arsht Center for the Performing Arts, the American Airlines Arena, Bayside Marketplace, Museum Park, and Bayfront Park. The City anticipates using the existing Miami Parking Authority parking lot under the I-95/Rickenbacker Causeway flyover as a park-and-ride facility for trolley users. This trolley route was developed in collaboration with the DDA, BHA, the Brickell Area Association (BAA), area stakeholders, MDT, and FDOT. Based on a systemwide modeling analysis completed in November 2010, this route is anticipated to attract over 1,500 riders daily with a proposed \$1.00 fare structure.

Overtown/Allapattah Trolley

The Allapattah/Overtown Trolley is planned to provide service in the Allapattah and Overtown communities and to connect to the Health/Stadium District and Brickell/Biscayne Trolleys. The City, in collaboration with area stakeholders, is in the process of developing a service plan for this route with the specific stop locations and hours of operation. Further, we anticipate seeking a funding contribution from the FDOT for 50% of the operational and maintenance costs of the service for a 3-year start-up period. In Allapattah, the loop is intended to serve dozens of retail and commercial establishments along NW 20th Street from NW 17th Avenue to NW 27th Avenue and will include a stop at the MPA parking garage located on NW 21st Street. In Overtown, the loop is intended to serve the Folk-Life Village, schools and parks, and commercial establishments via NW 3rd Avenue. In addition, this loop will connect to the Health/Stadium District Trolley at Jackson Memorial Hospital and to the Brickell/Biscayne Trolley at Omni via NW/NE 14th Street. This connection will facilitate access to jobs and enhanced public transit between the Allapattah and Overtown communities and major employment centers in the City as well as provide convenient access to points of interest within the communities. Based on a systemwide modeling analysis completed in November 2010, this route is anticipated to attract over 1,400 riders daily with a proposed \$1.00 fare structure.

Coral Way Trolley

The Coral Way-Brickell Trolley is planned to operate along Coral Way serving the commercial, retail, and residential locations along the corridor. The service is proposed to extend from the Brickell Metrorail/Metromover Station at SW 1st Avenue on the east (where a connection to the Brickell/Biscayne Trolley will be provided) to the City of Coral Gables Trolley that operates along Ponce de Leon Blvd. in the City of Coral Gables. The City, in collaboration with area stakeholders, is in the process of developing a service plan for this route with the specific stop locations and hours of operation; and, furthermore, we intend seeking a funding contribution from the FDOT for 50% of the operational and maintenance costs of the service for a 3-year start-up period. Based on a systemwide modeling analysis completed in November 2010, this route is anticipated to attract over 700 riders daily with a proposed \$1.00 fare structure.

Trolley Vehicles

The City has purchased twelve (12) Classic American Trolleys, 32' in length, with a seating capacity of approximately 30 passengers, to provide trolley service along the Health/Stadium District and Brickell/Biscayne Trolley Routes. This service is anticipated to begin in early 2012. The City is in the process of purchasing 16 – 21 additional Classic American Trolleys, 27' in length, with a seating capacity of approximately 25 passengers. These additional trolleys are anticipated to arrive in mid-2012 and will be used to provide service along the Coral Way and Allapattah/Overtown Trolley routes. All trolley vehicles are being manufactured in compliance with all Federal Transit Administration (FTA) and Florida Department of Transportation (FDOT) specification requirements for public transit vehicles and in compliance with the City's desired vehicle specifications, attached herein, including air-conditioned interiors, oak-slat benches, oak wood interiors, brass railings, and electric wheelchair lifts. The exterior paint scheme of the trolleys will be the official City colors of orange, green, and white as depicted in the attached drawing. All Classic American Trolley vehicles are 134" in height regardless of length.

Trolley Advertising Program and Sales Support

The City desires to maximize revenue potential from the sale of advertising space on the trolleys in order to help defray the cost of operating the trolley service. As such, advertisement space will be provided on the exterior (rear and sides) and interior of the trolleys as depicted in the attached drawings. The interior of the trolleys will be equipped with oak rails near the soffit for advertisements (as depicted in the attached drawings); and the exterior sides of the trolleys will be equipped with aluminum advertisement racks as depicted in the attached drawings. Further, with regards to interior advertising opportunities, the City wishes to explore the possibility of using a flat screen TV mounted on-board the trolley to show advertisements to passengers. With regards to the exterior advertising, space will be provided in the rear and sides of the trolleys as depicted in the attached drawings. Although the City will allow advertisements on the exteriors of the trolleys, the City's desire is to maintain a clean and attractive exterior, free of visual clutter which could potentially detract from the image and unique aesthetic characteristics of the Classic American Trolley. As such, it is the City's preference to not have the trolley exterior, including windows, wrapped with advertising or any material that adheres to the exterior and/or which is not conducive to daily washing or which the City may consider detrimental to the aesthetic and unique exterior features of the Classic American Trolley. The trolley advertisement program is further subject to the following specifications and provisions.

1. RIGHT TO CHANGE TROLLEY OPERATION: The City has the right to make changes to the trolley operation at any time. Such changes can include, but are not limited to, changes to service alignments, stop locations, hours of operations, number of trolleys in service, areas served, fare structure and fare collection system, and terminating trolley service for convenience.

2. ADVERTISING MATERIAL: The advertising material should be static, non-glaring, and must conform to all applicable City, County, State, and Federal laws for motorized vehicle operation on public-right-of-way. Advertising should not cause temporary or long-term damage or harm to trolley vehicles, trolley riders, city residents, or other users of the transportation system. The City is not liable for any damages or lawsuits arising out of trolley advertising.

3. RIGHT TO REFUSE UNACCEPTABLE ADVERTISING: The purpose of this advertising program is to maximize the revenues of the City's trolley system and not to create a public forum for the public discussion of political or controversial issues. The City will not accept advertising that directly or indirectly supports or opposes a particular candidate, political cause or issue or that advocates or opposes a particular religion or religious belief. Acceptable advertising will be limited to that which proposes, directly or indirectly, a legal, commercial transaction that, in the sole discretion of the City, will reflect favorably upon the City's trolley system, its riders and the long term use of this advertising space for the generation of revenues. This advertising may include the promotion of the City and surrounding areas as destinations for tourists or future development.

The City reserves the right to refuse any advertising that does not conform to the City and to any applicable

requirements of the Federal Transit Administration (FTA), the Florida Department of Transportation (FDOT), and any other governmental agency with authority to regulate this usage on public right-of-way. The City reserves the right to refuse advertising that is not presented to the City at least three (3) business days before the requested start date. The City may, at its sole discretion, refuse to place and install other advertising that it deems to be inappropriate considering the purpose and intent of this advertising program.

Contractor Responsibilities

1. Successful Proposer is responsible for day-to-day maintenance, installation, removal of advertising and/or advertising equipment (LCD, etc), and management of the Advertisement Program.
2. City is not responsible for any lost revenue to the Vendor if the trolley system cannot remain in operation for the contract term due to funding constraints, natural and/or man-made events, or termination for convenience.

4. Submission Requirements

4.1. SUBMISSION REQUIREMENTS

SUBMISSION REQUIREMENTS:

Proposers shall carefully follow the format and instruction outlined below, observing format requirements where indicated. Proposals should contain the information itemized below and in the order indicated. This information should be provided for the Proposer and any sub-consultants to be utilized for the work contemplated by this Solicitation. Proposals submitted which do not include the following items may be deemed non-responsive and may not be considered for contract award.

ALL RESPONSES WILL BE SUBMITTED IN HARDCOPY FORMAT ONLY TO INCLUDE ONE ORIGINAL AND SEVEN (7) COPIES. NO ON-LINE SUBMITTALS WILL BE ACCEPTED.

Proposers shall provide, at a minimum, the following information and documentation with their Proposals:

1. Cover Page:

The Cover Page shall include the Proposer's name, the Contact Person for the RFP, the Firm's Liaison for the Contract, the Primary Office Location, the Local Business Address (if applicable), the Business Phone and Fax Numbers, Email Addresses (if applicable), the Title of the RFP, the RFP Number, and the Federal Employer Identification Number or Social Security Number.

2. Table of Contents:

The table of contents shall outline, in sequential order, the major sections of the Proposal as listed below, including all other relevant documents requested for submission. All pages of the Proposal, including the enclosures, shall be clearly and consecutively numbered and shall correspond with the table of contents.

3. Executive Summary:

A signed and dated summary of not more than two (2) pages shall be provided containing Proposer's overall Qualifications and Experience and Technical Qualifications, as contained in the submittal. Proposer shall include the name of the organization, business phone, contact person and a summary of the work to be performed.

4. Experience and Qualifications:

A. **Describe** the Proposer's organizational history and structure; years Proposer and/or firm has been in business providing a similar service(s), and indicate whether the City has previously awarded any contracts to the Proposer/firm. **Provide** a list of all principals, owners or directors.

B. **Outline** in detail the experience and qualifications of the Proposer's entity, and the Proposer's management team, in providing similar projects/programs as the one proposed in this RFP.

C. **Provide** a narrative describing the entities that will be involved, a description of the roles they will play (e.g., partner, management group..), the contractual relationships within the team, the financial responsibilities and percentage of ownership (if applicable) of each team entity, a description and evidence of the nature of each entity's commitment to the project, and a summary of the team's past experience in working together on a similar project. A description of each of the entities' experience in developing and managing similar projects and roles must be included. The respondent must also provide a minimum of the most current two consecutive years of financial statements for the entity(ies) and/or principal(s) that comprise or will comprise the respondent. The City will treat financial statements submitted under this procedure as either business data or RFP data pursuant to Florida Statutes. However, the City assumes no liability should this data be ruled public data by a court of competent jurisdiction.

D. **Provide** an organizational chart of Proposer's management team to be used on this project/program, and their qualifications. A resume of each individual, including education, experience, and any other pertinent information,

shall be included for each team member to be assigned to this project/program. Include any and all licenses and certifications held.

E. **Describe** any current or pending litigation or proceeding involving Proposer, its partners, managers, other key staff members, and its professional activities or performance, if applicable. State the nature of the litigation, a brief description of each case, the outcome or projected outcome, and the monetary amounts involved.

F. Should Proposer plan to utilize a Sub-Contractor(s), **provide** detailed information regarding qualifications and experience, and the work to be performed related to the Scope of Services for each proposed Sub-Contractor(s).

5) Past Performance in Implementing Similar Advertising

A. **Provide** a complete list of clients for which Proposer has provided a similar service(s) as required in this RFP. This list should detail Proposer's experience, and include those services that have been performed during at least the past five (5) years, as applicable. Include the name, address, phone number(s) and contact persons within each organization. The City reserves the right to contact references as part of the evaluation process.

B. **Provide** a minimum of two (2) references on letterhead from former clients for the provision of similar services within the past five (5) years. Include name of reference, contact name, period of time, and overall work performed. Sufficient documentation must be provided to determine level of experience. References are subject to verification by the City as part of the evaluation process.

C. **Provide** a description of the Proposer's overall Approach and Methodology to be utilized during this engagement, per each element of work depicted in the Scope of Services.

D. **Provide** a marketing plan for the City. The proposer must submit information which describes its approach to a successful venue. The proposer should describe its marketing and promotional concepts and also provide a plan which will maximize revenue to the City.

6) Operating Plan

A. **Provide** an Operating Plan. Proposer shall describe the operating policies and procedures to be employed by the proposers. Describe any proposed initiatives which would improve the revenue to the City.

7) Revenue to the City

A. Proposer must include a Compensation/Revenue Proposal as part of the Proposal. Proposal shall contain detailed information justifying its proposed cost(s), including reimbursable expenses and revenue to the City. Failure to submit a Compensation Proposal shall deem your Proposal non-responsive.

Proposer shall provide any other information or documentation with Proposal, as needed.

5. Evaluation Criteria

5.1. EVALUATION CRITERIA

Proposals shall be evaluated based upon the following criteria and weight:

<u>CRITERIA</u>	<u>WEIGHT</u>
Proposer's experience and qualifications in providing advertising programs	35 Points
Proposed revenue to the City	40 Points
Strength and sustainability of operating plan	25 Points

Total: 100 points