

REQUEST FOR QUALIFICATIONS (RFQ)

PROFESSIONAL CONSTRUCTION ENGINEERING AND INSPECTION (CEI) FIRMS TO PROVIDE VARIOUS CEI SERVICES ON AN "AS NEEDED" BASIS

2017-028-KB

RFQ ISSUANCE DATE: FEBRUARY 10, 2017

STATEMENTS OF QUALIFICATIONS DUE: MARCH 27, 2017 @ 3:00 PM

ISSUED BY:

MIAMI BEACH

KRISTY BADA, CONTRACTING OFFICER III

PROCUREMENT DEPARTMENT

1755 Meridian Avenue, 3rd Floor, Miami Beach, FL 33139

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SECTION 0200**INSTRUCTIONS TO RESPONDENTS & GENERAL CONDITIONS**

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

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

2. PURPOSE.

Adequate management of construction projects by City of Miami Beach departments requires implementation of Construction Engineering and Inspection (CEI) services during construction. The ability to have a rotating list of CEI firms available to provide these services for various City departments would enable the City to effectively and efficiently manage the construction phase of these projects. The scope of services describes and defines the CEI services which are required for contract administration, inspection, and materials sampling and testing for the construction projects.

The Purpose of this Request for Qualifications (RFQ) is to qualify Professional Construction Engineering and Inspection (CEI) firms to provide various CEI services to the City on an “as needed” basis. Additionally, the terms “FIRM”, “PROPOSER”, “CONSULTANT,” “PRIME PROPOSER” are used interchangeably and shall refer to the firm that will contract with the City for the performance consultant services and work for the project. “As needed” basis means that each firm awarded a contract pursuant to this RFQ will be placed on a professional CEI list where the City may call upon it to perform professional projects, as assigned by the City Administration. As the need for services arise, firms will be contacted to provide the necessary professional services according to the negotiated scope of work and cost. It is the intent of the City of Miami Beach to select several firms under this RFQ, which will be contacted on an as-needed basis.

This RFQ is not governed by the requirements of Section 287.055, Florida Statutes.

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

Solicitation Issued	February 10, 2017
Pre-Submittal Meeting	February 22, 2017 at 10:00am
Deadline for Receipt of Questions	March 17, 2017 at 5:00pm
Responses Due	March 27, 2017 at 3:00pm
Evaluation Committee Review	TBD
Proposer Presentations	TBD
Tentative Commission Approval Authorizing	TBD

Negotiations	
Contract Negotiations	Following Commission Approval

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

Procurement Contact:
KRISTY BADA

Telephone:
305-673-7490

Email:
KRISTYBADA@MIAMIBEACHFL.GOV

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

The Bid title/number shall be referenced on all correspondence. All questions or requests for clarification must be received no later than ten (10) calendar days prior to the date proposals are due as scheduled in Section 0200-3. All responses to questions/clarifications will be sent to all prospective Proposers in the form of an addendum.

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

A Pre-PROPOSAL conference will be held as scheduled in Anticipated RFQ Timetable section above at the following address:

**City of Miami Beach
Procurement Department
Conference Room
1755 Meridian Avenue, 3rd Floor
Miami Beach, Florida 33139**

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

- (1) Dial the TELEPHONE NUMBER: 1- 888-270-9936 (Toll-free North America)
- (2) Enter the MEETING NUMBER: 5804578

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

6. PRE-PROPOSAL INTERPRETATIONS. Oral information or responses to questions received by prospective Proposers are not binding on the City and will be without legal effect, including any information received at pre-submittal meeting or site visit(s). The City by means of Addenda will issue interpretations or written addenda clarifications considered necessary by the City in response to questions. Only questions answered by written addenda will be binding and may supersede terms noted in this solicitation. Addendum will be released through *PublicPurchase*. Any prospective proposer who has received this RFQ by any means other than through *PublicPurchase* must register immediately with *PublicPurchase* to assure it receives any addendum issued to this RFQ. Failure to receive an addendum may result in disqualification of proposal. Written questions should be received no later than the date outlined in the **Anticipated RFQ Timetable** section.

7. CONE OF SILENCE. This RFQ is subject to, and all proposers are expected to be or become familiar with, the City's Cone of Silence Requirements, as codified in Section 2-486 of the City Code. Proposers shall be solely

responsible for ensuring that all applicable provisions of the City's Code of Silence are complied with, and shall be subject to any and all sanctions, as prescribed therein, including rendering their response voidable, in the event of such non-compliance. Communications regarding this solicitation are to be submitted in writing to the Procurement Contact named herein with a copy to the City Clerk at rafaelgranado@miamibeachfl.gov

8. SPECIAL NOTICES. You are hereby advised that this solicitation is subject to the following ordinances/resolutions, which may be found on the City Of Miami Beach website: <http://web.miamibeachfl.gov/procurement/scroll.aspx?id=23510>

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

9. PUBLIC ENTITY CRIME. A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crimes may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of the threshold amount provided in Sec. 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

10. COMPLAINT WITH THE CITY'S LOBBYIST LAWS. This RFQ is subject to, and all Proposers are expected to be or become familiar with, all City lobbyist laws. Proposers shall be solely responsible for ensuring that all City lobbyist laws are complied with, and shall be subject to any and all sanctions, as prescribed therein, including, without limitation, disqualification of their responses, in the event of such non-compliance.

11. DEBARMENT ORDINANCE: This RFQ is subject to, and all proposers are expected to be or become familiar with, the City's Debarment Ordinance as codified in Sections 2-397 through 2-406 of the City Code.

12. WITH THE CITY'S CAMPAIGN FINANCE REFORM LAWS. This RFQ is subject to, and all Proposers are expected to be or become familiar with, the City's Campaign Finance Reform laws, as codified in Sections 2-487 through 2-490 of the City Code. Proposers shall be solely responsible for ensuring that all applicable provisions of the City's Campaign Finance Reform laws are complied with, and shall be subject to any and all sanctions, as prescribed therein, including disqualification of their responses, in the event of such non-compliance.

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

14. AMERICAN WITH DISABILITIES ACT (ADA). Call 305-673-7490 to request material in accessible format; sign language interpreters (five (5) days in advance when possible), or information on access for persons with disabilities. For more information on ADA compliance, please call the Public Works Department, at 305-673- 7000, Extension 2984.

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

16. PROTESTS. Proposers that are not selected may protest any recommendation for selection of award in accordance with the proceedings established pursuant to the City's bid protest procedures, as codified in Sections 2-370 and 2-371 of the City Code (the City's Bid Protest Ordinance). Protest not timely made pursuant to the requirements of the City's Bid Protest Ordinance shall be barred.

17. NOT USED.

18. VETERAN BUSINESS ENTERPRISES PREFERENCE. Pursuant to City Code Section 2-374, the City shall give a preference to a responsive and responsible Proposer which is a small business concern owned and controlled by a veteran(s) or which is a service-disabled veteran business enterprise, and which is within five percent (5%) of the lowest responsive, responsible proposer, by providing such proposer an opportunity of providing said goods or contractual services for the lowest responsive proposal amount (or in this RFQ, the highest proposal amount). Whenever, as a result of the foregoing preference, the adjusted prices of two (2) or more proposers which are a small business concern owned and controlled by a veteran(s) or a service-disabled veteran business enterprise constitute the lowest proposal pursuant to an RFQ or oral or written request for quotation, and such proposals are responsive, responsible and otherwise equal with respect to quality and service, then the award shall be made to the service-disabled veteran business enterprise.

19. DETERMINATION OF AWARD. The final ranking results of Step 1 & 2 outlined in Section 0400, Evaluation of Proposals, will be considered by the City Manager who may recommend to the City Commission the Proposer(s) s/he deems to be in the best interest of the City or may recommend rejection of all proposals. The City Manager's recommendation need not be consistent with the scoring results identified herein and takes into consideration Miami Beach City Code Section 2-369, including the following considerations:

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

The City Commission shall consider the City Manager's recommendation and may approve such recommendation. The City Commission may also, at its option, reject the City Manager's recommendation and select another Proposal or Proposals which it deems to be in the best interest of the City, or it may also reject all Proposals.

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

21. Postponement/Cancellation/Acceptance/Rejection. The City may, at its sole and absolute discretion, reject any and all, or parts of any and all, responses; re-advertise this RFQ; postpone or cancel, at any time, this RFQ process; or waive any irregularities in this RFQ, or in any responses received as a result of this RFQ. Reasonable efforts will be made to either award the proposer the contract or reject all proposals within one-hundred twenty (120) calendar days after proposal opening date. A proposer may withdraw its proposal after expiration of one hundred twenty (120) calendar days from the date of proposal opening by delivering written notice of withdrawal to the Department of Procurement Management prior to award of the contract by the City Commission.

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

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

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

24. OCCUPATIONAL HEALTH AND SAFETY. In compliance with Chapter 442, Florida Statutes, any toxic substance listed in Section 38F-41.03 of the Florida Administrative Code delivered as a result of this proposal must be accompanied by a Material Safety Data Sheet (MSDS) which may be obtained from the manufacturer.

25. ENVIRONMENTAL REGULATIONS. The City reserves the right to consider a proposer's history of citations and/or violations of environmental regulations in investigating a proposer's responsibility, and further reserves the right to declare a proposer not responsible if the history of violations warrant such determination in the opinion of the City. Proposer shall submit with its proposal, a complete history of all citations and/or violations, notices and dispositions thereof. The non-submission of any such documentation shall be deemed to be an affirmation by the Proposer that there are no citations or violations. Proposer shall notify the City immediately of notice of any citation or violation which proposer may receive after the proposal opening date and during the time of performance of any contract awarded to it.

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

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

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

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

30. DEFAULT: Failure or refusal of the selected Proposer to execute a contract following approval of such contract by the City Commission, or untimely withdrawal of a response before such award is made and approved, may result in a claim for damages by the City and may be grounds for removing the Proposer from the City's vendor list.

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

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

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

33. NON-DISCRIMINATION. The Proposer certifies that it is in compliance with the non-discrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375, relative to equal employment opportunity for all persons without regard to race, color, religion, sex or national origin. In accordance with the City's Human Rights Ordinance, codified in Chapter 62 of the City Code, Proposer shall prohibit discrimination by reason of race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, and age or disability.

34. DEMONSTRATION OF COMPETENCY. The city may consider any evidence available regarding the financial, technical, and other qualifications and abilities of a Proposer, including past performance (experience) in making an award that is in the best interest of the City, including:

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

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

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

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

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

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

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

40. INDEMNIFICATION. The Proposer shall indemnify and hold harmless the City and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the City or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of the agreement by the contractor or its employees, agents, servants, partners, principals or subcontractors. The contractor shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the City, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be incurred thereon. The Proposer expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the 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 above indemnification provisions shall survive the expiration or termination of this Agreement.

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

42. FLORIDA PUBLIC RECORDS LAW. Proposers are hereby notified that all Bid including, without limitation, any and all information and documentation submitted therewith, are exempt from public records requirements under Section 119.07(1), Florida Statutes, and s. 24(a), Art. 1 of the State Constitution until such time as the City provides notice of an intended decision or until thirty (30) days after opening of the proposals, whichever is earlier. Additionally, Contractor agrees to be in full compliance with Florida Statute 119.0701 including, but not limited to, agreement to (a) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the services; (b) provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law; (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; (d) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

43. OBSERVANCE OF LAWS. Proposers are expected to be familiar with, and comply with, all Federal, State, County, and City laws, ordinances, codes, rules and regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which, in any manner, may affect the scope of services and/or project contemplated by this RFQ (including, without limitation, the Americans with Disabilities Act, Title VII of the Civil Rights Act, the EEOC Uniform Guidelines, and all EEO regulations and guidelines). Ignorance of the law(s) on the part of the Proposer will in no way relieve it from responsibility for compliance.

44. CONFLICT OF INTEREST. All Proposers must disclose, in their Proposal, the name(s) of any officer, director, agent, or immediate family member (spouse, parent, sibling, and child) who is also an employee of the City of Miami Beach. Further, all Proposers must disclose the name of any City employee who owns, either directly or indirectly, an interest of ten (10%) percent or more in the Proposer entity or any of its affiliates.

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

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

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

49. SUPPLEMENTAL INFORMATION. City reserves the right to request supplemental information from Proposers at any time during the RFQ solicitation process.

50. ADDITIONAL SERVICES. Although this solicitation and resultant contract identifies specific goods, services or facilities ("items"), it is hereby agreed and understood that the City, through the approval of the Department and Procurement Directors (for additional items up to \$50,000) or the City Manager (for additional items greater than \$50,000), may require additional items to be added to the Contract which are required to complete the work. When additional items are required to be added to the Contract, awarded vendor(s), as applicable to the item being requested, under this contract may be invited to submit price quote(s) for these additional requirements. If these quote(s) are determined to be fair and reasonable, then the additional work will be awarded to the current contract vendor(s) that offers the lowest acceptable pricing. The additional items shall be added to this contract by through a Purchase Order (or Change Order if Purchase Order already exists). In some cases, the City may deem it necessary to add additional items through a formal amendment to the Contract, to be approved by the City Manager.

The City may determine to obtain price quotes for the additional items from other vendors in the event that fair and reasonable pricing is not obtained from the current contract vendors, or for other reasons at the City's discretion.

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SECTION 0300 SUBMITTAL INSTRUCTIONS AND FORMAT

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

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

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

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

TAB 2	Experience & Qualifications
2.1 Qualifications of Proposing Firm. Submit detailed information regarding the firm's history and relevant experience and proven track record of providing the scope of services similar as identified in this solicitation, including experience in providing similar scope of services to public sector agencies. For each project that the proposer submits as evidence of similar experience, the following is required: project description, agency name, agency contact, contact telephone & email, and year(s) and term of engagement. 2.2 Qualifications of Proposer Team. Provide an organizational chart of all personnel and consultants to be used for this project if awarded, the role that each team member will play in providing the services detailed herein and each team members' qualifications. A resume of each individual, including education, experience, and any other pertinent information, shall be included for each respondent team member to be assigned to this contract. 2.3 Financial Capacity. At the request of the City, Proposer shall arrange for Dun & Bradstreet to submit a Supplier Qualification Report (SQR) directly to the Procurement Contact named herein. Once requested by the City, no proposal will be considered without receipt, by the City, of the SQR directly from Dun & Bradstreet. The cost of the preparation of the SQR shall be the responsibility of the Proposer. The Proposer shall request the SQR report from D&B at: https://supplierportal.dnb.com/webapp/wcs/stores/servlet/SupplierPortal?storeId=11696 Proposals are responsible for the accuracy of the information contained in its SQR. It is highly recommended that each proposer review the information contained in its SQR for accuracy prior to submittal to the City and as early as possible in the solicitation process. For assistance with any portion of the SQR submittal process, contact Dun & Bradstreet at 800-424-2495.	

TAB 3 Approach and Methodology

For each scope of service outlined in Tab 3, Scope of Services, submit detailed information on the approach and methodology how proposer plans to accomplish the proposed scope of services, including detailed information, as applicable, which addresses, but need not be limited to: implementation plan, project timeline, phasing options, testing and risk mitigation options for assuring project is implemented on time and within budget.

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

1. Evaluation Committee. An Evaluation Committee, appointed by the City Manager, shall meet to evaluate each Statement of Qualifications in accordance with the requirements set forth in the solicitation. If further information is desired, Proposals may be requested to make additional written submissions of a clarifying nature or oral presentations to the Evaluation Committee. The evaluation of Statement of Qualifications will proceed in a two-step process as noted below. It is important to note that the Evaluation Committee will score the qualitative portions of the Statement of Qualifications only. The Evaluation Committee does not make an award recommendation to the City Manager. The results of Step 1 & Step 2 Evaluations will be forwarded to the City Manager who will utilize the results to make a recommendation to the City Commission. In the event that only one responsive proposal is received, the City Manager, after determination that the sole responsive proposal materially meets the requirements of the RFP, may, without an evaluation committee, recommend to the City Commission that the Administration enter into negotiations. The City, in its discretion, may utilize technical or other advisers to assist the evaluation committee in the evaluation of proposals.

2. Step 1 Evaluation. The first step will consist of the qualitative criteria listed below to be considered by the Evaluation Committee. The second step will consist of quantitative criteria established below to be added to the Evaluation Committee results by the Department of Procurement Management. An Evaluation Committee, appointed by the City Manager, shall meet to evaluate each Statement of Qualifications in accordance with the qualifications criteria established below for Step 1, Qualitative Criteria. In doing so, the Evaluation Committee may review and score all proposals received, with or without conducting interview sessions.

Step 1 - Qualitative Criteria	Maximum Points
Proposer Experience and Qualifications	70
Approach and Methodology	30
TOTAL AVAILABLE STEP 1 POINTS	100

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

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

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

		Proposer A	Proposer B	Proposer C
Committee Member 1	Step 1 Points	82	76	80
	Step 2 Points	22	15	12
	Total	104	91	92
	Rank	1	3	2
Committee Member 2	Step 1 Points	79	85	72
	Step 2 Points	22	15	12
	Total	101	100	84
	Rank	1	2	3
Committee Member 2	Step 1 Points	80	74	66
	Step 2 Points	22	15	12
	Total	102	89	78
	Rank	1	2	3
Low Aggregate Score		3	7	8
Final Ranking*		1	2	3

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

APPENDIX A



MIAMI BEACH

Response Certification, Questionnaire & Requirements Affidavit

RFQ No. 2017-028-KB
PROFESSIONAL CONSTRUCTION
ENGINEERING AND INSPECTION (CEI)
FIRMS TO PROVIDE VARIOUS CEI
SERVICES ON AN “AS NEEDED” BASIS

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

Solicitation No: 2017-028-KB	Solicitation Title: PROFESSIONAL CONSTRUCTION ENGINEERING AND INSPECTION (CEI) FIRMS TO PROVIDE VARIOUS CEI SERVICES ON AN "AS NEEDED" BASIS	
Procurement Contact: Kristy Bada	Tel: 305-673-7490	Email: kristybada@miamibeachfl.gov

STATEMENTS OF QUALIFICATIONS CERTIFICATION, QUESTIONNAIRE & REQUIREMENTS AFFIDAVIT

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

1. General Proposer Information.

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

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

1. **Veteran Owned Business.** Is Proposer claiming a veteran owned business status?

☐ YES ☐ NO

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

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

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

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

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

4. **Suspension, Debarment or Contract Cancellation.** Has Proposer ever been debarred, suspended or other legal violation, or had a contract cancelled due to non-performance by any public sector agency?

☐ YES ☐ NO

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

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

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

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

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

7. **Living Wage.** Pursuant to Section 2-408 of the Miami Beach City Code, as same may be amended from time to time, Proposers shall be required to pay all employees who provide services pursuant to this Agreement, the hourly living wage rates listed below:
- Commencing with City fiscal year 2012-13 (October 1, 2012), the hourly living rate will be \$11.28/hr with health benefits, and \$12.92/hr without benefits.

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

Proposers' failure to comply with this provision shall be deemed a material breach under this proposal, under which the City may, at its sole option, immediately deem said Proposer as non-responsive, and may further subject Proposer to additional penalties and fines, as provided in the City's Living Wage Ordinance, as amended. Further information on the Living Wage requirement is available at www.miamibeachfl.gov/procurement/.

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

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

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

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

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

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

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

10. **Non-Discrimination.** Pursuant to City Ordinance No.2016-3990, the City shall not enter into a contract with a business unless the business represents that it does not and will not engage in a boycott as defined in Section 2-375(a) of the City Code, including the blacklisting, divesting from, or otherwise refusing to deal with a person or entity when such action is based on race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital or familial status, age or disability.

SUBMITTAL REQUIREMENT: No additional submittal is required. By virtue of executing this affidavit document, Proposer agrees it is and shall remain in full compliance with Section 2-375 of the City of Miami Beach City Code.

11. **Moratorium on Travel to and the Purchase of Goods or Services from North Carolina and Mississippi.** Pursuant to Resolution 2016-29375, the City of Miami Beach, Florida, prohibits official City travel to the states of North Carolina and Mississippi, as well as the purchase of goods or services sourced in North Carolina and Mississippi. Proposer shall agree that no travel shall occur on behalf of the City to North Carolina or Mississippi, nor shall any product or services it provides to the City be sourced from these states.

SUBMITTAL REQUIREMENT: No additional submittal is required. By virtue of executing this affidavit document, Proposer agrees it is and shall remain in full compliance with Resolution 2016-29375.

12. **Fair Chance Requirement.** Beginning on December 1, 2016, the city shall not enter into a contract, resulting from a competitive solicitation issued pursuant to this article, with a business unless the business certifies in writing that the business has adopted and employs written policies, practices, and standards that are consistent with the city's Fair Chance Ordinance, set forth in article V of chapter 62 of this Code.

SUBMITTAL REQUIREMENT: No additional submittal is required. By virtue of executing this affidavit document, Proposer agrees it is and shall remain in full compliance with Resolution 2016-29375.

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

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

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

DISCLOSURE AND DISCLAIMER SECTION

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

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

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

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

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

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

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

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

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

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

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

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

PROPOSER CERTIFICATION

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

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

State of FLORIDA)
)

County of _____)

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

On this ____ day of _____, 20__, personally
appeared before me _____ who

stated that (s)he is the _____

Notary Public for the State of Florida

My Commission Expires: _____.

APPENDIX B



MIAMI BEACH

“No Bid” Form

RFQ No. 2017-028-KB PROFESSIONAL CONSTRUCTION ENGINEERING AND INSPECTION (CEI) FIRMS TO PROVIDE VARIOUS CEI SERVICES ON AN “AS NEEDED” BASIS

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

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

Statement of No Bid

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

☐ Workload does not allow us to proposal

☐ Insufficient time to respond

☐ Specifications unclear or too restrictive

☐ Unable to meet specifications

☐ Unable to meet service requirements

☐ Unable to meet insurance requirements

☐ Do not offer this product/service

☐ OTHER. (Please specify)

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

Signature: _____

Title: _____

Legal Company Name: _____

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

PLEASE RETURN TO:

CITY OF MIAMI BEACH

PROCUREMENT DEPARTMENT

ATTN: **Kristy Bada**

STATEMENTS OF QUALIFICATIONS #2017-003-KB

1755 Meridian Avenue, 3rd Floor

Miami Beach, Florida 33139

APPENDIX C



MIAMI BEACH

Minimum Requirements & Specifications

RFQ No. 2017-028-KB
PROFESSIONAL CONSTRUCTION
ENGINEERING AND INSPECTION (CEI)
FIRMS TO PROVIDE VARIOUS CEI
SERVICES ON AN “AS NEEDED” BASIS

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

C1. Minimum Eligibility Requirements. The Minimum Eligibility Requirements for this solicitation are listed below. Proposer shall submit, with its proposal, the required submittal(s) documenting compliance with each minimum requirement. Proposers that fail to include the required submittals with its proposal or fail to comply with minimum requirements shall be deemed non-responsive and shall not have its proposal considered.

1. Bidder (defined as the Firm) shall provide a minimum of five (5) references providing professional construction engineering and inspection (CEI) services to other governmental organizations or public entities in the last ten (10) years.

Submittal Requirement: For each qualifying project, submit project name, project description, commencement and completion dates, project contact information (phone and email) and prime proposer's role in project.

C2. Statement of Work Required.

The Consultant's Basic Services that may be provided under the Agreement entered into pursuant to this RFQ shall (at a minimum) consist of, but not be limited to, the following:

1. Administer the Construction Contract and monitor and inspect the work performed by the Contractor such that the project is constructed in reasonable conformity with the plans, specifications, and special provisions of the Construction Contract.
2. Resident Engineering Services - Coordinate the Construction Contract administration activities of all parties other than the Contractor involved in completing the construction project. Services shall include maintaining the required level of surveillance of Contractor activities, interpreting plans, specifications, and special provisions for the Construction Contract. Maintain complete, accurate records of all activities and events relating to the project and properly document all project changes. The following services shall be performed:
 - a) **General Coordination:** The Consultant shall communicate daily or periodically with the City, the Design Consultant and Contractor, as needed. They shall report on concerns as it relates to the construction effort and activities. In addition, the Consultant shall also coordinate with the Public Information Officer (PIO) where notifications such as utility outages, road closures, etc. may be required. The Consultant shall monitor and verify that the Contractor has made the required notifications to the utility owners, residents and businesses as may be required.
 - b) **Estimating Services:** Provide accurate cost estimates and schedules to avoid cost overruns and schedule slips. Prepare cost estimates and schedules by helping manage resources and supporting assessment and decision making. Services may encompass a wide range of cost-related aspects of engineering and program management, but in particular cost estimating, cost analysis/cost assessment, design-to-cost, schedule analysis/planning and risk assessment.
 - c) **Value Engineering Meetings:** The Consultant shall be expected to attend, participate, and provide cost estimating information at Value Engineering meetings between the City, the Design Consultant, and the Contractor for the Project.
 - d) **Resident's Information Meetings:** The Consultant shall be expected to attend, address

residents' concerns, participate, produce meeting minutes, and take a lead role in Resident Information Meetings with the City for the Project.

- e) **Pre-Construction Meetings:** The Consultant shall be expected to attend, participate, produce meeting minutes and take a lead role in Pre-Construction Meeting with the City, Design Consultant and Contractor for the Project. The Pre-construction Meeting shall be scheduled once the City issues the first Notice-to-Proceed to the Contractor.
- f) **Weekly Construction Progress Meetings:** The Consultant shall attend, participate and take a lead role in weekly construction project meetings with the City, PIO, Design Consultant and Contractor on the Project. These meetings shall serve as forums to review the status of construction progress, discuss construction issues, discuss schedule and/or cost concerns, discuss potential changes or conflicts, review the status of shop drawing submittals and Construction Document clarifications and interpretations, and to resolve problems before they become critical. Consultant shall prepare weekly meeting minutes and distribute to all meeting attendees, review the two week look ahead provided by the Contractor and provide comments or objections to written statements within the specified timeframe. The Consultant shall prepare detailed weekly reports that describe the construction activities, progress, incidents and issues that have occurred on the construction site and distribute to the attendees in advance of the weekly construction progress meetings.
- g) **Field Observations:** The Consultant shall conduct field observations on a daily basis throughout the duration of construction. Field observations may be provided jointly by the City and the Consultant. If and when necessary, the City shall provide part-time construction inspectors for the duration of the Project. The role of the City's construction inspectors shall be limited. The Consultant shall be present at the construction site daily during the construction phase of the Project and shall be expected to be available, as needed, throughout the Contractor's work day.
- h) **Stormwater Permit** - Verify that the Contractor is conducting inspections, preparing reports and monitoring all storm water pollution prevention measures associated with the project. For each project that requires the use of the NPDES General Permit, inspector the inspector (at least one) should have successfully completed the "Florida Stormwater, Erosion, and Sedimentation Control Training and Certification Program for Inspectors and Contractors". The Consultant's inspector shall be familiar with the requirements set forth in the FEDERAL REGISTER, Vol. 57, No. 187, Friday, September 5, 1992, pages 4412 to 4435 "Final NPDES General Permits for Storm Water Discharges from Construction Sites" and the City's guidelines.
- i) **Specialty Design Consultant Site Visits:** The Consultant shall monitor the number of specialty site visits requested by the Contractor or City and conducted by the Design Consultant. When it becomes evident that a specialty site visit from the design Engineer of Record (EOR) shall be required, the Consultant shall notify the EOR to discuss and schedule a mutually acceptable time for meeting at the construction site.
- j) **Daily Reports:** The Consultant shall prepare daily reports, on the same date as construction occurs, to record the daily performance of the Contractor as well as other significant

construction related matters. Daily reports shall be uploaded by the Consultant to e-Builder™, the City's document management system. At the end of each day or the beginning of the following day, the Consultant shall forward the original daily reports to the City for review. The Consultant shall maintain and file paper copies of the daily reports onsite for reference. The daily reports shall include records of when the Contractor is on the job-site, general field observations, weather conditions, change orders, changed conditions, list of job site visitors, daily drilling and testing activities, testing results, testing observations, and records of the outcome of tests and inspections. At a minimum the daily reports shall contain the following information:

- Weather and general site conditions
 - Contractor's work force counts by category and hours worked
 - Description of Work performed including location
 - Equipment utilized
 - Names of visitors to the jobsite and reason for the visit
 - Tests made and results
 - Construction difficulties encountered and remedial measures taken
 - Significant delays encountered and apparent reasons why
 - Description of (potential) disputes between the Contractor and City
 - Description of (potential) disputes between the Contractor and residents
 - Summary of additional directions that may have been given to the Contractor
 - Detailed record of materials, equipment and labor used in connection with extra work, or where there is reason to suspect that a claim or request for Change Order may be submitted by the Contractor
 - Summary of any substantive discussions held with the Contractor and/or City
 - Summary of nonconforming work referenced to corresponding Non-Compliance Notice
 - A log of photographs taken
- k) **Photographic Record:** Consultant shall provide a photographic record of the overall progress of construction, beginning with preconstruction documentation, following with on-going construction documentation, and ending with post-construction documentation. Photographs shall be digital snapshot type taken to define the progress of the project and shall be filed electronically by month in e-Builder™, the City's document management system, labeled by date, time and location. The Consultant shall upload all photos to the e-Builder™ document management system on a weekly basis.
- l) **Adherence to Construction Documents:** The Consultant shall review materials and workmanship of the projects and report to the City any deviations from the Construction Documents that may come to the Consultant's attention. Consultant shall determine the acceptability of the work and materials and, in concert with the Design Consultant (as necessary), make recommendations to the City to reject items not meeting the requirements of the Construction Documents.
- m) **Delivery of Unaccepted Materials to Jobsite:** As new materials are delivered to the jobsite, the Consultant shall check the material's certifications and samples and verify that an approved shop drawing was submitted for the material in question. If it is determined that a

- submittal has not been approved, the Consultant shall immediately notify the City and issue a Non-Compliance Notice. In conjunction with the Design Consultant (as necessary), the Consultant shall direct and supervise the sampling and testing of materials to be performed by the City's independent testing laboratory. The Consultant shall maintain test report logs which shall be submitted to the City for review on a monthly basis and uploaded to e-Builder™, the City's document management system on a weekly basis. Consultant shall also review invoices submitted by the independent testing laboratories and recommend payment by the City.
- n) **Shop Drawing Submittals:** The Consultant shall review shop drawing and product approvals throughout the duration of the construction period for familiarity prior to delivery of materials. Consultant shall verify that Contractor is maintaining a submittal log, conducting timely submittals, and uploading approved shop drawings to e-Builder™, the City's document management system.
- o) **Issuance of Non-compliance Notices:** The Consultant shall be responsible for notifying the City when they become aware of a condition that is believed to be in non-compliance with Construction Documents. Anytime the Consultant notices a potential construction problem or a condition that could result in non-complying materials, equipment or workmanship, the Consultant will need to determine whether the condition poses an immediate threat to public health or safety.
- 1) If a condition does not pose a threat to public health or safety, immediate verbal notification or "Pre-Noncompliance Notice" of the potential non-compliance should be made to the Contractor and the City. This verbal notice shall be documented in the Consultant's daily report, as well as an e-mail to the contractor with a copy to the City's Project Coordinator advising the Contractor of potential construction problems, errors, or deficiencies that can be promptly resolved and do not warrant a Non-compliance Notice. If the Contractor fails to respond to the verbal notification within a reasonable timeframe, the Consultant shall notify the City and the City's Projects Coordinator and shall issue a written Non-compliance Notice.
- 2) If a condition poses an immediate threat to public health or safety, the Consultant shall notify the Contractor and City immediately and the City's Projects Coordinator shall issue a Non-compliance Notice to the Contractor. Non-compliance Notices shall include a description of the Work that does not meet the construction contract requirements, along with a required timetable for corrective work to be implemented by the Contractor. Other items that should be included in the Notice include a reference to the provision of the Construction Documents that has been violated.
- p) **Damage to Existing Facilities:** The Consultant shall identify any existing facilities damaged by the Contractor and verify that the Contractor has notified the respective owner(s). The Consultant shall include record of such occurrences in the daily reports.
- q) **Change Orders:** Consultant shall perform an independent review of any Change Orders submitted by the Contractor and provide a written statement noting recommendation for approval or denial of the Change Order to the City. If recommended for approval, the Consultant shall note if the requested cost and schedule impacts are fair and reasonable. The Consultant shall be responsible for maintaining a Change Order log and uploading approved Change Orders to e-Builder™, the City's document management system. The Consultant shall also participate in change request review meetings with City and Contractor to resolve and/or

negotiate the equitable resolution of request.

- r) **Requests for Information/Construction Document Clarification (RFIs/CDCs):** When RFIs and CDCs involve design issue interpretations, the Consultant shall coordinate with the Design Consultant, as needed, to resolve the Contractor's Requests for Information, Construction Document Clarifications, Field Orders, and other related correspondence. The Consultant shall be also be responsible for verifying that the Design Consultant is providing a written response to RFIs and CDCs in a timely manner and for processing, logging, and distributing all RFIs/CDCs. Consultant shall upload all RFI and CDC responses to e-Builder™, the City's document management system.
- s) **Schedule:** Analyze the Contractor's schedule(s) (i.e. baseline(s), revised baseline(s), updates, as-built, etc.) for compliance with the contract documents. Elements including, but not limited to, completeness, logic, durations, activity, flow, milestone dates, concurrency, resource allotment, and delays shall be reviewed. Verify the schedule conforms with the construction phasing and MOT sequences, including all contract modifications. Provide a written review of the schedule identifying significant omissions, improbable or unreasonable activity durations, errors in logic, and any other concerns as detailed in the contract documents.
- t) **Pay Requisitions:** Consultant shall verify Contractor's pay requisition quantities and sign-off on all pay requisition quantities in the field. Consultant shall be responsible for reviewing with the Contractor the monthly payment requisition to confirm the status of completed and uncompleted work and stored materials. The Consultant shall advise the City of quantities being approved for subsequent concurrence for payment purposes. Payment Requisitions shall only be approved by the City.
- u) **Equipment Tests and Systems Start-up:** Consultant shall be responsible for coordinating various tests for quality control on the projects; verifying that equipment tests and systems start-up are conducted in the presence of appropriate personnel; and that the Contractor is maintaining adequate records thereof. Consultant shall observe, record, and report appropriate details relative to the test procedures and start-up.
- v) **Record Drawings:** Consultant shall monitor that record drawing mark-ups are properly maintained by the Contractor. The Consultant shall review the record drawing mark-ups as deemed necessary by the City. Contractor's failure to maintain the record drawings in up-to-date condition may be deemed grounds for withholding Contractor's monthly payment requisitions until such time as the record drawings are brought up-to-date. The Consultant shall notify the City if it considers the mark-up documents insufficient. The City shall make final determination of payment withholding.
- w) **Safety:** Consultants shall be expected to recognize a hazard that any reasonable non-safety professional might be expected to recognize. In addition, those safety obligations extend only to recognizable hazards that the Consultant may note while in the normal conduct of onsite business.

If a situation presents itself, the following procedures should be followed:

- Immediately direct personnel to remove themselves from the apparent danger.
 - Notify the Contractor's superintendent of the apparent condition that caused the concern and that the affected personnel were directed to remove themselves accordingly.
 - Notify the Contractor of the situation that arises concern, both in writing and verbally.
 - Issue a written Notice of Noncompliance stating that the Contractor should take immediate action as it deems necessary to correct the deficiency / condition.
 - Write a full report in the Daily Report on the condition found to be unsafe, all actions taken, and correspondence written, including times and names.
 - Take photographs, of the concern.
 - If the Contractor does not make corrections, the Consultant should notify the City.
 - The Consultant shall review the situation with the City for further direction.
 - The condition, as well as all conversations and correspondence, shall be recorded in the Consultant's Daily Report.
 - In the case of a construction-related accident, Consultant shall notify the City of the accident. Consultant shall direct the Contractor to prepare an accident report with a copy forwarded to the City.
- x) **Quality Control:** The Consultant shall review and monitor the Contractor's adherence to an acceptable quality control program submitted by the Contractor prior to the issuance of the second Notice-to-Proceed by the City. This program shall describe the Contractor's quality control, organizational procedures, documentation controls and processes for each phase of the work. Quality control during construction shall be the responsibility of the Contractor; however, oversight and ensuring the Contractor complies with applicable jurisdictional construction standards shall be enforced on the City's behalf by the Consultant.
- y) **Proceeding with Disputed Work:** In the event that an agreement cannot be reached on a Change Order, the Contractor must carry on the work and adhere to the project schedule in accordance with the construction contract general conditions. The Consultant shall log all forced work efforts related to disputed change order on a Forced Work Daily Log Reports which shall be signed and dated by the Consultant and the Contractor's representative at the completion of each workday. The Consultant shall forward copies of this form to the City for record purposes.
- z) **Maintenance of Traffic (MOT):** The Contractor shall provide the Consultant, City and Design Consultant with approved copies of its MOT at the Pre-Construction Meeting for general information purposes. It shall be the Consultant's responsibility to verify compliance with the MOT in the field.
- aa) **Contractor Request for Services:** When the Contractor requires services from the City for issues such as water main shutdowns, tie-ins to existing water mains, special regulatory inspections, etc., a request shall be made in writing by the Contractor, and forwarded by the Consultant to the City, a minimum of three working days prior to when required.
- bb) **Substantial Completion:** When the Contractor considers that the Work has reached Substantial Completion, the Contractor shall notify the Consultant who shall verify that the work has progressed to the substantial completion point in accordance the Construction Documents.

If the Consultant is in agreement, the Consultant shall contact the City to agree on a schedule for conducting a substantial completion “walk-through” inspection of the Work. Consultant shall attend and participate in the substantial completion “walk-through”, perform a substantial completion inspection with the Contractor, Design Consultant and the City, and prepare a master punch list that describes items remaining to be completed. This master punch list shall be attached to the certificate of substantial completion.

cc) **Final Completion and Project Closeout:** When the Contractor considers that the Work has reached Final Completion, the Contractor shall notify the Consultant who shall verify that the work has progressed to the Final Completion point in accordance the Construction Documents. If the Consultant is in agreement, the Consultant shall contact the City to agree on a schedule for conducting a Final Completion “walk-through” inspection of the Work. Consultant shall attend and participate in the Final Completion “walk-through” and perform a Final Completion inspection with the Contractor, Design Consultant and the City. If the work is determined to be incomplete, Consultant and other attendees shall each develop a punch list of items requiring completion or correction prior to consideration of final acceptance of each project which shall be forwarded to the Contractor by the Consultant for the Project. Consultant shall complete all necessary close-out and construction completion forms and documentation in coordination with the City for the Project. The Consultant shall work with the Design Consultant and the Contractor, as necessary to ascertain materials required for the closeout binder, as required by the City, and review the Operation and Maintenance manuals for each project for completeness prior to forwarding documentation to the City. Once all parties determine the work is complete and the Contractor has delivered all close-out documentation to the City, the Consultant shall prepare a Final Certificate for Payment. The Consultant shall be responsible for providing final certifications based on the entire scope of work for the Project.

dd) **Consultant and Design Consultant Relationship:** These services outlined herein are intended to provide support to both the City and the Design Consultant during the construction phase of the Project. The Consultant shall perform the services outlined in this Agreement under the supervision and contractual directives of the Project Coordinator, and shall refer all matters pertaining to this Agreement to the City. In matters relating to the design concept and constructability thereof, the Consultant shall conduct this scope of services under the technical directives issued by the Design Consultant such that the Design Consultant’s EOR can provide final certification of the design components at Project Closeout.

3. Provide qualified personnel necessary to efficiently and effectively carry out its responsibilities under this Agreement. The personnel shall be qualified by experience and education. Submit in writing to the City for review and approval, the names of personnel proposed for assignment to the project, including a detailed resume for each. The City reserves the right to have Consultant’s personnel removed and substituted from the project, if the employee’s conduct or performance is detrimental to the project. The City reserves the right to request periodic rotation of field personnel.
4. The Consultant shall furnish the City with a Quality Assurance Plan within 15 calendar days after the award of this agreement. The QA Plan shall detail the procedures, evaluation criteria, and instructions of the Consultant’s organization for providing services pursuant to this Agreement. Significant changes to the work requirements may require the Consultant to revise the QA Plan. It shall be the responsibility of the Consultant to keep the plan current with the work requirements.

The Plan shall include, but not be limited to:

- Consultant's QA Organization and its functional relationship to the part of the organization performing the work under the Agreement. The authority, responsibilities and autonomy of the QA organization shall be detailed as well as the names and qualifications of personnel in the quality control organization.
 - Methods used to monitor and achieve organization compliance with Agreement requirements for services and products.
 - Outline the types of records which shall be generated and maintained during the execution of the QA program.
 - Methods used to control subconsultant and vendor quality.
 - An officer of the Consultant firm shall certify that the inspection and documentation was done in accordance with specifications, plans, City standards, and City's procedures.
 - Maintain adequate records of the quality assurance actions performed by the organization (including subcontractors and vendors) in providing services and products under this Agreement. All records shall indicate the nature and number of observations made, the number and type of deficiencies found, and the corrective actions taken.
5. Provides assistance in preparing for arbitration hearings or litigation that occurs during the Agreement time in connection with the construction project covered by this Agreement.
 6. Provide qualified engineering witnesses and exhibits for arbitration hearings or litigation in connection with the Agreement.
 7. Provide services determined necessary for the successful completion and closure of the Construction Contract.
 8. Provide Post construction claims review – The Consultant shall analyze the claim, engage in negotiations leading to settlement of the claim, and prepare and process the required documentation to close out the claim.
 9. The Consultant may be asked to provide all or some construction engineering and inspection services including inspectors, construction managers and/or construction administration staff for City Right-of-Way construction projects.

APPENDIX D



MIAMI BEACH

Special Conditions

RFQ No. 2017-028-KB
PROFESSIONAL CONSTRUCTION
ENGINEERING AND INSPECTION
(CEI) FIRMS TO PROVIDE VARIOUS
CEI SERVICES ON AN “AS NEEDED”
BASIS

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

- 1. TERM OF CONTRACT.** Three (3) years.
- 2. OPTIONS TO RENEW.** Two (2) additional one (1) year options
- 3. PRICES.** Not Applicable.
- 4. EXAMINATION OF FACILITIES.** Not Applicable.
- 5. INDEMNIFICATION.** Not Applicable.
- 6. PERFORMANCE BOND.** Not Applicable.
- 7. REQUIRED CERTIFICATIONS.** Not Applicable.
- 8. SHIPPING TERMS.** Not Applicable.
- 9. DELIVERY REQUIREMENTS.** Not Applicable.
- 10. WARRANTY REQUIREMENTS.** Not Applicable.
- 11. BACKGROUND CHECKS.** Not Applicable.
- 12. ADDITIONAL TERMS OR CONDITIONS.** This RFQ, including the attached Contract, contains all the terms and conditions applicable to any service being provided to the City resulting from award of contract. By virtue of submitting a proposal, consultant agrees not to require additional terms and conditions at the time services are requested, either through a separate agreement, work order, letter of engagement or purchase order.

APPENDIX E



MIAMI BEACH

Insurance Requirements

RFQ No. 2017-028-KB
PROFESSIONAL CONSTRUCTION
ENGINEERING AND INSPECTION
(CEI) FIRMS TO PROVIDE VARIOUS
CEI SERVICES ON AN “AS NEEDED”
BASIS

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



MIAMI BEACH

INSURANCE REQUIREMENTS

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

- XXX 1. Workers' Compensation and Employer's Liability per the Statutory limits of the state of Florida.
- XXX 2. Comprehensive General Liability (occurrence form), limits of liability \$ 1,000,000.00 per occurrence for bodily injury property damage to include Premises/ Operations; Products, Completed Operations and Contractual Liability. **Contractual Liability** and Contractual Indemnity (Hold harmless endorsement exactly as written in "insurance requirements" of specifications).
- XXX 3. Automobile Liability - \$1,000,000 each occurrence - owned/non-owned/hired automobiles included.
- 4. Excess Liability - \$_____.00 per occurrence to follow the primary coverages.
- XXX 5. The City must be named as and additional insured on the liability policies; and it **must** be stated on the certificate.
- 6. Other Insurance as indicated:
 - Builders Risk completed value \$_____.00
 - Liquor Liability \$_____.00
 - Fire Legal Liability \$_____.00
 - Protection and Indemnity \$_____.00
 - Employee Dishonesty Bond \$_____.00
 - Other \$_____.00
- XXX 7. Thirty (30) days written cancellation notice required.
- XXX 8. Best's guide rating B+:VI or better, latest edition.
- XXX 9. The certificate must state the proposal number and title

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

APPENDIX F



MIAMI BEACH

Contract

RFQ No. 2017-028-KB
PROFESSIONAL CONSTRUCTION
ENGINEERING AND INSPECTION (CEI)
FIRMS TO PROVIDE VARIOUS CEI SERVICES
ON AN “AS NEEDED” BASIS

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

AGREEMENT BETWEEN

CITY OF MIAMI BEACH

AND

FOR

**PROFESSIONAL CONSTRUCTION ENGINEERING AND INSPECTION (CEI) FIRMS TO PROVIDE
VARIOUS CEI SERVICES ON AN “AS NEEDED” BASIS PURSUANT TO REQUEST FOR
QUALIFICATIONS NO. 2017-028-KB**

DISCIPLINE: _____

RESOLUTION NO. 2017-_____

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AGREEMENT

BETWEEN THE CITY OF MIAMI BEACH

AND

FOR

**PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES IN SPECIALIZED
CATEGORIES ON AN "AS-NEEDED-BASIS"**

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

W I T N E S S E T H:

WHEREAS, on September 17, 2014, the Mayor and City Commission approved the issuance of Request for Qualifications No. 2014-346-YG for Professional Architectural and Engineering Services in Specialized Categories On An "As-Needed-Basis" (the RFQ); and

WHEREAS, the RFQ was intended to provide access to architectural and engineering firms in accordance with the Florida Consultant's Competitive Negotiation Act; and

WHEREAS, on _____, the City Commission approved Resolution No. _____, respectively, authorizing the City to enter into negotiations with _____ and, _____ if successful, execute an agreement with the Consultant pursuant to the RFQ; and

WHEREAS, City and the Consultant have negotiated the following agreement pursuant to the RFQ; and

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

ARTICLE 1. DEFINITIONS

1.1 **Definitions.** The definitions included in this Section are not exhaustive of all definitions used in this Agreement. Additional terms may be defined in other Contract Documents. The following terms shall have the meanings specified herein unless otherwise stated herein:

ADDITIONAL SERVICES: "Additional Services" shall mean those services, in addition to the Basic Services in this Agreement, as described in Article 5 and the Consultant Service Order, which the Consultant shall perform, at the City's option, and which must be duly authorized, in writing, by the City Manager or his authorized designee, prior to commencement of same.

APPLICABLE LAWS: “Applicable Laws” means all laws, statutes, codes (including, but not limited to, building codes), ordinances, rules, regulations, lawful orders and decrees of governmental authorities having jurisdiction over the Project, the Project Site or the Parties.

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

BASIC SERVICES: “Basic Services” shall include those services which Consultant shall perform in accordance with the terms of the Agreement, as described in Article 2 and the Consultant Service Order. Any Services not specifically enumerated as Additional Services (as defined herein) shall also be considered Basic Services.

CITY (OR OWNER): The “City” shall mean the City of Miami Beach, a Florida municipal corporation having its principal offices at 1700 Convention Center Drive, Miami Beach, Florida, 33139. In all respects hereunder, City’s obligations and performance is pursuant to City’s position as the owner of the Project acting in its proprietary capacity. In the event City exercises its regulatory authority as a governmental body including, but not limited to, its regulatory authority for code inspections and issuance of Building Department permits, Public Works Department permits, or other applicable permits within its jurisdiction, the exercise of such regulatory authority and the enforcement of any Applicable Laws shall be deemed to have occurred pursuant to City’s regulatory authority as a governmental body and shall not be attributable in any manner to City as a Party to this Agreement.

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

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

CONSTRUCTION COST BUDGET: The “Construction Cost Budget” shall mean the amount budgeted and established by the City to provide for the cost of construction of the Work for the Project (“Construction Cost”), as set forth in the Consultant Service Order.

CONSTRUCTION DOCUMENTS: “Construction Documents” shall mean the final (100% completed) plans, technical specifications, drawings, schematics, documents, and diagrams prepared by the Consultant pursuant to this Agreement, setting forth in detail the requirements for the construction of the Project. The Construction Documents shall set forth in full all details necessary to complete the construction of the Project in accordance with the Contract Documents. Construction Documents shall not be part of the Contract Documents, until (a) the Consultant has submitted completed Construction Documents to the City and (b) they have been reviewed and approved by the City and any agencies having jurisdiction in accordance with the procedures as otherwise provided by the Contract Documents. However, approval by the City shall not in any way be construed, interpreted and/or deemed to constitute a waiver or excuse Consultant’s obligations to ensure the Construction Documents are constructible, in compliance with all Applicable Laws and in accordance with the Contract Documents.

CONSULTANT: The named entity on page 1 of this Agreement, the “Consultant” shall mean the qualified and properly professionally licensed design professional in the State of Florida and as otherwise required by any entities, agencies, boards, governmental authorities and/or any other professional organizations with jurisdiction governing the professional practice area for which the design professional has been engaged by City and who will perform (or cause to be performed through Subconsultants

acceptable to the City) all architectural, design and engineering services required under this Agreement and/or Consultant Service Order and will serve as the "architect of record" and/or "engineer of record" for the Project. When the term "Consultant" is used in this Agreement it shall also be deemed to include any officers, employees, or agents of Consultants, and any other person or entity acting under the supervision, direction, or control of Consultant to provide any architectural, design, engineering or similar professional services with respect to a Project ("Subconsultants"). The Consultant shall not be replaced by any other entity, except as otherwise permitted in this Agreement. Further, any Subconsultant that may perform services on behalf of the Consultant shall be a qualified and properly professionally licensed design professional in the State of Florida and as otherwise required by any entities, agencies, boards, governmental authorities and/or any other professional organizations with jurisdiction governing the professional practice area for which the Subconsultant has been engaged by Consultant to perform professional design services in connection with the Project. The Subconsultants in Schedule "C", attached hereto, are hereby approved by the City Manager for the Project.

CONSULTANT SERVICE ORDER: Consultant Service Order shall mean the work order issued by the City to Consultant (in substantial form as in Schedule A attached hereto), that specifically describes and delineates the particular Services (Basic Services and/or Additional Services) which will be required of Consultant for the Project that is the subject of such Consultant Service Order, and which may include studies or study activity, and/or professional services as defined in Section 287.055 of the Florida Statutes.

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

Contract Amendments shall be approved by the City Commission if they exceed fifty thousand dollars (\$50,000.00). Even for Contract Amendments of fifty thousand dollars (\$50,000.00) or less (or other such threshold contract amount as may be specified by the City of Miami Beach Procurement Ordinance), the City Manager reserves the right to seek and obtain concurrence of the City Commission for approval of any such Contract Amendment.

CONTRACT DOCUMENTS: "Contract Documents" shall mean this Agreement (together with all exhibits, addenda, Consultant Service Orders and written amendments issued thereto), and all Design Documents and Construction Documents. The Contract Documents shall also include, without limitation (together with all exhibits, addenda, and written amendments issued thereto), the Invitation to Bid (ITB), instructions to bidders, bid form, bid bond, Design Criteria Package (if any), the Contract for Construction, surety payment and performance bonds, Conditions of the Contract for Construction (General, Supplementary, and other Conditions), Divisions 0-17 specifications, an approved Change Order(s), approved Construction Change Directive(s), and/or approved written order(s) for a minor change in the Work.

CONTRACT FOR CONSTRUCTION: "Contract for Construction" shall mean the legally binding agreement between City and Contractor for performance of the Work covered in the Contract Documents, including, without limitation, a general contractor, construction manager, design-builder or any other duly licensed construction contractor selected pursuant to any other procurement methodology available under Florida law.

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

DESIGN CRITERIA PACKAGE or DCP: “Design Criteria Package” means concise, performance-oriented drawings or specifications of a design-build Project, prepared for the purpose of furnishing sufficient information to permit design-build firms to prepare a bid or a response to a City request for proposal, or to permit the City to enter into a negotiated design-build contract. The Design Criteria Package must specify performance-based criteria for the design-build Project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project.

DESIGN DOCUMENTS: “Design Documents” means all plans, drawings specifications, schematics and all other documents which set forth in full the design of the Project and fix and describe in detail the size, configuration and character of the Project concerning all items of the Project necessary for the final preparation of the 100% completed, permitted Construction Documents in accordance with the requirements of the Contract Documents including, without limitation, all architectural and engineering elements as may be appropriate. Design Documents shall not be part of the Contract Documents, until (a) the Consultant has submitted completed Design Documents to the City and (b) they have been reviewed and approved by the City and agencies having jurisdiction in accordance with the procedures as provided by the Contract Documents. However, approval by the City shall not in any way be construed, interpreted and/or deemed to constitute a waiver or excuse Consultant’s obligations to ensure the Design Documents are constructible, in compliance with all Applicable Laws and in accordance with the Contract Documents.

FORCE MAJEURE: “Force Majeure” shall mean any delay occasioned by superior or irresistible force occasioned by violence in nature without the interference of human agency such as a hurricane, tornado, flood, loss caused by fire and other similar unavoidable casualties; or other causes beyond the City’s or Consultant’s control that are not due to any act, omission or negligence of either City or Consultant and, which have, or may be reasonably expected to have, a material adverse effect on the Project, or on the rights and obligations of City or Consultant under this Agreement and which, by the exercise of due diligence, such parties shall not have been able to avoid; provided, however, that inclement weather (except as noted above), the acts or omissions of Subconsultants, the Contractor and its sub-contractors, market conditions, labor conditions, construction industry price trends, and similar matters which normally impact on the construction process shall not be considered a Force Majeure.

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

PROJECT: The “Project” shall mean that certain City capital project described in the Consultant Service Order.

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

Project Scope: The “Project Scope” shall mean the description of the Project, as described in the Consultant Service Order.

PROJECT ADMINISTRATOR: The “Project Administrator” shall mean the individual designated by the City Manager who shall be the City’s authorized representative to issue directives and notices on behalf of the City with respect to all matters concerning the Services of this Agreement (exclusive of those authorizations reserved to the City Manager or City Commission under this Agreement, or to regulatory or administrative bodies having jurisdiction over the Project).

PROPOSAL DOCUMENTS: “Proposal Documents” shall mean the RFQ, together with all amendments or addenda thereto (if any), which is incorporated by reference to this Agreement and made a part hereof; provided, however, that in the event of an express conflict between the Proposal Documents and this Agreement, the Agreement shall prevail. Consultant’s proposal in response to the RFQ is included for reference purposes only and shall not be incorporated as part of this Agreement, except with respect to Consultant’s representations regarding the qualifications and experience of Consultant and its key personnel, its commitment to provide the key personnel listed therein, and its capability to perform and deliver the Services in accordance with this Agreement and consistent with the all representations made therein.

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

Schedule A – Consultant Service Order

Schedule B – Consultant Compensation and Hourly Billing Rate Schedule.

Schedule C – Approved Subconsultants.

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

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

SOFT COSTS: “Soft Costs” shall mean costs related to the Project other than Construction Cost including, without limitation, Consultant’s Basic Services, Additional Services, surveys, testing, general consultant, financing, permitting fees and other similar costs, as determined by the City, that are not considered as direct costs for the construction of the Project.

STATEMENT OF PROBABLE CONSTRUCTION COST: The “Statement of Probable Construction Cost” shall mean the detailed estimate prepared by Consultant in Construction Standard Index (CSI) format or other format approved by the Project Administrator, which includes the Consultant’s estimated total construction cost to the City of the Work for the Project (as established in the Contract Documents, as they may be amended from time to time). The Statement of Probable Construction Cost shall be in sufficient detail to identify the costs of each element of the Project and include a breakdown of the fees, general conditions and construction contingency for the Project. Costs shall be adjusted to the projected bid date to take into account anticipated price escalation.

WORK: “Work” shall mean all labor, materials, equipment, supplies, tools, machinery, utilities, fabrication, transportation, insurance, bonds, permits and conditions thereof, building code changes and government approvals, licenses, tests, quality assurance and/or quality control inspections and related certifications, surveys, studies, and other items, work and services that are necessary or appropriate for the total construction, installation, and functioning of the Project, together with all additional, collateral and incidental items, and work and services required for delivery of a completed, fully functional and functioning Project as set forth in the Contract Documents.

ARTICLE 2. BASIC SERVICES

2.1 The Consultant shall provide Basic Services for the Project, specifically described in the Consultant Service Order.

2.2 The Services will be commenced by the Consultant upon receipt of a written Consultant Service Order signed by the City Manager or the Project Administrator. Consultant shall countersign the Consultant Service Order upon receipt and return the signed copy to the City.

2.3 As it relates to the Services and the Project, Consultant warrants and represents to the City that it is knowledgeable of and shall comply with all Applicable Laws. The Consultant agrees to comply with all Applicable Laws, whether now in effect or as may be amended or adopted from time to time, and shall further take into account all known pending changes to the foregoing of which it should reasonably be aware.

2.4 The Consultant warrants and represents to the City that all of the Services required under this Agreement shall be performed in accordance with the standard of care normally exercised in the design of comparable projects in South Florida. Consultant warrants and represents to the City that it is experienced, fully qualified, and properly licensed (pursuant to Applicable Laws) to perform the Services. Consultant warrants and represents to the City that it is responsible for the technical accuracy of the Services (including, without limitation, the Design Documents contemplated in Schedule "A" hereto). Consultant further warrants and represents that the approved and permitted Construction Documents shall constitute a representation by Consultant to City that the Project, if constructed as required by the Contract Documents, will be fully functional, suitable and sufficient for its intended purposes.

2.5 The Consultant's Basic Services may consist of various tasks, including planning, design, bidding/award, preparation of a DCP, studies, construction administration, and Additional Services (as may be approved), all as further described in the Consultant Service Order; and shall also include any and all of Consultant's responsibilities and obligations with respect to the Project, as set forth in the General Conditions of the Contract for Construction.

2.6 **RESPONSIBILITY FOR CLAIMS AND LIABILITIES:** No action or omission by City shall waive or excuse Consultant's obligations under the Agreement and/or other Contract Documents and that Consultant shall remain fully liable for all work performed by Consultant including, without limitation, any design errors or omissions. Written decisions and/or approvals issued by the City shall not constitute nor be deemed a release of the responsibility and liability of the Consultant (or any Subconsultants), for the accuracy and competency of the Design Documents and Construction Documents, nor shall any City approval and/or decisions be deemed to be an assumption of such responsibility by the City for a defect, error or omission in the Design Documents and the Construction Documents. Moreover, neither the City's inspection, review, approval or acceptance of, nor payment for, any Services required under the Agreement shall be construed to relieve the Consultant (or any Subconsultant) of its obligations and responsibilities under the Agreement, nor constitute a waiver of any of the City's rights under the Agreement, or of any cause of action arising out of the performance of the Agreement. The Consultant shall be and remain liable to the City in accordance with Applicable Laws for all damages to City caused by any failure of the Consultant or to comply with the terms and conditions of the Agreement or by the Consultant's misconduct, unlawful acts, negligent acts, errors or omissions in the performance of the Agreement.

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

2.7.1 **Term:** The term of this Agreement shall commence upon execution by the City and

Consultant, which shall be the Effective Date referred to on page 1 hereof, and shall be in effect for three (3) years ("Initial Term"), plus two (2), one (1) year renewal options, to be exercised at the sole discretion of the City Manager (Initial Term and any renewals shall be collectively referred to as the "Term"). Notwithstanding the preceding Term, Consultant shall adhere to any and all timelines and/or deadlines, as set forth in the Consultant Service Order, including the time for completion of the work and/or services for such Project (as set forth in the particular Consultant Service Order).

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

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

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

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

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

2.10 The Consultant is responsible for the professional quality, technical accuracy, completeness, performance and coordination of all Services required under the Agreement and under the Consultant Service Order (including the services performed by Subconsultants), within the specified time period and specified cost. The Consultant shall perform the Services utilizing the skill, knowledge, and judgment ordinarily possessed and used by a proficient consulting with respect to the disciplines required for the performance of such Services in the State of Florida. The Consultant is responsible for, and shall represent to City that the Services conform to the City's requirements, the Contract Documents and all Applicable Laws. The Consultant shall be and remain liable to the City for all damages to the City caused by the Consultant's negligent acts or errors or omissions in the performance of the Services. In

addition to all other rights and remedies which the City may have, the Consultant shall, at its expense, re-perform all or any portion of the Services to correct any deficiencies which result from the Consultant's failure to perform in accordance with the above standards. The Consultant shall also be liable for the replacement or repair of any defective materials and equipment and re-performance of any non-conforming construction work resulting from such deficient Services (i) for a period from the Effective Date of this Agreement, until twelve (12) months following final acceptance of the Work, (ii) or for the period of design liability required by applicable law, whichever is later. The Project Administrator shall notify the Consultant, in writing, of any deficiencies and shall approve the method and timing of the corrections.

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

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

2.11.1 The Consultant is advised that a performance evaluation of the Services rendered throughout this Agreement will be completed by the City and kept in the City's files for evaluation of future solicitations.

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

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

2.13.1 Consultant agrees, within fourteen (14) calendar days of receipt of written notice from the City Manager or the Project Administrator (which notice shall state the cause therefore), to

promptly remove and replace a Project Manager, or any other personnel employed or otherwise retained by Consultant for the Project (including, without limitation, any Subconsultants).

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

2.15 The City and Consultant acknowledge that the Services, as described in the Agreement and the Consultant Service Order, do not delineate every detail and minor work task required to be performed by Consultant to complete the work and/or services described and delineated under a Consultant Service Order issued to Consultant by the City for a particular Project. If, during the course of performing work, services and/or tasks on a particular Consultant Service Order, Consultant determines that work and/or services should be performed (to complete the Project delineated under such Order) which is, in the Consultant's reasonable opinion, outside the level of effort originally anticipated in the Consultant Service Order, then Consultant shall promptly notify the Project Administrator, in writing, and shall obtain the Project Administrator's written consent before proceeding with such work and/or services. If Consultant proceeds with any such additional work and/or services without obtaining the prior written consent of the Project Administrator, said work and/or services shall be deemed to be a Basic Service under this Agreement and shall also be deemed to be within the scope of services delineated in the Consultant Service Order (whether or not specifically addressed in the Scope of Services). Mere notice by Consultant to the Project Administrator shall not constitute authorization or approval by the City to perform such work. Performance of any such work and/or services by Consultant without the prior written consent of the Project Administrator shall be undertaken at Consultant's sole risk and liability.

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

2.17 THE CITY HAS NO OBLIGATION TO ASSIST, FACILITATE AND/OR PERFORM IN ANY WAY THE CONSULTANT'S OBLIGATIONS UNDER THE AGREEMENT OR OTHER CONTRACT DOCUMENTS. THE CITY'S PARTICIPATION, FACILITATION AND/OR ASSISTANCE TO THE CONSULTANT SHALL BE AT ITS SOLE DISCRETION AND SHALL NOT, IN ANY WAY, BE CONSTRUED, INTERPRETED AND/OR CONSTITUTE AN ASSUMPTION BY THE CITY OF CONSULTANT'S OBLIGATIONS, A WAIVER OF CONSULTANT'S OBLIGATIONS AND/OR EXCUSE ANY BREACH BY CONSULTANT OF ITS OBLIGATIONS UNDER THE CONTRACT DOCUMENTS. THE PARTICIPATION IN THE PERFORMANCE OF ANY OF CONSULTANT'S OBLIGATIONS SHALL NOT PRECLUDE THE CITY FROM DECLARING CONSULTANT IN DEFAULT FOR CONSULTANT'S FAILURE TO PERFORM SUCH OBLIGATION, NOR SHALL IT LIMIT, IN ANY WAY, THE CITY'S RIGHTS AND REMEDIES IN CONNECTION THEREWITH. THE CONSULTANT EXPRESSLY ACKNOWLEDGES AND AGREES NOT TO RAISE OR ASSERT AS DEFENSE TO ANY CLAIM, ACTION, SUIT AND/OR OTHER PROCEEDING OF A SIMILAR NATURE, THE CITY'S PARTICIPATION, ASSISTANCE AND/OR FACILITATION IN THE PERFORMANCE OF CONSULTANT'S OBLIGATIONS. INCLUDING, WITHOUT LIMITATION, ASSISTING WITH OBTAINING PERMITS OR WITH COORDINATION WITH UTILITIES, OR OTHER MATTERS RELATED TO THE PROJECT. IN THE EVENT OF ANY CONFLICT BETWEEN THIS SECTION AND/OR ANY OTHER PROVISION OF THIS AGREEMENT OR OTHER CONTRACT DOCUMENTS, THIS SECTION SHALL GOVERN.

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

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

The Consultant shall not retain, add, or replace any Subconsultant without the prior written approval of the City Manager, in response to a written request from the Consultant stating the reasons for any proposed substitution. The Consultant shall cause the names of Subconsultants responsible for significant portions of the Services to be inserted on the plans and specifications.

The Consultant shall be ultimately responsible for ensuring the Consultant's and all of its Subconsultants' compliance with the requirements of this Section and any other provision of the Agreement and/or Consultant Service Order. With respect to the performance of work by Subconsultants, the Consultant shall, in approving and accepting such work, ensure the professional quality, completeness, and coordination of the Subconsultant's work.

The Consultant shall, upon the request of the City, submit to the City such documentation and information as the City reasonably requests to evidence the creation, standing, ownership and professional licensure of the Consultant (and Subconsultants), including organizational documents, operating agreements and professional licensure documentation, and copies of the Consultant's contracts with the Subconsultant with respect to the Project. However, the City's failure to request such documentation or evidence and/or failure to enforce in any way the terms and provisions of this Section, the Agreement and/or any other Consultant Service Order during the Project does not excuse, waive and/or condone in any way any noncompliance of the requirements set forth therein including, without limitation, the professional licensure requirements. Any approval of a Subconsultant by the City shall in no way shift from the Consultant to City the responsibility for the quality and acceptability of the services performed by the Subconsultant. Payment of Subconsultants shall be the sole responsibility of the Consultant, and shall not be cause for any increase in compensation to the Consultant for payment of the Services.

ARTICLE 3. THE CITY'S RESPONSIBILITIES

3.1 The City Manager shall designate a Project Administrator, who shall be the City's authorized representative to act on City's behalf with respect to the City's responsibilities or matters requiring City's approval under the Contract Documents. The Project Administrator shall be authorized (without limitation) to transmit instructions, receive information, and interpret and define City policies and decisions with respect to the Services and the Project. The Project Administrator shall have full authority to require the Consultant to comply with the Contract Documents, provided, however, that any failure of the Project Administrator to identify any noncompliance, or to specifically direct or require compliance, shall in no way constitute a waiver of, or excuse, the Consultant's obligation to comply with the requirements of the Contract Documents.

3.2 The City shall make available to Consultant, for the convenience of the Consultant only, information that the City has in its possession pertinent to the Project. Consultant hereby agrees and

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

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

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

3.5 The City, acting in its proprietary capacity as Owner and not in its regulatory capacity, shall render any administrative approvals and decisions required under this Agreement, in writing, as reasonably expeditious for the orderly progress of the Services and of the Work.

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

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

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

3.6.3 The City Commission shall approve or consider all Contract Amendments that exceed the sum of fifty thousand dollars (\$50,000.00) (or other such amount as may be specified by the City of Miami Beach Procurement Ordinance, as amended).

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

3.7.1 The City Manager shall have prior review and approval of the Project Manager (and any replacements) and of any Subconsultants (and any replacements).

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

on such matters.

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

3.7.4 The City Manager may approve Contract Amendments which do not exceed the sum of fifty thousand dollars (\$50,000.00) (or other such amount as may be specified by the City of Miami Beach Purchasing Ordinance, as amended); provided that no such amendments increase any of the budgets established by this Agreement.

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

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

3.8 The City's review, evaluation, or comment as to any documents prepared by or on behalf of the Consultant shall be solely for the purpose of the City's determining for its own satisfaction the suitability of the Project, or portions thereof, detailed in such documents for the purposes intended therefor by the City, and may not be relied upon in any way by the Consultant or any other third party as a substantive review thereof.

ARTICLE 4. INTENTIONALLY OMITTED

ARTICLE 5. ADDITIONAL SERVICES

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

5.2 Additional Services include the following:

5.2.1 Appraisals: Investigation and creation of detailed appraisals and valuations of existing facilities, and surveys or inventories in connection with construction performed by City.

5.2.2. Unforeseen Conditions. Providing additional work relative to the Project which arises from subsequent circumstances and causes which could not reasonably have been foreseen at the time of the Consultant Service Order (excluding conditions determined by all prior studies available to Consultant and excluding circumstances and causes resulting from error, omission, inadvertence, or negligence of Consultant).

5.2.3. City-Requested Revisions to Construction Documents: Making revisions to Construction Documents resulting in or from City-requested changes in Scope of Work involving new program elements, when such revisions are inconsistent with written approvals or instructions previously given by City and/or are due to causes beyond the control of Consultant.

5.2.4 Expert Witness: Except insofar as the Consultant is required by legal process or subpoena to appear and give testimony, preparing to serve or serving as an expert witness in connection with any state or federal court action to which the Consultant is not a party in its own name, that is not instituted by the Consultant or in which the performance of the Consultant is not in issue.

5.2.5 Procurement: Assistance in connection with bid protests, re-bidding, or re-negotiating contracts (except for Contract Document revisions and re-bidding services required under Section 4.4 hereof, which shall be provided at no additional cost to City).

5.2.6. Models: Preparing professional perspectives, models or renderings in addition to those provided for in this Agreement except insofar as these are otherwise useful or necessary to the Consultant in the provision of Basic Services.

5.2.7. Threshold Inspection/Material Testing and Inspection: Providing threshold inspection services and material testing/special inspection services, provided that Consultant, as part of the Basic Services, shall report on the progress the Work, including any defects and deficiencies that may be observed in the Work.

5.2.8 Pre-Design Surveys & Testing: Environmental investigations and site evaluations, provided, however, that surveys of the existing structure required to complete as-built documentation are not additional services.

5.2.9 Geotechnical engineering. Providing geotechnical engineering services or site surveys.

Except as specified herein, services that are required for completion of the Construction Documents shall be part of Consultant's Basic Services.

ARTICLE 6. REIMBURSABLE EXPENSES

6.1 Reimbursable Expenses must be authorized, in advance, in writing, by the Project Administrator. Invoices or vouchers for Reimbursable Expenses shall be submitted to the Project Administrator (along with any supporting receipts and other back-up material requested by the Project Administrator). Consultant shall certify as to each such invoice and/or voucher that the amounts and items claimed as reimbursable are "true and correct and in accordance with the Agreement." Reimbursable Expenses may include, but not be limited to, the following:

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

Costs for reproduction and preparation of graphics for community workshops.

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

ARTICLE 7. COMPENSATION FOR SERVICES

7.1 Consultant's "Lump Sum" or "Not to Exceed" fee for provision of the Services, or portions thereof, as may be set forth and described in the Consultant Service Order issued for a particular Project, shall be negotiated between the City and Consultant, and shall be set forth in the Consultant Service Order.

7.2 Payments for Services shall be made within forty-five (45) calendar days of receipt and approval of an acceptable invoice by the Project Administrator. Payments shall be made in proportion to the Services satisfactorily performed, so that the payments for Services never exceed the progress percentage noted in the Consultant's Progress Schedule (to be submitted with each invoice). No mark-up shall be allowed on subcontracted work. In addition to the invoice, the Consultant shall, for Hourly Rate authorizations, submit a progress report giving the percentage of completion of the Project and the total estimated fee to completion.

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

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

7.5 **ESCALATION:** The initial hourly rates shall remain constant for the Initial Term of the agreement. Ninety (90) days prior to expiration of the Initial Term, the City may consider an adjustment to the preceding year's unit costs for the subsequent year. Only request for increases based on a corresponding increase in the Consumer Price Index for All Urban Consumers; U.S. City average (1982-84=100), as established by the United States Bureau of Labor Statistics ("CPI"), or material adjustments to the scope or requirements of the RFQ by the City, including (but not limited to) living wage increases, will be considered. In the event that the City determines that the requested increase is unsubstantiated, the Consultant agrees to perform all duties at the current cost terms.

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

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

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

category).

ARTICLE 8. CONSULTANT'S ACCOUNTING AND OTHER RECORDS

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

ARTICLE 9. OWNERSHIP OF PROJECT DOCUMENTS

9.1 All notes, correspondence, documents, plans and specifications, designs, drawings, renderings, calculations, specifications, models, photographs, reports, surveys, investigations, and any other documents (whether completed or partially completed) and copyrights thereto for Services performed or produced in the performance of this Agreement, or related to the Project, whether in its native electronic form, paper or other hard copy medium or in electronic medium, except with respect to copyrighted standard details and designs owned by the Consultant or owned by a third party and licensed to the Consultant for use and reproduction, shall become the property of the City. Consultant shall deliver all such documents to the Project Administrator in their native electronic form, as required in the Consultant Service Order within thirty (30) days of completion of the Services (or within thirty (30) days of expiration or earlier termination of this Agreement as the case may be). However, the City may grant an exclusive license of the copyright to the Consultant for reusing and reproducing copyrighted materials or portions thereof as authorized by the City Manager in advance and in writing. In addition, the Consultant shall not disclose, release, or make available any document to any third party without prior written approval from the City Manager. The Consultant shall warrant to the City that it has been granted a license to use and reproduce any standard details and designs owned by a third party and used or reproduced by the Consultant in the performance of this Agreement. Nothing contained herein shall be deemed to exclude any document from Chapter 119, Florida Statutes.

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

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

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

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

ARTICLE 10. TERMINATION OF AGREEMENT

10.1 **TERMINATION FOR LACK OF FUNDS:** The City is a governmental entity and is subject to the appropriation of funds by its legislative body in an amount sufficient to allow continuation of its

performance in accordance with the terms and conditions of this Agreement. In the event there is a lack of adequate funding either for the Services or the Project (or both), the City may terminate this Agreement without further liability to the City.

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

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

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

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

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

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

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

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

ARTICLE 11. INSURANCE

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

- (a) Workers' Compensation and Employer's Liability per the Statutory limits of the State of Florida.
- (b) Commercial General Liability on a comprehensive basis in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
- (c) Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$500,000 combined single limit per occurrence for bodily injury and property damage.
- (d) Professional Liability Insurance in an amount not less than \$1,000,000 with the deductible per claim, if any, not to exceed 10% of the limit of liability.

11.2 The City must be named as and additional insured on the liability policies; and it must be stated on the certificate.

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

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

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

ARTICLE 12. INDEMNIFICATION AND HOLD HARMLESS

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

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

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

ARTICLE 13. ERRORS AND OMISSIONS

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

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

ARTICLE 14. LIMITATION OF LIABILITY

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

Accordingly, and notwithstanding any other term or condition of this Agreement, Consultant hereby agrees that the City shall not be liable to Consultant for money damages due to an alleged breach by the City of this Agreement, in an amount in excess of the "not to exceed amount" of Consultant's fees under this Agreement, which amount shall be reduced by any amount(s) actually paid by the City to Consultant hereunder.

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

ARTICLE 15. NOTICE

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

City Manager's Office
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139
Attn: Jimmy L. Morales, City Manager

With a copy to:
City Manager's Office
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139
Attn: Eric T. Carpenter, Assistant City Manager

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

Attn: _____

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

ARTICLE 16. MISCELLANEOUS PROVISIONS

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

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

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

16.4 **NO CONTINGENT FEE:** Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this subsection, City shall have the right to terminate the Agreement, without any liability or, at its discretion, to deduct from the contract price (or otherwise recover) the full amount of such fee, commission, percentage, gift, or consideration.

16.5 **LAWS AND REGULATIONS:**

16.5.1 The Consultant shall, during the Term of this Agreement, be governed by all Applicable Laws which may have a bearing on the Services involved in the Project.

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

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

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

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

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

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

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

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

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

16.10 INTENT OF AGREEMENT:

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

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

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

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

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

Attest

CITY OF MIAMI BEACH:

CITY CLERK

MAYOR

Attest

CONSULTANT: _____

Signature/Secretary

Signature/President

Print Name

Print Name

SCHEDULE A
PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND

CONSULTANT SERVICE ORDER

Service Order No. ____ for Consulting Services.

TO: _____

PROJECT NAME: Project Name

DATE: _____

Pursuant to the agreement between the City of Miami Beach and Consultant for PROFESSIONAL CONSTRUCTION ENGINEERING AND INSPECTION (CEI) FIRMS TO PROVIDE VARIOUS CEI SERVICES ON AN "AS NEEDED" BASIS (RFQ 2017-028-KB) you are directed to provide the following services:

SCOPE OF SERVICES:

Per attached proposal dated _____, to be considered part of this Agreement.

Estimated calendar days to complete this work: _____ Days

Original Service Order Amount: \$ _____

Total From Previous Additional Service Orders: \$ _____

Fee for this Service Order is Lump Sum/Not to Exceed amount of: \$ _____

Total Agreement to Date: \$ _____

City's Project Coordinator/Manager Date

Assistant Director Date

Consultant. Date

Project Administrator-Director Date

SCHEDULE B

CONSULTANT COMPENSATION Schedule of Payments

Planning Services *	\$XXXXXXXX
Design Services*	\$XXXXXXXX
Bidding and Award Services	\$XXXXXXXX
Construction Administration **	\$XXXXXXXX
Reimbursable Allowance***	\$XXXXXXXX

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

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

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

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

HOURLY BILLING RATE SCHEDULE

SCHEDULE C

APPROVED SUBCONSULTANTS

ATTACHMENT A

RESOLUTION, COMMISSION ITEM, AND COMMISSION MEMORANDUM

ATTACHMENT B

REQUEST FOR QUALIFICATIONS (RFQ)

ATTACHMENT C

CONSULTANT'S RESPONSE TO THE RFQ