

## MIAMI BEACH

## Contract/Document Routing Form

Contract No.	Title
23-008-01	FOR FINANCIAL ADVISORY SERVICES

Contractor	Requesting Department
PFM FINANCIAL ADVISORS LLC	FINANCE

Department Director Name & Signature	ACM Name & Signature
Jason Greene <i>Jason Greene</i> 2118893138C446F...	N/A

Document Type (Select One)	
<input checked="" type="checkbox"/> Type 1 – Contract, amendment, change order or task order resulting from a procurement-issued competitive solicitation.	
<input type="checkbox"/> Type 2 – Other contract, amendment, change order or task order not resulting from a procurement-issued competitive solicitation.	
<input type="checkbox"/> Type 3 – Independent Contractor Agreement (ICA)	<input type="checkbox"/> Type 6 – Tenant Agreement
<input type="checkbox"/> Type 4 – Grant agreements with the City as the recipient	<input type="checkbox"/> Type 7 – Inter-governmental agency agreement
<input type="checkbox"/> Type 5 – Grant agreements with the City as the grantor	<input type="checkbox"/> Other:

## Brief Summary &amp; Purpose (attach memo if additional space is necessary)

On March 27, 2023, the Mayor and City Commission approved Resolution 2023-32488, accepting the recommendation of the City Manager, pursuant to RFQ-2023-008-WG-Financial Advisory Services, to enter into negotiations with PFM Financial Advisors LLC, as the top-ranked proposer and, further authorizing the City Manager and City Clerk to execute a contract upon conclusion of successful negotiations by the Administration.

The Administration concluded negotiations, and the agreement was form approved by the City Attorney's Office and executed by the Consultant. Pursuant to the authority established in Resolution 2023-32488, this item seeks the City Manager's approval to execute a contract with PFM Financial Advisors LLC.

Original Term	Renewal Periods	Total Term (Original + Renewals)
Three (3) years.	Three (3) additional one-year periods.	Six (6).

Funding Information									
Grant Funded:	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/> No	State	<input type="checkbox"/>	Federal	<input type="checkbox"/>	Other:	N/A

Cost & Funding Source									
Year	Annual Cost	Account	Require Enhancement						
1	\$18,000.00	011-0360-000312-12-400-582-00-00-00	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/> X	No			
2	\$18,000.00	011-0360-000312-12-400-582-00-00-00	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/> X	No			
3	\$18,000.00	011-0360-000312-12-400-582-00-00-00	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/> X	No			

1. For contracts longer than five years, contact the Procurement Department. 2. Attach any supporting explanation needed.  
**3. Budget approval indicates approval for current fiscal year only. Future years are subject to City Commission approval of annual adopted operating budget.**

Authority to Sign						
City Commission Approved:	<input checked="" type="checkbox"/> X	Yes	<input type="checkbox"/>	No	Resolution No.:	CC Agenda Item No.:
					2023-32488	C2A
						CC Meeting Date:
						3/27/2023

If no, explain why CC approval is not required:

Legal Form Approved:	<input checked="" type="checkbox"/> X	Yes	<input type="checkbox"/>	No	If no, explain below why form approval is not necessary:
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Comments (see attached)					
Procurement:	Alex Denis <i>Alex Denis</i> DocuSigned by: 9207E7A769E44C0...	Grants:	N/A		
Budget:	Tameka Otto Stewart <i>Tameka Otto Stewart</i> DocuSigned by: 020B4A610EE1463...	Information Technology:	N/A		
Risk Management:	N/A	Fleet & Facilities:	N/A		
Human Resources:	N/A	Other: Kristy Bada Maria Estevez	DocuSigned by: <i>[Signature]</i>	DocuSigned by: <i>BADA, Kristy</i>	

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**RESOLUTION NO. 2023-32488**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER, PURSUANT TO REQUEST FOR QUALIFICATIONS (RFQ) 2023-008-WG FINANCIAL ADVISORY SERVICES, AUTHORIZING THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH PFM FINANCIAL ADVISORS LLC, AS THE TOP-RANKED PROPOSER; AND, IF THE ADMINISTRATION IS NOT SUCCESSFUL IN NEGOTIATING AN AGREEMENT WITH THE TOP-RANKED PROPOSER, AUTHORIZING THE ADMINISTRATION TO NEGOTIATE WITH PUBLIC RESOURCES ADVISORY GROUP, THE SECOND-RANKED PROPOSER; AND, IF THE ADMINISTRATION IS NOT SUCCESSFUL IN NEGOTIATING AN AGREEMENT WITH THE SECOND RANKED PROPOSER, AUTHORIZING THE ADMINISTRATION TO NEGOTIATE WITH FIRST TRYON ADVISORS, LLC, THE THIRD-RANKED PROPOSER; AND FURTHER, AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE THE AGREEMENT UPON CONCLUSION OF SUCCESSFUL NEGOTIATIONS BY THE ADMINISTRATION.**

**WHEREAS**, On November 16, 2022, the Mayor and City Commission approved the issuance of RFQ 2023-008-WG for Financial Advisory Services; and

**WHEREAS**, on January 10, 2023, the City received proposals from the following four (4) firms: First Tryon Advisors, LLC, PFM Financial Advisors LLC, Public Resources Advisory Group and RBC Capital Markets, LLC; and

**WHEREAS**, on January 27, 2023, RBC Capital Markets withdrew its proposal and received no further consideration; and

**WHEREAS**, on February 3, 2023, the Evaluation Committee appointed by the City Manager comprised of Maria Cerna, Division Director, Capital Improvements Projects, Vyomie Greene, Assistant Director, Finance Department, Maria, Hernandez, GO Bond Program Director, Office of the City Manager and Allison Williams, Contractor, Finance Department, convened to consider the proposals received; and

**WHEREAS**, the Committee was provided an overview of the project, information relative to the City's Code of Silence Ordinance, the Government Sunshine Law, and general information on the scope of services and a copy of each proposal; and

**WHEREAS**, the Committee was instructed to score and rank each proposal pursuant to the evaluation criteria established in the RFQ; and

**WHEREAS**, the evaluation process resulted in the proposers being ranked by the Evaluation Committee in the following order:

- 1st ranked – PFM Financial Advisors LLC
- 2nd ranked – Public Resources Advisory Group
- 3rd ranked – First Tryon Advisors, LLC



**WHEREAS**, after reviewing all of the submissions, the City Manager concurs with the Evaluation Committee and finds PFM Financial Advisors LLC, the top-ranked firm, to be the best-qualified firm to provide financial advisory services for the city of Miami Beach; and

**WHEREAS**, PFM Financial Advisors LLC, the larger of three firms, has an impressive portfolio of previous experience, similar financial modeling to that of the City, and

**WHEREAS**, PFM Financial Advisors LLC have a local presence and are familiar with the Bond and Disclosure Councils; and


**WHEREAS**, the second-ranked and third-ranked firms, Public Resources Advisory Group and First Tryon Advisors, LLC, are well-qualified and should be considered, in order of rank, if negotiations with PFM Financial Advisors LLC are not successful; and

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby accept the recommendation of the City Manager, pursuant to Request for Qualifications (RFQ) 2023-008-WG Financial Advisory Services, authorize negotiations with PFM Financial Advisors LLC, as the top-ranked proposer; and, if the Administration is not successful, authorize the Administration to enter into negotiations with Public Resources Advisory Group, as the second-ranked proposer; and, if the Administration is not successful in negotiating an agreement with the second ranked proposer, authorize the Administration to enter into negotiations with First Tryon Advisors, LLC, as the third-ranked proposer; and further authorize the City Manager and City Clerk to execute an agreement upon the conclusion of successful negotiations by the Administration.

**PASSED AND ADOPTED** this 27 day of March 2023.

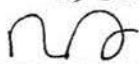

**ATTEST:**

  
MAR 31 2023  
RAFAEL E. GRANADO, CITY CLERK

  
DAN GELBER, MAYOR



**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

  
City Attorney 

3-6-23  
Date

**Competitive Bid Reports - C2 A**

# MIAMI BEACH

## **COMMISSION MEMORANDUM**

TO: Honorable Mayor and Members of the City Commission  
FROM: Alina T. Hudak, City Manager  
DATE: March 27, 2023

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER, PURSUANT TO REQUEST FOR QUALIFICATIONS (RFQ) 2023-008-WG FINANCIAL ADVISORY SERVICES, AUTHORIZING THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH PFM FINANCIAL ADVISORS LLC, AS THE TOP-RANKED PROPOSER; AND, IF THE ADMINISTRATION IS NOT SUCCESSFUL IN NEGOTIATING AN AGREEMENT WITH THE TOP-RANKED PROPOSER, AUTHORIZING THE ADMINISTRATION TO NEGOTIATE WITH PUBLIC RESOURCES ADVISORY GROUP, THE SECOND-RANKED PROPOSER; AND, IF THE ADMINISTRATION IS NOT SUCCESSFUL IN NEGOTIATING AN AGREEMENT WITH THE SECOND RANKED PROPOSER, AUTHORIZING THE ADMINISTRATION TO NEGOTIATE WITH FIRST TRYON ADVISORS, LLC, THE THIRD-RANKED PROPOSER; AND FURTHER, AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE THE AGREEMENT UPON CONCLUSION OF SUCCESSFUL NEGOTIATIONS BY THE ADMINISTRATION.

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### **RECOMMENDATION**

The Administration recommends that the Mayor and City Commission of the City of Miami Beach, Florida, approve the Resolution accepting the City Manager's recommendation, pursuant to RFQ 2023-008-WG, for financial advisory services. The Resolution authorizes the Administration to enter into negotiations with PFM Financial Advisors LLC, as the top-ranked proposer, and, if unsuccessful, enter into negotiations with Public Resources Advisory Group, as the second-ranked proposer, and, if unsuccessful, enter into negotiations with First Tryon Advisors, LLC, as the third-ranked proposer. The Resolution also authorizes the City Manager and City Clerk to execute the agreement upon the conclusion of successful negotiations.

This solicitation is currently under the cone of silence.

### **BACKGROUND/HISTORY**

The City's external financial advisor assists the Administration with debt issuance, including bonds, and the development of timetables, preparation of preliminary and final official statements, the Resolutions, and other documentation required. Further, the financial advisor



makes recommendations for appropriate credit structures, evaluates the use of various credit enhancements, participates in presentations to the rating agencies, and reviews the marketing and sale of any debt before, during, and after sale.

They also assist the City in developing and implementing various financing strategies, including research and evaluation of the structuring, timing, and procurement of financing instruments.

On April 24, 2017, the City of Miami Beach ("City") executed a three (3) year agreement, with three (3), one (1) year renewal options, for financial advisory services with RBC Capital Markets, LLC. The agreement is currently set to expire on April 24, 2023. To consider a replacement agreement, the City issued the RFQ requesting proposals from firms qualified to provide financial advisory services.

### **ANALYSIS**

On November 16, 2022, the Mayor and City Commission approved the issuance of RFQ 2023-008-WG for financial advisory services. The Procurement Department issued bid notices to 13,104 companies utilizing the City's e-procurement system, with 59 prospective bidders accessing the solicitation. RFQ responses were due and received on January 10, 2023. The City received proposals from the following firms: First Tryon Advisors, LLC, PFM Financial Advisors LLC, Public Resources Advisory Group, and RBC Capital Markets, LLC.

On January 27, 2023, RBC Capital Markets withdrew its proposal and, accordingly, received no further consideration. On February 3, 2023, the Evaluation Committee appointed by the City Manager convened to consider the three remaining proposals. The Committee was comprised of Maria Cerna, Division Director, Capital Improvements Projects, Vyomie Greene, Assistant Director, Finance Department, Maria, Hernandez, GO Bond Program Director, Office of the City Manager and Allison Williams, Contractor, Finance Department.

The Committee was provided an overview of the project, and information relative to the City's Cone of Silence Ordinance and the Government Sunshine Law. The Committee was also provided with general information on the scope of services and a copy of each proposal. The Committee was instructed to score and rank each proposal pursuant to the evaluation criteria established in the RFQ.

The evaluation process resulted in the proposers being ranked by the Evaluation Committee in the following order (See Attachment A):

- 1st ranked – PFM Financial Advisors
- 2nd ranked – Public Resources Advisory Group
- 3rd ranked – First Tryon Advisors

The following is a summary of the firms.

#### **PFM Financial Advisors LLC (PFM)**

Public Financial Management, Inc., a former affiliate of PFM Financial Advisors LLC, was founded in 1975 to provide independent financial advisory services to the public sector. PFM is 100% owned by managing directors who set the firm's strategic direction and manage specific practice areas. Working together with clients in helping them to achieve immediate and long-term objectives, PFM and its affiliates bring a broad and deep range of expertise and



experience to bear on their client engagements. As of January 1, 2023, PFM consisted of more than 340 employees, including 219 financial advisory personnel, located in 31 offices across the United States.

PFM's Coral Gables office will have responsibility for the engagement with the City, with auxiliary support from other offices in Florida and across the country as needed. PFM has been providing independent financial advisory services to Florida clients for over 36 years.

#### Public Resources Advisory Group (PRAG)

PRAG is an independent, municipal advisory-only firm, and its only business is advising state and local governments, agencies, authorities, and non-profits both nationally and in Florida.

PRAG's team brings a unique perspective to their advisory services given their diverse and complementary skill sets, backgrounds, and experiences in investment banking/ underwriting, commercial banking, Florida bond and tax law, municipal advisory, public-private partnerships, and municipal accounting.

PRAG believes it is a leader in the municipal advisory industry nationally and in Florida. PRAG has the ability to provide the City a comprehensive scope of financial advisory services.

#### First Tryon Advisors, LLC

First Tryon Advisors, LLC is an independent and privately-owned municipal advisory firm that has been in business for over 25 years. They have a total of 25 employees located throughout the Southeast and mid-Atlantic. Their proposed lead advisors are based in Naples and Orlando, Florida. First Tryon's business consists exclusively of financial advisory work, and its proposed advisory team is comprised of professionals dedicated exclusively to providing financial advisory services.

First Tryon Advisors' experienced team consists of professionals with legal, underwriting, advisory, and government finance backgrounds, offering their clients immediate access to a wealth of diverse experiences and perspectives to help them solve their problems. Its professionals have served over 350 different state and local governments, agencies, and authorities. This experience includes governmental bond financings aggregating over \$10 billion in total issuance amount over the past five years.

#### **SUPPORTING SURVEY DATA**

Not Applicable

#### **FINANCIAL INFORMATION**

The City does not budget for these services. Financial advisory services are usually funded from the bond or other debt proceeds at the time of issuance. In consideration of the services to be provided, the advisory firm shall be compensated based on negotiated hourly rates on a per-project basis.

#### **CONCLUSION**

After reviewing the proposal and the results of the Evaluation Committee process, the Administration finds PFM Financial Advisors, the top-ranked proposer, to be well-qualified to provide financial advisory services for the City. While all of the proposing firms have sufficient experience to provide services needed by the City, PFM Financial Advisors, the largest of three

firms, has an impressive portfolio of previous experience, with many clients similar to the City and with Miami-Dade County. The firm has an existing local presence and is very familiar with the Bond and Disclosure Counsel.

The second and third-ranked firms, Public Resources Advisory Group and First Tryon Advisors, respectively, are also well qualified and should be considered in the event that negotiations with PFM Financial Advisors are not successful.

For the reasons stated herein, the Administration recommend that the Mayor and City Commission approve the Resolution accepting the City Manager's recommendation, pursuant to RFQ 2023-008-WG, for financial advisory services, authorizing the Administration to enter into negotiations with PFM Financial Advisors LLC, as the top-ranked proposer, and, if unsuccessful, enter into negotiations with Public Resources Advisory Group, as the second-ranked proposer, and, if unsuccessful, enter into negotiations with First Tryon Advisors, LLC, as the third-ranked proposer. The Resolution also authorizes the City Manager and City Clerk to execute the agreement upon the conclusion of successful negotiations.

**Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?**

No

**Does this item utilize G.O. Bond Funds?**

No

**Legislative Tracking**  
Finance/Procurement

**ATTACHMENTS:**

**Description**

- ☐ Attachment A
- ☐ Resolution

RFQ 2023-008-WG Financial Advisory Services	Maria Cerna			Ranking	Vyomie Greene			Ranking	Maria Hernandez			Ranking	Allison Williams			Ranking	Low Aggregate Totals	Ranking
	Qualitative	Quantitative	Subtotal		Qualitative	Quantitative	Subtotal		Qualitative	Quantitative	Subtotal		Qualitative	Quantitative	Subtotal			
First Tryon Advisors, LLC	92	0	92	3	83	0	83	3	75	0	75	3	60	0	60	3	12	3
PFM Financial Advisors LLC	97	0	97	2	95	0	95	1	95	0	95	1	100	0	100	1	5	1
Public Resources Advisory Group	98	0	98	1	86	0	86	2	85	0	85	2	80	0	80	2	7	2

Quantitative Points			
Proposer	Maximum Points	Veteran's Points	Total Quantitative (Cost + Veteran's)
First Tryon Advisors, LLC	5	0	0
PFM Financial Advisors LLC	5	0	0
Public Resources Advisory Group	5	0	0



**PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE CITY OF MIAMI BEACH  
AND  
PFM FINANCIAL ADVISORS LLC  
FOR  
FINANCIAL ADVISORY SERVICES PURSUANT TO  
RFQ-2023-008-WG**

APR 27 2023

This Professional Services Agreement ("Agreement") is entered into this \_\_\_\_\_ ("Effective Date"), between the **CITY OF MIAMI BEACH, FLORIDA**, a municipal corporation organized and existing under the laws of the State of Florida, having its principal offices at 1700 Convention Center Drive, Miami Beach, Florida, 33139 (the "City"), and **PFM FINANCIAL ADVISORS LLC**, a Delaware Limited Liability Company, whose address is 1735 Market Street, 42nd Floor, Philadelphia, PA 19103 ("Consultant").

**SECTION 1**  
**DEFINITIONS**

- Agreement:** This Agreement between the City and Consultant, including any exhibits and amendments thereto.
- City Manager:** The chief administrative officer of the City.
- City Manager's Designee:** The City staff member who is designated by the City Manager to administer this Agreement on behalf of the City. The City Manager's designee shall be the Chief Financial Officer, Finance Department.
- Consultant:** For the purposes of this Agreement, Consultant shall be deemed to be an independent contractor, and not an agent or employee of the City.
- Services:** All services, work and actions by the Consultant performed or undertaken pursuant to the Agreement.
- Fee:** Amount paid to the Consultant as compensation for Services.
- Proposal Documents:** Proposal Documents shall mean City of Miami Beach, **RFQ No. 2023-008-WG** for **FINANCIAL ADVISORY SERVICES**, together with all amendments thereto, issued by the City in contemplation of this Agreement **RFQ**, and the Consultant's proposal in response thereto ("Proposal"), all of which are hereby incorporated and made a part hereof; provided, however, that in the event of an express conflict between the Proposal Documents and this Agreement, the following order of precedent shall prevail: this Agreement; the **RFQ**, and the Proposal.
- Risk Manager:** The Risk Manager of the City, with offices at 1700 Convention Center Drive, Third Floor, Miami Beach, Florida 33139; telephone number (305) 673-7000, Ext. 26724; and fax number (305) 673-7529.

## **SECTION 2** **SCOPE OF SERVICES**

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

**2.2** The services to be rendered by the Consultant shall be commenced upon receipt of a written Notice to Proceed from the City subsequent to the execution of the agreement. Consultant shall adhere to an agreed upon schedule for each assignment, as approved by the City's Chief Financial Officer.

A reasonable extension of time shall be granted in the event the work of the Consultant is delayed or prevented by the City or by any circumstance beyond the reasonable control of the Consultant, including weather conditions or acts of God that would render performance of the Consultant's duties impractical.

## **SECTION 3** **TERM**

The term of this Agreement ("Term") shall commence upon execution of this Agreement by all parties hereto (the Effective Date set forth on p. 1 hereof), and shall have an initial term of three (3) years with three (3) additional one-year periods, to be exercised at the City Manager's sole option and discretion, by providing Consultant with written notice of same no less than thirty (30) days prior to the expiration of the initial term.

Continuation of the contract beyond the initial term and/or any specific exercised renewal is a City prerogative; not a right of the Consultant. This prerogative will be exercised only when such continuation is clearly in the best interest of the City.

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



**SECTION 4****FEE**

**4.1** In consideration of the Services to be provided, Consultant shall be compensated as follows:

- a) In connection with the issuance of debt, the Consultant shall be paid at closing in accordance with the following schedule with a minimum fee of \$15,000 per transaction:

<b><u>Par Amount of Bonds and Other Debt issued</u></b>	<b><u>Fee Per \$1,000</u></b>
\$0 - \$50,000,000.00.....	\$ 1.25
\$50,000,000.01 - \$100,000,000.00.....	\$ 1.00
\$100,000,000.01 – and more.....	\$ 0.75

- b) For the reinvestment of bond proceeds, Consultant will charge a fee of three (0.03%) basis points computed on the same basis, as described in the previous sentence.
- c) For the preparation of bid solicitation and review of bids received for the State and Local Government Securities ("SLGS") to be purchased for escrow accounts, Consultant shall be paid a flat fee of \$5,000.
- d) For conduit financings proposed to be issued through the City, the Consultant shall be paid on the same fee schedule, as set forth above in paragraph "a)" by the Borrower. In the event that no bonds are actually issued, the Consultant shall receive a fee from the Borrower, such fee subject to negotiations between the Consultant and the Borrower, but in no event less than the dollar amount for the hours expended on the project, to compensate the Consultant for the preparation and presentation to the City of a report analyzing the credit, the proposed marketing plan, and analyzing the City's protection from any risk of default on the financing and making a recommendation regarding the issuance of the proposed bonds.
- e) The Consultant shall be paid an annual retainer of \$18,000, payable in equal quarterly payments, for all time expended by its personnel for non-transaction advisory services such as those described in Exhibit A under the heading "Retainer Services".

When applicable, hourly rates shall be as follows:

- |                     |       |
|---------------------|-------|
| ○ Managing Director | \$450 |
| ○ Director:         | \$400 |
| ○ SMC:              | \$375 |
| ○ Analyst:          | \$250 |

The above rates are guaranteed for the duration of the Term, including extensions. Additionally, the City may wish to negotiate a fixed price or a cap on hourly charges for any particular project or engagement, at the City's sole option and discretion.

Both the City and Consultant acknowledge that there may be special projects for which compensation in an hourly rate may not be appropriate and which may not result in the

issuance of debts including bonds, as more specifically referenced in Exhibit A. Fees for these special services shall be negotiated on a case-by-case basis and shall be agreed to in writing by both parties.

#### **4.2 REIMBURSABLE EXPENSES**

Consultant may be reimbursed for certain expenses directly related and/or incurred in direct relation to, in the interest of, or as a direct result of the services provided herein. Any reimbursable expense must be authorized, in advance and in writing by the City's Chief Financial Officer. Invoices or vouchers for reimbursable expenses shall be submitted to the City's Chief Financial Officer, along with all supporting receipts and other relevant back-up materials required to support the amount invoiced, and as required by the Chief Financial Officer. 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." Only actual amounts incurred and paid (requiring proof of payment) by the Consultant shall be invoiced, without any markups and/or additions.

Reimbursable expenses include, but may not be limited to:

- Travel related expenses.

Such expenses will be reimbursed in accordance with City-wide Procedure OD.20.01 (Travel on City Business), as may be updated from time to time.

#### **4.3 INVOICING**

Upon receipt of an acceptable and approved invoice, payment(s) shall be made within thirty (30) days for that portion (or those portions) of the Services satisfactorily rendered (and referenced in the particular invoice).

Invoices shall include a detailed description of the Services (or portions thereof) provided, make reference to the corresponding Purchase Order (PO), if applicable and shall be submitted to the City at the following address:

City of Miami Beach  
Finance Department's Accounts Payable Division  
1700 Convention Center Drive, 3<sup>rd</sup> Floor  
Miami Beach, FL 33139

Accounts Payable: [Payables@miamibeachfl.gov](mailto:Payables@miamibeachfl.gov)

### **SECTION 5 TERMINATION**

#### **5.1 TERMINATION FOR CAUSE**



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

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

## **5.2 TERMINATION FOR CONVENIENCE OF THE CITY**

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

## **5.3 TERMINATION FOR INSOLVENCY**

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

# **SECTION 6 INDEMNIFICATION AND INSURANCE REQUIREMENTS**

## **6.1 INDEMNIFICATION**

Consultant agrees to indemnify, defend and hold harmless the City of Miami Beach and its officers, employees, agents, and contractors, from and against any and all actions (whether at law or in equity), claims, liabilities, losses, and expenses, including, but not limited to, attorneys' fees and costs, for personal, economic or bodily injury, wrongful death, loss of or damage to property, which may arise or be alleged to have arisen from the negligent acts, errors, omissions or intentionally wrongful conduct of the Consultant, its officers, employees, agents, contractors, or any other person or entity acting under Consultant's control or supervision, in connection with, related to, or as a result of the Consultant's performance of the Services pursuant to this Agreement. To that extent, the Consultant shall pay all such claims and losses and shall pay all such costs and judgments which may issue from any lawsuit arising from such claims and losses and shall pay all costs and attorneys' fees expended by the City in the defense of such claims and losses, including appeals provided that Consultant's liability shall only be to the extent of claims and liabilities arising from its negligence. The Consultant expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Consultant shall in no way limit the Consultant's responsibility to indemnify, keep and save harmless and defend the City or its officers, employees, agents and instrumentalities as herein provided.

The parties agree that one percent (1%) of the total compensation to Consultant for performance of the Services under this Agreement is the specific consideration from the City to the Consultant for the Consultant's indemnity agreement. The provisions of this Section 6.1 and of this indemnification shall survive termination or expiration of this Agreement.



## **6.2 INSURANCE REQUIREMENTS**

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

- A. Worker's Compensation Insurance for all employees of the vendor as required by Florida Statute 440, and Employer Liability Insurance for bodily injury or disease. Should the Vendor be exempt from this Statute, the Vendor and each employee shall hold the City harmless from any injury incurred during performance of the Contract. The exempt Vendor shall also submit (i) a written statement detailing the number of employees and that they are not required to carry Workers' Compensation insurance and do not anticipate hiring any additional employees during the term of this contract or (ii) a copy of a Certificate of Exemption.
- B. Commercial General Liability on a comprehensive basis in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage. City of Miami Beach must be shown as an additional insured with respect to this coverage.
- C. Automobile Liability Insurance covering any automobile, if vendor has no owned automobiles, then coverage for hired and non-owned automobiles, with limit no less than \$1,000,000 combined per accident for bodily injury and property damage.
- D. Professional Liability Insurance and Fidelity Bond Coverages in amounts not less than \$5,000,000 and \$5,000,000 single loss/\$10,000,000 aggregate, respectively, with the deductible on a per claim basis, if any, not to exceed \$200,000 for Professional Liability and \$50,000 for the financial institution bond.
- E. Cyber Liability in an amount of not less than \$5,000,000 with deductible not to exceed \$100,000.

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

**6.4 Notice of Cancellation** – Each insurance policy, except for Professional Liability, required above shall provide that coverage shall not be cancelled, except with not less than 30 days' notice to the City of Miami Beach c/o EXIGIS Insurance Compliance Services. With regard to Professional Liability, in case of any reduction in coverage, other material changes, or cancellation, Consultant will provide not less than 30 days' notice to the City of Miami Beach c/o EXIGIS Insurance Compliance Services.

**6.5 Waiver of Subrogation** – Consultant agrees to obtain any endorsement that may be necessary to affect the waiver of subrogation on the coverages required. However, this

provision applies regardless of whether the City has received a waiver of subrogation endorsement from the insurer.

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

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

**CERTIFICATE HOLDER ON ALL COI MUST READ:**

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

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

[Certificates-miamibeach@riskworks.com](mailto:Certificates-miamibeach@riskworks.com)

6.8 **Special Risks or Circumstances** – At the time of option exercise or amendment, the City of Miami Beach reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

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

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

This Agreement shall be construed in accordance with the laws of the State of Florida. This Agreement shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida. By entering into this Agreement, Consultant and the City expressly waive any rights either party may have to a trial by jury of any civil litigation related to or arising out of this Agreement.



## **SECTION 8**

### **LIMITATION OF CITY'S LIABILITY**

The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action for money damages due to an alleged breach by the City of this Agreement (excluding any claim arising out of the City's failure to pay fees payable to Consultant), so that its liability for any such breach never exceeds the sum of \$10,000. Consultant hereby expresses its willingness to enter into this Agreement with Consultant's recovery from the City for any damage action for breach of contract to be limited to a maximum amount of \$10,000.

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

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

## **SECTION 9**

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

#### **9.1 DUTY OF CARE**

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

#### **9.2 COMPLIANCE WITH APPLICABLE LAWS**

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

#### **9.3 PATENT RIGHTS; COPYRIGHT; CONFIDENTIAL FINDINGS**

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

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

## **SECTION 10** **GENERAL PROVISIONS**

### **10.1 AUDIT AND INSPECTIONS**

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

### **10.3 ASSIGNMENT, TRANSFER OR SUBCONSULTING**

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

### **10.4 PUBLIC ENTITY CRIMES**

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

### **10.5 NO DISCRIMINATION**

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

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



**10.6 CONFLICT OF INTEREST**

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

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

**10.7 CONSULTANT'S COMPLIANCE WITH FLORIDA PUBLIC RECORDS LAW**

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

services must be made directly to the City. If the City does not possess the requested records, the City shall immediately notify the Consultant of the request, and the Consultant must provide the records to the City or allow the records to be inspected or copied within a reasonable time.

- (2) Consultant's failure to comply with the City's request for records shall constitute a breach of this Agreement, and the City, at its sole discretion, may: (1) unilaterally terminate the Agreement; (2) avail itself of the remedies set forth under the Agreement; and/or (3) avail itself of any available remedies at law or in equity.
- (3) A Consultant who fails to provide the public records to the City within a reasonable time may be subject to penalties under s. 119.10.

(E) **CIVIL ACTION.**

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

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

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

**10.8 FORCE MAJEURE**

- (A) A "Force Majeure" event is an event that (i) in fact causes a delay in the performance of the Consultant or the City's obligations under the Agreement, and (ii) is beyond the reasonable control of such party unable to perform the obligation, and (iii) is not due to an intentional act, error, omission, or negligence of such party, and (iv) could not have reasonably been foreseen and prepared for by such party at any time prior to the occurrence of the event. Subject to the foregoing criteria, Force Majeure may include



events such as war, civil insurrection, riot, fires, epidemics, pandemics, terrorism, sabotage, explosions, embargo restrictions, quarantine restrictions, transportation accidents, strikes, strong hurricanes or tornadoes, earthquakes, or other acts of God which prevent performance. Force Majeure shall not include technological impossibility, inclement weather, or failure to secure any of the required permits pursuant to the Agreement.

- (B) If the City or Consultant's performance of its contractual obligations is prevented or delayed by an event believed by to be Force Majeure, such party shall immediately, upon learning of the occurrence of the event or of the commencement of any such delay, but in any case within fifteen (15) business days thereof, provide notice: (i) of the occurrence of event of Force Majeure, (ii) of the nature of the event and the cause thereof, (iii) of the anticipated impact on the Agreement, (iv) of the anticipated period of the delay, and (v) of what course of action such party plans to take in order to mitigate the detrimental effects of the event. The timely delivery of the notice of the occurrence of a Force Majeure event is a condition precedent to allowance of any relief pursuant to this section; however, receipt of such notice shall not constitute acceptance that the event claimed to be a Force Majeure event is in fact Force Majeure, and the burden of proof of the occurrence of a Force Majeure event shall be on the requesting party.
- (C) No party hereto shall be liable for its failure to carry out its obligations under the Agreement during a period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations. The suspension of any of the obligations under this Agreement due to a Force Majeure event shall be of no greater scope and no longer duration than is required. The party shall use its reasonable best efforts to continue to perform its obligations hereunder to the extent such obligations are not affected or are only partially affected by the Force Majeure event, and to correct or cure the event or condition excusing performance and otherwise to remedy its inability to perform to the extent its inability to perform is the direct result of the Force Majeure event with all reasonable dispatch.
- (D) Obligations pursuant to the Agreement that arose before the occurrence of a Force Majeure event, causing the suspension of performance, shall not be excused as a result of such occurrence unless such occurrence makes such performance not reasonably possible. The obligation to pay money in a timely manner for obligations and liabilities which matured prior to the occurrence of a Force Majeure event shall not be subject to the Force Majeure provisions.
- (E) Notwithstanding any other provision to the contrary herein, in the event of a Force Majeure occurrence, the City may, at the sole discretion of the City Manager, suspend the City's payment obligations under the Agreement, and may take such action without regard to the notice requirements herein. Additionally, in the event that an event of Force Majeure delays a party's performance under the Agreement for a time period greater than thirty (30) days, the City may, at the sole discretion of the City Manager, terminate the Agreement on a given date, by giving written notice to Consultant of such termination. If the Agreement is terminated pursuant to this section, Consultant shall be paid for any Services satisfactorily performed up to the date of termination; following which the City shall be discharged from any and all liabilities, duties, and terms arising out of, or by virtue of, this Agreement. In no event will any condition of Force Majeure extend this Agreement beyond its stated term.

**10.9 E-VERIFY**

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



## **SECTION 11**

### **NOTICES**

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

**TO CONSULTANT:**

**PFM Financial Advisors LLC**  
**2222 Ponce De Leon**  
**3<sup>rd</sup> Floor**  
**Coral Gables, FL 33134**  
**Attn: Sergio Masvidal**  
**Email: [masvidals@pfm.com](mailto:masvidals@pfm.com)**

**TO CITY:**

**City of Miami Beach, Florida**  
**Office of the City Manager**  
**1700 Convention Center Drive 4<sup>th</sup> floor**  
**Miami Beach, FL 33139**  
**Attn: Alina T. Hudak, City Manager (or successor)**  
**Email: [AlinaHudak@miamibeachfl.gov](mailto:AlinaHudak@miamibeachfl.gov)**

**With a Copy to:**

**City of Miami Beach Florida**  
**Finance Department**  
**1700 Convention Center Drive 3<sup>rd</sup> floor**  
**Miami Beach, FL 33139**  
**Attn: Jason D. Greene, Chief Financial Officer (or successor)**  
**Email: [JasonGreene@miamibeachfl.gov](mailto:JasonGreene@miamibeachfl.gov)**

Notice may also be provided to any other address designated by the party to receive notice if such alternate address is provided via U.S. certified mail, return receipt requested, hand delivered, or by overnight delivery. In the event an alternate notice address is properly provided, notice shall be sent to such alternate address in addition to any other address which notice would otherwise be sent, unless other delivery instruction as specifically provided for by the party entitled to notice.

Notice shall be deemed given on the day on which personally served, or the day of receipt by either U.S. certified mail or overnight delivery. All notices mailed electronically to either party shall be deemed served upon acknowledgement of receipt by the representative for the receiving party.

## **SECTION 12**

### **MISCELLANEOUS PROVISIONS**

#### **12.1 CHANGES AND ADDITIONS**

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

an affiliate of Consultant or any third party referred or introduced by Consultant shall not in any way be deemed an amendment or modification of this agreement.

## **12.2 SEVERABILITY**

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

## **12.3 WAIVER OF BREACH**

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

## **12.4 JOINT PREPARATION**

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

## **12.5 ENTIRETY OF AGREEMENT**

The City and Consultant agree that this is the entire agreement between the parties. This Agreement supersedes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein, and there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Title and paragraph headings are for convenient reference and are not intended to confer any rights or obligations upon the parties to this Agreement.

## **12.6 REGISTERED MUNICIPAL ADVISOR; REQUIRED DISCLOSURES**

Consultant is a registered municipal advisor with the Securities and Exchange Commission (the "SEC") and the Municipal Securities Rulemaking Board (the "MSRB"), pursuant to the Securities Exchange Act of 1934 Rule 15Ba1-2. If City has designated Consultant as its independent registered municipal advisor ("IRMA") for purposes of SEC Rule 15Ba1-1(d)(3)(vi) (the "IRMA exemption"), then services provided pursuant to such designation shall be the services described in Exhibit A hereto, subject to any agreed upon limitations. Verification of independence (as is required under the IRMA exemption) shall be the responsibility of such third party seeking to rely on such IRMA exemption. Consultant shall have the right to review and approve in advance any representation of Consultant's role as IRMA to City.

MSRB Rules require that municipal advisors make written disclosures to their clients of all material conflicts of interest, certain legal or disciplinary events and certain regulatory requirements. Such disclosures are provided in Consultant's Disclosure Statement delivered to City prior to or together with this Agreement.

**12.7 INFORMATION TO BE FURNISHED TO CONSULTANT**

All information, data, reports, and records in the possession of City or any third party necessary for carrying out any services to be performed under this Agreement ("Data") shall be furnished to Consultant. Consultant may rely on the Data in connection with its provision of the services under this Agreement and the provider thereof shall remain solely responsible for the adequacy, accuracy and completeness of such Data.

MSRB Rules require that municipal advisors make written disclosures to their clients of all material conflicts of interest, certain legal or disciplinary events and certain regulatory requirements. Such disclosures are provided in PFM's Disclosure Statement delivered to Client prior to or together with this Agreement.


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

FOR CITY:

CITY OF MIAMI BEACH, FLORIDA

ATTEST:

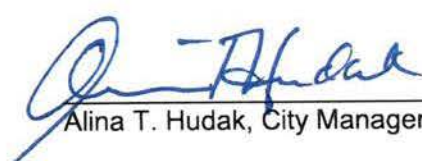
By:

  
 Rafael E. Granado, City Clerk

APR 27 2023

Date: \_\_\_\_\_

APR 27 2023

  
 Alina T. Hudak, City Manager

 APPROVED AS TO  
 FORM & LANGUAGE  
 & FOR EXECUTION

  
 For City Attorney
4/18/23  
Date

FOR CONSULTANT:

By:

  
Sergio Masvidal, Managing Director, PFM Financial Advisors LLC  
 Print Name and Title
Date: April 18, 2023



### **EXHIBIT A SCOPE OF SERVICES**

The Consultant agrees that upon request from the City, the following services will be performed by the Consultant in consideration of the compensation and/or fees agreed upon in this agreement, as further clarified below. The services to be provided shall include, but not be limited to, the following:

#### **Services covered by Cost of Issuance:**

##### **Financing Involving Specific Public Offering of Debt Securities:**

- Participate in future debt issuance by assisting the City with the development of timetables, preparation of preliminary and final official statements, resolutions, and other documentation as may be required. Further, the Consultant will make recommendations for appropriate credit structures, evaluate the use of various credit enhancements, participate in presentations to the rating agencies and review the marketing and sale of any debt before, during, and after the pricing of bonds.
- Assist the City in developing and implementing various financing strategies, including research and evaluation of the structuring, timing, and procurement of financial instruments to implement a specific strategy.
- Evaluate financing mechanisms and assist in the financing component of any such mechanisms chosen by the City.
- To be available, upon proper notification, to participate in conference calls, and conferences, with the personnel of the City and other consultants to the City regarding financing matters.
- Provide information concerning the structure of financing programs used by other issuers.
- Recommend in conjunction with bond counsel, provisions, and covenants to be contained in bond issues, including, but not limited to bond amounts, maturities, interest rates, redemption provisions, flow of funds, debt service coverage requirements, reserve funds, security pledges and conditions relating to the issuance of additional bonds.
- Assist with the preparation of debt service requirements for proposed issues.
- Advise on using a negotiated or competitive bid sale for each issue.
- Coordinate bond closing and transfer of funds.
- Advise on the advantages and disadvantages of municipal bond insurance or other credit enhancements.
- Coordinate with and provide the municipal bond rating agencies (and credit enhancers, if applicable) with information necessary to obtain an appropriate bond rating.
- Advise on market conditions and recommend the timing of the sale of the bonds.
- Assist where needed at the time of a competitive sale in checking all bids for compliance with bid specifications and recommend awarding the bonds in the City's best interest.
- Assist, upon request, in selecting the book-running managing underwriter and co-managing underwriters for negotiated sale of bonds.
- Assist in negotiating the interest rates proposed by the underwriters for the bonds and the underwriter's compensation and expenses on the issue expressed in terms of the gross underwriter's discount.

- Review the bond purchase agreement and advise on its acceptance or rejection in light of market conditions.
- Assist legal counsel in the preparation and distribution of the Official Statement.
- Arrange for distribution of the Official Statement to bond underwriters and investors in accordance with the objectives communicated to the Consultant by the City or its agents or representative.
- Assist at bond closing and coordinate printing, signing, and delivery of bonds, including receipt of the transcript, bond printing, CUSIP numbers, and delivery of bonds.

**Financing Involving Specific Offering of Non-Debt Securities:**

- Assist in the selection of a financing vehicle, including but not limited to the private placement of debt, participation in pooled loan programs, short-term borrowing programs, bank loans, tax anticipation notes, certificates of participation, and revenue anticipation notes or other alternative financial products, including but not limited to interest rate swaps, caps or collars, and investment of bond proceeds.
- In conjunction with the City's legal counsel, assist in preparing documents for items noted above.

**Retainer Services:**

- Assist the City in the formulation of Financial and Debt Policies and Administrative Procedures.
- Review current debt structure, identifying strengths and weaknesses of structure so that future debt issues can be designed to maximize ability to finance future capital needs. This will include, but not be limited to, reviewing existing debt for the possibility of refunding that debt to provide the City with savings.
- Analyze future debt capacity to determine the City's ability to raise future debt capital.
- Assist the City in the development of the City's Capital Improvement Program by identifying sources of capital funding.
- Assist the City with the development of the City's long-range financial planning efforts and process by assessing capital needs, identifying potential revenue sources, analyze financing alternatives such as pay-as-you-go, lease/purchasing, short-term vs. long-term financings, assessments, user fees, impact fees, developer contributions, public/private projects, and grants and provide analysis of each alternative as required as to the budgetary and financial impact.
- Review the reports of accountants, independent engineers, and other project feasibility consultants to ensure that such studies adequately address technical, economic, and financial risk factors affecting the marketability of any proposed revenue debt issues; provide bond market assumptions necessary for financial projections included in these studies; attend all relevant working sessions regarding the preparations, review and completion of such independent studies and provide written comments and recommendations regarding assumptions, analytic methods, and conclusions contained therein.
- Develop, manage, and maintain computer models for long-term capital planning which provide for inputs regarding levels of ad valorem and non-ad valorem taxation, growth rates by operating revenue and expenditure item, timing, magnitude and cost of debt

issuance, and project operating and capital balances, selected operating and debt ratios and other financial performance measures as may be determined by the City.

- Conduct strategic modeling and planning and related consulting.
- Attend meetings with City's staff, consultants, and other professionals and the City.
- Undertake financial planning and policy development assignments made by the City regarding financings, and financial policy including budget, tax, cash management issues and related fiscal policy and programs.
- Assist the City in preparing financial presentations for public hearings and/ or referendums.
- Provide the City with subscription access to Munite Investor Relations platform at no cost to the City, subject to a separate Subscription Agreement between the City and PFM affiliate, Munite, LLC.
- Specific public offering of debt securities or offering of non-debt securities not issued.
- Participating in the development of a financial plan for the City's capital improvements.
- Advice on various budget and funding matters not specifically related to the offer of securities or other financing services as noted above.

**Services under hourly rate and negotiated lump sum and/or hourly with a cap:**

- Assisting with validation proceedings and/or testifying as an expert witness with respect to offerings.
- Providing secondary market disclosure services upon request in compliance with Rule 15c (2)-12 of the Securities and Exchange Commission.
- Additional services not listed in either above section.