ARCHITECTURAL AND
RELATED SERVICES FOR MISCELLANEOUS PROJECTS

2017-31

MIAMI LAKES
Growing Beautifully

The Town of Miami Lakes Council:

Mayor Manny Cid
Vice Mayor Nelson Rodriguez
Councilmember Luis Collazo
Councilmember Timothy Daubert
Councilmember Ceasar Mestre
Councilmember Frank Mingo
Councilmember Marilyn Ruano

Alex Rey, Town Manager
The Town of Miami Lakes
6601 Main Street
Miami Lakes, Florida 33014

Attachment A

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This Agreement made this 3rd day of November in the year **2017** ("Agreement") by and between the Town of Miami Lakes, Florida, hereinafter called the "Town," and Miller-Legg, Inc., hereinafter called the "Consultant."

RECITAL

A. The Town issued a Request for Qualifications ("RFQ") 2017-31 on June 14, 2017 for the provision of miscellaneous architectural and miscellaneous engineering services, and received Consultant's proposal ("Proposal") in response thereto, was selected as one of the most qualified for the provision of said Services. The RFQ and the Proposal are expressly incorporated into and made a part of this Agreement as if set forth in full.

B. WHEREAS, the Town, through action of the Town Manager or the Town Commission, as applicable, has selected the Consultant in accordance with Section 287.055, Florida Statutes, (Consultants' Competitive Negotiation Act), and the applicable provisions of the Town Procurement Ordinance, to provide the professional services as described herein.

WITNESSETH, that the Town and the Consultant, for the considerations herein set forth, agree as follows:

SECTION A GENERAL TERMS AND CONDITIONS

Article A1 Definitions

A1.01 ***Additional Services*** means any Work defined as such in this Agreement, secured in compliance with Florida Statutes and Town Code.

A1.02 ***Attachments*** mean the Attachments to this Agreement which are expressly incorporated by reference and made a part of this Agreement as if set forth in full.

A1.03 ***Base Fee*** means the amount of compensation mutually agreed upon for the completion of the Services under this Agreement.

A1.04 ***Basic Services*** means those services designated as such in a Work Order.

A1.05 ***Consultant*** means the individual, partnership, corporation, association or any combination thereof, of properly registered professional architects, or engineers, which has entered into the Agreement to provide professional services to the Town.

A1.06 ***Contractor*** means an individual, partnership, corporation, association, joint venture, or any combination thereof, which has entered into a contract with the Town for construction

A1.07 ***Errors*** means items in the plans, specification or other documents prepared by the Consultant that are shown incorrectly, which results in a change to the Services or results in the need for the construction contractor to perform rework or additional work or which causes a delay to the completion of construction.

A1.08 ***Errors and Omissions*** means design deficiencies in the plans, specification or other documents prepared by the Consultant, which must be corrected in order for the project to function or be built as intended.

A1.09 ***Final Acceptance*** means the acceptance of the plans, specification or other documents prepared by the Consultant by the Town, which will occur after the Town have reviewed the plans, specification or other documents and confirmed that the plans, specification or other documents incorporates all of the requirements of the Services and any comments previously provided by the Town.

A1.10 ***Inspector*** means an employee or representative of the Town assigned by the Town to make observations of work performed by a Contractor.

A1.11 ***Notice to Proceed*** means same as "Authorization to Proceed." A duly authorized written letter or directive issued by the Town Manager or Procurement Manager acknowledging that all conditions precedent have been met or directing that Consultant may begin performing the Services.

A1.12 ***Omissions*** means details of information are missing from the plans, specification or other documents prepared by the Consultant, which are necessary for the proper and safe completion of the Project.

A1.13 ***Project Manager*** means an employee or representative of the Town assigned by the Town Manager to manage and monitor the Services to be performed under this Agreement.

A1.14 ***Professional Services*** means those services within the scope of the practice of architecture, professional engineering, or registered surveying and mapping, as applicable, as defined by the laws of the State of Florida, or those performed by any architect, professional engineer, or registered surveyor or mapper in connection with his or her professional employment or practice. These services may be abbreviated herein as "architectural/ engineering services" or "professional services", as applicable, which are within this definition.

A1.15 ***Professional Services Agreement ("Agreement" or "PSA")*** means this Agreement and all attachments and any authorized amendments thereto. In the event of a conflict between the Request for Qualifications ("RFQ") and the Consultant's response thereto the RFQ will control. In the event of any conflict between the Consultant's response to the RFQ and this PSA, this PSA will control. In the event of any conflict between this PSA and its attachments this PSA will control.

A1.16 ***Project*** means the construction, alteration and/or repair, and all services and incidentals thereto, of a Town facility or property or other task/scope, as contemplated and budgeted by the Town. A Project will be further defined in the Scope of Services of any Work Order issued under the Agreement.

A1.16 ***Scope of Services or Services*** means a comprehensive description of the activities, tasks, design features, objectives, deliverables and milestones required for the completion of Project with sufficient detail to allow a reasonably accurate estimation of resources necessary for its completion.

A1.17 ***Subconsultant*** means a person or organization of properly registered professional architects, engineers, registered surveyor or mapper, or other professional specialty that has entered into a written agreement with the Consultant to furnish specified Services for work to be completed under the Agreement.

A1.18 ***Town Council*** means the legislative body of the Town of Miami Lakes.

A1.19 ***Town Manager*** means the duly appointed chief administrative officer of the Town of Miami Lakes or designee.

A1.20 ***Town or Owner*** means the Town of Miami Lakes, Florida, a Florida municipal corporation, the public agency which is a party hereto and for which this Agreement is to be performed. In all respects hereunder, Town's performance is pursuant to Town's position as the Owner of the Project. In the event the Town exercises its regulatory authority as a governmental body, the exercise of such regulatory authority and the enforcement of any rules, regulations, codes, laws and ordinances will be deemed to have occurred pursuant to Town's authority as a governmental body and will not be attributable in any manner to Town as a party to this Agreement. The Town of Miami will be referred to herein as "Town". For the purposes of this Agreement, "Town" without modification means the Town Manager.

A1.21 ***Wage Rates*** means the effective direct expense to Consultant on an hourly rate basis, for employees in the specified professions and job categories assigned to provide services under this Agreement that justify and form the basis for professional fees regardless of actual manner of compensation.

A1.22 ***Work Order*** means a document approved and issued by the Town authorizing the performance of specific Professional Services for a Project(s) or task(s) under this Agreement.

A1.23 ***Work Order Proposal*** means a document prepared by the Consultant, at the request of the Town for Services to be provided by the Consultant.

ARTICLE A2 General Conditions

A2.01 Term

The term of this Agreement will be for three (3) years commencing on the effective date of the Agreement. The Agreement will remain in place until all Services issued in a Work Orders issued under the Agreement have been completed.

The Town, by action of the Town Manager, will have the option to extend the term for two (2) additional period(s) of one (1) year each, subject to continued satisfactory performance as determined by the Town Manager, and to the availability and appropriation of funds. Town Commission authorization of this Agreement includes delegation of authority to the Town Manager to administratively approve said extensions.

A2.02 Scope of Services

A2.02(a) General

Consultant agrees to provide the Services as specifically in the RFQ and the Consultant's Proposal, which may have been revised through negotiations between the Town and the Consultant, which are incorporated into this Agreement by reference.

A2.02(b) Miscellaneous Projects

Projects will be assigned in accordance with the Agreement with a Work Order being issued by the Town for each project or task on an as needed basis during the term of the Agreement.

A2.03 Compensation

A2.03(a) Miscellaneous Projects

The amount of compensation payable by the Town to Consultant will generally be a lump sum payment or fixed fee, which will be set forth in each Work Order issued by the Town. Compensation will be based on the hourly or task rates established in the Agreement and calculated in accordance with Sections B of the Agreement

No specific value has been established for this Agreement as the work will be performed on Work Orders issued by the Town.

A2.03-(b)1 Payments

Payment will be made in accordance with Florida Statute Chapter 218, Part VII, Local Government Prompt Payment Act, after receipt of Consultant's invoice, which must be accompanied by sufficient supporting documentation and contain sufficient detail, to allow a proper audit of expenditures, should Town require one to be performed. If Consultant is entitled to reimbursement of travel expenses, then all bills for travel expenses must be submitted in accordance with Section 112.061, Florida Statutes. Consultant must submit all requests for payment using the Town's standard Consultant Invoice form.

Article A3 Performance

A3.01 Performance and Delegation

The Services to be performed hereunder must be performed by the Consultant's own staff, unless otherwise provided in this Agreement, or approved, in writing by the Project Manager. Said approval will not be construed as constituting an agreement between the Town and said other person or firm and the Town assumes no liability or responsibility for any Subconsultant.

A3.02 Removal of Unsatisfactory Personnel

The Town Manager may make written request to Consultant for the prompt removal and replacement of any personnel employed or retained by the Consultant to provide and perform Services pursuant to the requirements of this Agreement. The Consultant must respond to the Town within seven (7) calendar days of receipt of such request with either the removal and replacement of such personnel or written justification as to why that may not occur. All decisions involving personnel will be made by the Town. Such request will solely relate to said employees work under this Agreement.

A3.03 Consultant Key Staff

The parties acknowledge that Consultant was selected by the Town, in part, on the basis of qualifications of particular staff identified in Consultant's response to Town's solicitation, hereinafter referred to as "Key Staff". Consultant must ensure that Key Staff are available for Services hereunder as long as said Key Staff is in Consultant's employ. Consultant must obtain prior written acceptance of Project Manager to change Key Staff. Consultant must provide the Project Manager with such information as necessary to determine the suitability of proposed new Key Staff. The Project Manager will act reasonably in evaluating Key Staff qualifications. Such acceptance will not constitute any responsibility or liability for the individual's ability to perform.

A3.04 Time for Performance

The Consultant agrees to start all Services hereunder upon receipt of a Notice to Proceed or signed Work Order issued by the Town Manager and to complete each assignment, task or phase within the time stipulated in the Notice to Proceed or Work Order. Time is of the essence with respect to performance of this Agreement.

A reasonable extension of the time for completion of various assignments, tasks or phases may be granted by the Town Manager should there be a delay on the part of the Town in fulfilling its obligations under this Agreement as stated herein. Such extension of time wo\ill not be cause for any claim by the Consultant for extra compensation.

Article A4 Standard of Care

Consultant is solely responsible for the technical accuracy and quality of its services. Consultant must perform all services in compliance with Florida Administrative Code Rule 61G15-19.001(4) and section 471.033(1)(g) of the Florida Statutes. Consultant must perform due diligence, in accordance with best industry practices, in gather information and inspecting a project site prior to the commencement of the

Services. Consultant will be responsible for the professional quality, technical accuracy and coordination of all reports, design, drawings, specification, and other Services furnished by the consultant under this Agreement. Consultant must, without additional compensation, correct or revise any errors, omissions, or deficiencies in its reports, designs, drawings, specification or other Services. Consultant will also be liable for claims for delay costs, and any increased costs in construction, including but not limited to additional work, demolition of existing work, rework, etc., resulting from any errors, omissions, or deficiencies in its reports, designs, drawings, specification or other Services.

Article A5 Subconsultants

A5.01 General

A6.01-1 A Subconsultant, as defined in Article A1.18, is a firm that was identified as part of the consulting team in the competitive selection process by which Consultant was chosen to perform the Services under this Agreement, and as such, is identified and listed in Schedule 1.

A6.01-2 A Specialty Subconsultant is a person or organization that has, with the consent of the Town Manager, entered into a written agreement with the Consultant to furnish unique or specialized professional services necessary for the Project(s) or task(s) described under Additional Services. Such Specialty Subconsultant will be in addition to those identified in Schedule 1.

A5.02 Subconsultant Relationships

A6.02-1 All Services provided by the Subconsultants must be performed pursuant to appropriate written agreements between the Consultant and the Subconsultants, which must contain provisions that preserve and protect the rights of the Town under this Agreement.

A6.02-2 Nothing contained in this Agreement creates any contractual or business relationship between the Town and any Subconsultants. The Consultant acknowledges that Subconsultants are entirely under its direction, control, supervision, retention or discharge.

A5.03 Changes to Subconsultants

The Consultant cannot add, modify, or change any Subconsultant listed in Schedule 1 without prior the written approval by the Town Manager, in response to a written request from the Consultant stating the reasons for any proposed substitution.

ARTICLE A6 Default

A6.01 General

If Consultant fails to comply with any term or condition of this Agreement, or fails to perform any of its obligations hereunder, then Consultant will be in default. Upon the occurrence of a default hereunder the Town, in addition to all remedies available to it by law, may immediately, upon written notice to Consultant, terminate this Agreement whereupon all payments, advances, or other compensation paid by the Town to Consultant while Consultant was in default must be immediately returned to the Town. Consultant understands and agrees that termination of this Agreement under this section does not release Consultant from any obligation accruing prior to the effective date of termination.

In the event of termination due to default, in addition to the foregoing, Consultant will be liable to the Town for all expenses incurred by the Town in preparing and negotiating this Agreement, as well as all costs and expenses incurred by the Town in the re-procurement of the Services, including consequential and incidental damages. In the event of default, Town may also suspend or withhold reimbursements from Consultant until such time as the actions giving rise to default have been cured.

A6.02 Conditions of Default

A finding of default and subsequent termination for cause may include, without limitation, any of the following:

A6.02-1 Consultant fails to obtain or maintain the required insurance.

A7.02-2 Consultant fails to comply, in a substantial or material sense, with any of its duties under this Agreement, with any terms or conditions set forth in this Agreement or in any agreement it has with the Town, beyond the specified period allowed to cure such default.

A7.02-3 Consultant fails to commence the Services within the time provided or contemplated herein, or fails to complete the Services in a timely manner as required by this Agreement.

A6.03 Time to Cure Default; Force Majeure

Town through the Town Manager or designee will provide written notice to Consultant as to a finding of default, and Consultant must take all necessary action to cure said default within time stipulated in said notice, after which time the Town may terminate the Agreement. The Town, at its sole discretion, may allow additional days to perform any required cure if Consultant provides written justification deemed reasonably sufficient.

Should any such failure on the part of Consultant be due to a condition of Force Majeure as the term is interpreted under Florida Law, then the Town may allow an extension of time reasonably commensurate with the cause of such failure to perform or cure.

ARTICLE A7 Termination of Agreement

A7.01 Town's Right To Terminate

The Town Manager has the right to terminate this Agreement for any reason or no reason, upon ten (10) days' written notice. Upon termination of this Agreement, all charts, sketches, studies, drawings, and other documents, including all electronic copies related to Services authorized under this Agreement, whether finished or not, must be turned over to the Town. The Consultant will be paid for the Services performed and accepted, provided that said documentation is turned over to Town Manager within ten (10) business days of termination. Failure to timely deliver the documentation will be cause to withhold any payments due without recourse by Consultant until all documentation is delivered to the Town Manager or designee.

Consultant will have no recourse or remedy from a termination made by the Town except to retain the fees earned as compensation for the Services that was performed in complete compliance with this Agreement, as full and final settlement of any claim, action, demand, cost, charge or entitlement it may have, or will, have against the Town, its officials or employees.

A7.02 Consultant's Right to Terminate

Consultant will have the right to terminate this Agreement, in writing, following breach by the Town, if the breach of the Agreement has not been corrected within sixty (60) days from the date of the Town's receipt of a written statement from Consultant specifying its breach of its duties under this Agreement.

A7.03 Termination Due to Undisclosed Lobbyist or Agent

Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the 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 provision, the Town has the right to terminate this Agreement without liability and, at its sole discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

Article A8 Documents and Records

A8.01 Ownership of Documents

All tracings, drawings, specifications, maps, computer files, reports and any other documents prepared or obtained under this Agreement, as well as all data collected, together with summaries and charts derived therefrom, including all electronic digital copies are considered works made for hire and will, based on incremental transfer wherein the above will become the property of the Town upon payments made to Consultant or termination of this Agreement, without restriction or limitation on their use, and will be made available, on request, to the Town at any time during the performance of the Services or upon completion or termination of this Agreement. Consultant must not copyright any material and products or patent any invention developed under this Agreement. The Town has the right to visit the site where the Services are being provided at any time. The Consultant will be permitted to retain copies, including reproducible copies, solely for information and reference in connection with the Town's use and occupancy of the Project.

A8.02 Delivery Upon Request or Cancellation

Failure of the Consultant to promptly deliver all such documents, both hard copy and digital, to the Town Manager within ten (10) days of cancellation, or within ten (10) days of request by the Town Manager, will be just cause for the Town Manager to withhold payment of any fees due Consultant until Consultant delivers all such documents. Consultant will have no recourse from these requirements.

A8.03 Use by the Town

It is understood that all Consultant agreements and Work Orders for new work will include the provision for the re-use of plans and specifications, including construction drawings, at the Town's sole option, and by virtue of signing this Agreement the Consultant agrees to such re-use in accordance with this provision without the necessity of further approvals, compensation, fees or documents being required and without recourse for such re-use. The Consultant will not be liable for re-use by the Town of plans, documents, studies, or other data for any purpose other than that intended by the terms and conditions of this Agreement.

A8.04 Nondisclosure

To the extent allowed by law, Consultant agrees not to divulge, furnish or make available to any third person, firm or organization, without Town Manager's prior written consent, or unless incident to the proper performance of the Consultant's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the Services rendered by Consultant hereunder, and Consultant will require all of its employees and agents comply with the provisions of this paragraph.

A8.05 Maintenance of Records

Consultant will keep adequate records and supporting documentation, which concern or reflect its services hereunder. Records subject to the provisions of Public Record Law, Florida Statutes Chapter 119, must be kept in accordance with statute. Otherwise, the records and documentation will be retained by Consultant for a minimum of three (3) years from the date of termination of this Agreement or the date the Project is completed, whichever is later. Town, or any duly authorized agents or representatives of Town, has the right to audit, inspect, and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the three (3) year period noted above; provided, however such activity will be conducted only during normal business hours.

Upon completion of or termination of the Agreement the Consultant, as stated in Chapter 199.701 of the Florida Statutes, transfer, at no cost, to the Town all public records in possession of the Consultant related to the Agreement 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 Town in a format that is compatible with the information technology systems of the Town.

Article A9 Indemnification

The Consultant must hold harmless and indemnify the Town, its officials and employees from any and all claims, losses and causes of actions which may arise out of the performance of this Agreement as a result of any act of negligence or negligent omission, recklessness, or intentionally wrongful conduct of the Consultant. The Consultant must pay all claims and losses of any nature whatsoever in connection therewith including, without limitation, reasonable attorney's and appellate attorney's fees, and judgments which may issue thereon. The Consultant's obligation under this paragraph will not be limited in any way by the agreed upon Agreement price, or the Consultant's limit of, or lack of, sufficient insurance protection, and will apply to the full extent that it is caused by the negligence, act, omission, recklessness or intentional wrongful conduct of the Consultant, its agents, servants, or representatives.

Article A10 Insurance

The Consultant must not start Services under this Agreement until the Consultant has obtained all insurance required hereunder and the Town has approved such insurance.

A10.01 Companies Providing Coverage

All insurance policies must be issued by companies authorized to do business under the laws of the State of Florida and satisfactory to the Town Manager. All companies must have a Florida resident agent and be rated at least A(X), as per A.M. Best Company's Key Rating Guide, latest edition.

A10.02 Verification of Insurance Coverage

The Consultant must furnish certificates of insurance to the Town Manager for review and approval prior to the execution of this Agreement. The Certificates must clearly indicate that the Consultant has obtained insurance of the type, amount and classification required by these provisions, in excess of any pending claims at the time of award to the Consultant. Consultant must maintain coverage with equal or better rating as identified herein for the term of this Agreement. Consultant must provide written notice to the Town Manager of any material change, cancellation or notice of non-renewal of the insurance within 30 days of the change. Consultant must furnish a copy of the insurance policy or policies upon request of the Town Manager within ten (10) days of written request.

A10.03 Forms of Coverage

A10.03-1 Commercial General Liability and Automobile Liability

Consultant must maintain commercial general liability coverage with limits of at least $500,000 per occurrence, $1,000,000 aggregate for bodily injury and property damage. The coverage must include Premises and Operations, Contingent and Contractual Liability, and Products and Completed Operations, with additional endorsements, as applicable. Coverage must be written on a primary, non-contributory basis with the Town listed as an additional insured as reflected by endorsement CG 2010 11/85 or its equivalence. Notice of cancellation is read (30) days/(10) days for nonpayment.

A10.03-2 Business Automobile

The Consultant must provide business automobile liability coverage including coverage for all owned, hired and non-owned autos with a minimal combined single limit of $300,000 naming the Town as an additional insured with respect to this coverage. Notice of cancellation should read (30) days/(10) days for nonpayment.

A10.03-3 Professional Liability Insurance

The Consultant must maintain Professional Liability Insurance including Errors and Omissions coverage in the minimum amount of $500,000 per claim, $500,000 aggregate providing for all sums which the Consultant will be legally obligated to pay as damages for claims arising out of the Services performed by the Consultant or any person employed by the Consultant in connection with this

Agreement. mustThis insurance must be maintained for at least one year after completion of the construction and acceptance of the construction and acceptance of any project covered by this Agreement.

A10.03-4 Worker's Compensation Insurance
Consultant must maintain Worker's Compensation Insurance in compliance with Florida Statutes, Chapter 440, as amended, and Employee's Liability with a minimum limit of $500,000 each occurrence.

A10.03-5 Subconsultant's Compliance
The Consultant must ensure that all Sub-consultants comply with these same insurance requirements.

A10.04 Modifications to Coverage
The Town Manager reserves the right to require modifications, increases, or changes in the required insurance requirements, coverage, deductibles or other insurance obligations by providing a thirty (30) day written notice to the Consultant in accordance with Article 10.06 herein. Consultant must comply with such requests unless the insurance coverage is not then readily available in the national market, and may request additional consideration from Town accompanied by justification.

Article A11 Miscellaneous

A11.01 Audit Rights
The Town reserves the right to audit the Consultant's accounts during the performance of this Agreement and for three (3) years after final payment under this Agreement. The Consultant agrees to furnish copies of any records necessary, in the opinion of the Town Manager, to approve any requests for payment by the Consultant.

A11.02 Entire Agreement
This Agreement, as it may be amended from time to time, represents the entire and integrated Agreement between the Town and the Consultant and supersedes all prior negotiations, representations or agreements, written or oral. This Agreement may not be amended, changed, modified, or otherwise altered in any respect, at any time after the execution hereof, except by a written document executed in accordance with the requirements of the Agreement. Waiver by either party of a breach of any provision of this Agreement will not be deemed to be a waiver of any subsequent or other breach of any provision of this Agreement.

A11.03 Successors and Assigns
The performance of this Agreement must not be transferred pledged, sold, delegated or assigned, in whole or in part, by the Consultant without the written consent of the Town Council or Town Manager, as applicable. It is understood that a sale of the majority of the stock or partnership shares of the Consultant, a merger or bulk sale, an assignment for the benefit of creditors will each be deemed transactions that would constitute an assignment or sale hereunder requiring prior Town approval.

The Consultant's services are unique in nature and any transference without the prior written approval of the Town will be cause for the Town to terminate this Agreement. The Consultant will have no recourse from such cancellation. The Town may require bonding, other security, certified financial statements and tax returns from any proposed Assignee and the execution of an Assignment/Assumption Agreement in a form satisfactory to the Town as a condition precedent to considering approval of an assignment.

The Consultant and the Town each binds one another, their partners, successors, legal representatives and authorized assigns to the other party of this Agreement and to the partners, successors, legal representatives and assigns of such party in respect to all covenants of this Agreement.

A11.04 Truth-In-Negotiation Certification

In compliance with the Consultant's Competitive Negotiation Act, for any Project to be compensated under the Lump Sum method, the Consultant certifies that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of Notice to Proceed. The original Project price and any addition thereto will be adjusted to exclude any significant sums by which the Town determines the project price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such price adjustments will be made within 1 year following the end of the Project.

A11.05 Applicable Law and Venue of Litigation

This Agreement will be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any suit or action brought by any party, concerning this Agreement, or arising out of this Agreement, must be brought in Miami-Dade County, Florida. Each party will bear its own attorney's fees except in actions arising out of Consultant's duties to indemnify the Town under Article A8, where Consultant must pay the Town's reasonable attorney's fees.

A11.06 Notices

Whenever either party desires to give written notice to the other relating to the Agreement, such must be addressed to the party for whom it is intended at the place specified below; and the place for giving the notice will remain until it has been changed by written notice in compliance with the provisions of this Article. Notice will be deemed given on the date received or within 3 days of mailing, if mailed through the United States Postal Service. Notice will be deemed given on the date sent via e-mail or facsimile. Notice will be deemed given via courier/delivery service upon the initial delivery date by the courier/delivery service. For the present, the parties designate the following as the respective places for giving of notice:

For Town of Miami:
Alex Rey
Town Manager
6601 Main Street
Miami, Florida 33014
reya@miamilakes-fl.gov

With a copy to:
Raul Gastesi
Town Attorney
6601 Main Street
Miami, Florida 33014
gastesir@miamialkes-fl.gov

For Consultant:
Michael Kroll
President/Principal-in-Charge
Miller Legg, Inc.
5747 N. Andrews Way,
Fort Lauderdale, Florida 33309
mkroll@millerlegg.com

A11.07 Interpretation

The headings contained in this Agreement are for reference purposes only and will not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement include the other gender, and the singular include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section or Article of this Agreement, such reference

is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article.

A11.08 Joint Preparation
Preparation of this Agreement has been a joint effort of the Town and Consultant and the resulting document will not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

A11.09 Priority of Provisions
If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in this Agreement will prevail over any document incorporated by reference and be given effect.

A11.10 Mediation - Waiver of Jury Trial
In an effort to engage in a cooperative effort to resolve conflict which may arise during the course of the performance of the Services, the parties to this Agreement agree all disputes between them will be submitted to non-binding mediation prior to the initiation of litigation, unless otherwise agreed in writing by the parties. A certified Mediator, who the parties find mutually acceptable, will conduct any Mediation Proceedings in Miami-Dade County, State of Florida. The parties will split the costs of a certified mediator on a 50/50 basis.

In an effort to expedite the conclusion of any litigation the parties voluntarily waive their right to jury trial or to file permissive counterclaims in any action arising under this Agreement.

A11.11 Time
Time is of the essence in this Agreement.

A11.12 Compliance with Laws
Consultant must comply with all applicable laws, codes, ordinances, rules, regulations and resolutions including, without limitation, the Americans with Disabilities Act ("ADA"), as amended, and all applicable guidelines and standards in performing its duties, responsibilities, and obligations related to this Agreement. The Consultant represents and warrants that there will be no unlawful discrimination as provided by law in connection with the performance of this Agreement.

A11.12-1 Non-Discrimination
Town warrants and represents that it does not and will not engage in discriminatory practices and that there will be no discrimination in connection with Consultant's performance under this Agreement on account of race, color, sex, religion, age, handicap, marital status or national origin. Consultant further covenants that no otherwise qualified individual will, solely by reason of his/her race, color, sex, religion, age, handicap, marital status or national origin, be excluded from participation in, be denied services, or be subject to discrimination under any provision of this Agreement.

A11.12- OSHA Compliance
The Consultant warrants that it will comply with all OSHA and other safety precautions as required by federal, state or local laws, rules, regulations and ordinances.

A11.12-3 ADA Compliance
Consultant will affirmatively comply with all applicable provisions of the Americans with Disabilities Act ("ADA") in the course of providing any work, labor or services funded by the Town, including Titles I & II of the ADA (regarding nondiscrimination on the basis of disability) and all applicable

regulations, guidelines and standards. Additionally, the Consultant will take affirmative steps to insure nondiscrimination in employment of disabled persons.

A11.13 No Partnership

Consultant is an independent contractor. This Agreement does not create a joint venture, partnership or other business enterprise between the parties. The Consultant has no authority to bind the Town to any promise, debt, default, or undertaking of the Consultant.

A11.14 Discretion of Town Manager

Any matter not expressly provided for herein dealing with the Town or decisions of the Town will be within the exercise of the reasonable professional discretion of the Town Manager.

A11.15 Resolution of Disputes

Consultant understands and agrees that all disputes between it and the Town based upon an alleged violation of the terms of this Agreement by the Town will be submitted for resolution in the following manner.

The initial step will be for the Consultant to notify the Procurement Manager in writing of the dispute identified in Article A12.06, Notices. Consultant must, within five (5) calendar days of the initial notification, all supporting documentation to the Procurement Manager. Failure to submit such appeal of the written finding will constitute acceptance of the finding by the Consultant. Upon receipt of said documentation the Procurement Manager will review the issues relative to the dispute and issue a written finding.

Should the Consultant and the Procurement Manager fail to resolve the dispute the Consultant must submit their dispute in writing within five (5) calendar days to the Town Manager. Failure to submit such appeal of the written finding will constitute acceptance of the finding by the Consultant. Upon receipt of said notification the Town Manager will review the issues relative to the dispute and issue a written finding.

Appeal to the Town Manager for his/her resolution, is required prior to Consultant being entitled to seek judicial relief in connection therewith. Should the amount of compensation require approval or disapproval by the Town Council, Consultant will not be entitled to seek judicial relief unless:

(i) it has first received Town Manager's written decision, approved by the Town Commission if applicable, or
(ii) a period of sixty (60) days has expired after submitting to the Town Manager a detailed statement of the dispute, accompanied by all supporting documentation, or a period of (90) days has expired where Town Manager's decision is subject to Town Commission approval; or
(iii) Town has waived compliance with the procedure set forth in this section by written instrument(s) signed by the Town Manager.

A11.16 Contingency Clause

Funding for this Agreement is contingent on the availability of funds and continued authorization for activities and the Agreement is subject to amendment or termination due to lack of funds, reduction of funds or change in regulations, upon thirty (30) days' notice.

A11.17 Third Party Beneficiary

Consultant and the Town agree that it is not intended that any provision of this Agreement establishes a third-party beneficiary giving or allowing any claim or right of action whatsoever by any third party under this Agreement.

A11.18 No Estoppel

Neither the Town's review, approval or acceptance of, or payment for Services performed under this Agreement will be construed to operate as a waiver of any rights under this Agreement of any cause of action arising out of the performance of this Agreement, and the Consultant will be and remain liable to the Town in accordance with applicable laws for all damages to the Town caused by the Consultant's negligent performance of any of the Services under this Agreement. The rights and remedies provided for under this Agreement are in addition to any other rights and remedies provided by law.

SECTION B SCOPE OF WORK

Article B1 General

Consultant must provide comprehensive architectural and related engineering services for Project(s), on an as needed basis, for which Consultant was selected in accordance with Section 287.055 Florida Statutes, as amended, Consultants' Competitive Negotiations Act (CCNA).

B1.01 Scope of Services

Architectural Services will include, but are not limited to, complete planning and design services, programming, feasibility studies, options evaluations, public meetings, irrigation, lighting, electrical, landscaping, detailed facility assessments, cost estimates, opinions of probable construction cost, preparation of bid and construction documents, preparation of design criteria packages, review of work prepared by Subconsultants and, field investigations and observations, construction contract administration, as-built documentation and other related architectural and engineering services as needed to complete the Projects.

Consultant may be required to perform all or some of the services presented in this Agreement, depending on the needs of the Town for a Project. Consultant may also be requested to perform the Services of a Design Criteria Professional, as detailed in Section 287.055 Florida Statutes, should the Town to use the design-build methodology.

The Consultant will phase the Work required to complete the Project so that the Project is designed and constructed in the most logical, efficient, and cost effective manner

B1.02 Work Orders

When the Town Manager has determined that a specific phase of a Project or a Project is to proceed, the Town Manager will request in writing, a Work Order Proposal from the Consultant based on the proposed Scope of Services provided to the Consultant in writing by the Town Manager. The Consultant, the Town Manager, and others if appropriate, may have preliminary meetings, if warranted, to further define the Scope of Services and to resolve any questions. The Consultant will then prepare a Work Order Proposal following the format provided by or acceptable to the Town, indicating the proposed Scope of Services, total time for performance, time for per of each task, phase or deliverable, staffing (including proposed hours per individual and/or classification, proposed fees, Subconsultants, and deliverable items and/or documents. The Town, at its sole discretion may provide the Consultant with a standardized Work Order Proposal Form to be used for all requests.

The Town Manager may accept the Work Order Proposal as submitted, reject the Work Order Proposal, or negotiate revisions to the Work Order Proposal. Upon successful conclusion of negotiations the Consultant may be required to submit a revised final Work Order Proposal. If negotiations cannot be successfully completed, the Town Manager may terminate negotiations and may request a Work Order Proposal from another consultant under contract with the Town, or secure such services through other means available to the Town. Upon approval of the Work Order Proposal the Town Manger will issue a written Work Order assigning the Project to the Consultant.

It is understood that a Work Order or Notice to Proceed may be issued under this Agreement at the sole discretion of the Town Manager and that the Consultant has no expectation, entitlement, right to or privilege to receive a Work Order and/or Notice to Proceed for any Project or task. The Town reserves at all times the right to perform any or all Professional Services in-house, or with other private professional architects or engineers as provided by Section 287.055, Florida Statutes, as amended, (Consultants' Competitive Negotiation Act) or to discontinue or withdraw any or all Projects or tasks or to exercise any other choice allowed by law.

This Agreement does not confer on the Consultant any particular, exclusive or special rights to any Work required by the Town. Outside of this Agreement, the Town may submit proposals and/or qualifications for any professional services which the Consultant is qualified to perform in response to any public solicitation issued by Town.

Article B2 Basic Services

Consultant agrees to provide complete architectural and related engineering services as set forth in the tasks enumerated in an approved Work Order, in accordance with the Florida Building Code, latest edition, all federal, state, county and Town, laws, codes and ordinances. Consultant must maintain an adequate staff of qualified personnel on the Services at all times to ensure its performance as specified in the Agreement.

Consultant must coordinate with the residents as necessary to review, discuss and resolve the design and any issues that may arise.

Consultant must submit one (1) electronic set of all documents and three (3) full size copies of documents required under this Section, without additional charge, for review and approval by Town. Consultant must not proceed with the next task of the Services until the documents have been approved, in writing, by the Town, and a Notice to Proceed with the next phase or task has been issued by the Town.

B2.01 Development of Objectives

Consultant must confer with representatives of Town, the assigned Town representative (Town's Project Manager), and other jurisdictional agencies to develop several options for how the various elements of a Project will be designed and constructed.

Consultant must, utilizing a compilation of available documentation, confer with representatives of the Town, the designated Town representative, and other jurisdictional agencies in order to comprehensively identify aspects of the completed facility program that may require further refinement to attain the requisite detail of design development required to begin a Project or various phases/aspects of a Project. For clarity of scope, the items that need further development will be called Conceptuals and the remaining items will be called Designs.

Consultant may be required to prepare written descriptions of the various options and participate in presentations to multiple groups explaining alternative options. Sufficient detail must be provided to support the presentation materials.

Consultant must hire the appropriate Subcontractor to provide Architectural support services which are not in-house. Field Surveys must include the location of all site structures including all utility structures and facilities. Consultant must also engage a soil testing firm to perform soil borings and other tests required for new construction work. The extent to which this Work will be needed must be based on the surveying and soil borings performed previously by the Town. Cost of the surveyor and soil engineering services that may be required must be billed as reimbursable expenses.

B2.02 Schematic Design

Consultant must prepare and present, in writing and at an oral presentation if requested, for approval by Town, a recommended course of action (RCA), Design Concept and Schematics Report, comprising Schematic Design Studies, including an identification of any special requirement affecting the Project, a Statement of Probable Construction Cost, Project Development Schedule and review of Constructability Review reports.

Schematic Design Studies consist of site plan(s), elevations, sections, floor plans (where applicable), and all other elements required by Town or Town's Project Manager to show the scale and relationship of the components and design concepts of the whole. Any required floor plans may be single-line diagrams. A

simple perspective rendering or sketch, model or photograph thereof may be provided to further show the design concept.

A Statement of Probable Construction Cost, prepared in Construction Standard Index (CSI) format, to include a summary of the estimated project cost and an evaluation of funding allocation. Such summary must be in sufficient detail to identify the costs of each element and include a breakdown of the fees, general conditions and construction contingency. Such evaluation must comprise a brief description of the basis for estimated costs per each element and similar project unit costs. Costs must be adjusted to the projected bid date. Recommendations for reducing the scope of the Project in order to bring the estimated costs within allocated funds, in the event that the statement of Probable Construction Costs exceeds allocated funds, the Consultant must update its documentation, at no additional cost to the Town, to reflect this reduced scope. Any "Statement of Probable Construction Costs" prepared by Consultant represents a reasonable estimate of cost in Consultant's best judgment as a professional familiar with the local construction industry.

The Project Development Schedule must show the proposed completion date of each task of the Project through design, bidding, and post design services.

Constructability Review reports may be conducted by the Town and/or its consultants at design stages deemed necessary by the Town's Project Manager. Consultant may be requested, as a reimbursable expense, to provide additional copies of the deliverables for distribution, by Town, to others for this purpose. There must be an established deadline for review report submission back to Town. If required the Consultant must provide written responses to all comments within two weeks and must maintain files of all related review reports and response reports. If necessary, Town may coordinate Constructability Review meetings with some or all of the reviewers with Consultant present to discuss specific issues. In addition to the Constructability Review process mentioned above, Town reserves the right to conduct a Peer Review of a Project documents at any design stage. Cost of such a Peer Review would be borne by Town. Any findings as a result of said Peer Review would be addressed by Consultant, and if requested by Town, would be incorporated into the design documents, at no additional cost to Town and no extension of time to the schedule.

B2.03 Design Development

From the approved Schematic Design documents, Consultant must prepare and present in writing, and at oral presentations, if requested, for approval by Town, separate Design Development Documents, updated Project Development Schedules, updated Statements of Probable Construction Costs and a review of Constructability Review reports.

The Design Development Documents must consist of drawings (site plans, floor plans, elevations, and sections), outline specifications, and other documents.

Design Development consists of continued development and expansion of architectural and/or engineering Schematic Design Documents to establish the final scope, relationships, forms, size, and appearance of each element through:

a. Plan sections and elevations
b. Typical construction details
c. Final materials selection
d. Construction phasing plan

The updated Development Schedules must show the proposed completion dates of each milestone of each Project through design, bidding, construction and proposed date of occupancy. Consultant will also detail all long lead procurement items and architecturally significant equipment that will need to be purchased prior to the completion of Construction Documents.

Consultant must provide updated Statements of Probable Construction Cost. If either statement of Probable Construction Cost exceeds allocated funds, Consultant must prepare recommendations for reducing the scope of that particular Project in order to bring the estimated costs within allocated funds. Consultant must update its documentation, at no additional cost to the Town, to reflect this reduced scope.

Consultant must provide updated Constructability Review reports.

B2.04 Construction Documents

Prior to authorizing the Consultant to proceed with preparation of Construction Document Development, the Town may establish and communicate to the Consultant a maximum sum for the cost of construction of the Project ("Maximum Cost Limit") if the Town has not done so at the time the Work Order was issued. If the Town has not advertised for bids within ninety (90) days after the Consultant submits the Final Design to the Town, the estimate of the cost of construction must be adjusted by Consultant. Notwithstanding anything above to the contrary, the Town may require the Consultant to revise and modify Construction Documents and assist in the re-bidding of the Work at no additional cost or fee to the Town if all responsive and responsible bids received exceed the Maximum Cost Limit.

From the approved Design Development Documents, Consultant must prepare for written approval by the Town, Final Construction Documents setting forth all design drawings and specifications needed to comprise a fully biddable, permittable, constructible Project.

Consultant must produce 30%, 60%, 90%, and permit set for review and approval by Town, which must include the following:

a. A Drawing Cover Sheet listing an index of all number of drawings by each discipline. Drawings not included in the 30%, 60%, 90% and permit set review must be noted. Consultant must attach an index of all anticipated drawing sheets necessary to fully define the Project.

b. The updated Project Schedule to include an outline of major construction milestone activities and the recommended construction duration period in calendar days.

c. An updated Statement of Probable Construction Cost in CSI format.

d. Consultant may also be authorized to include in the Construction Documents approved additive and/or deductive alternate bid items.

e. A Project Specifications index and Project Specifications with at least the 60%, and permit set.

f. Consultant must provide an index of all submittals required by the Contractor that clearly identifies submittals for which the Contractor must be responsible for design.

g. Consultant must submit the special conditions separate from the technical specifications.

h. Consultant must not proceed with further construction document development until approval of the 30% documents is received in writing from Town. Approval by Town must be for progress only and does not relieve Consultant of its responsibilities and liabilities relative to code compliance and to other covenants contained in this Agreement. Consultant must resolve all questions indicated on the documents and make all changes to the documents necessary in response to the review commentary. The 90% Documents review (check) set must be returned to Town upon submission of Final Construction Documents and Consultant must provide an appropriate response to all review comments noted on these previously submitted documents.

B2.05 Dry Run Permitting

The Consultant must file and follow-up for all required permits at the earliest practicable time during the performance of the Services, the necessary portions of the Construction Documents for approval by Town, County, State and/or Federal authorities having jurisdiction over the Project by law or contract with the Town, and must assist in obtaining any such applicable certifications of permit approval by such authorities. The Consultant must promptly, at any time during the performance of the Work hereunder, advise the Town of any substantial increases in costs set forth in the Statement of Probable Construction Cost that in the opinion of the Consultant is caused by the requirement(s) of any permitting entities.

Upon completion of dry run permitting Consultant must provide three (3) full size sealed copies of the drawings and specifications. Consultant must also provide digital versions of the drawings in .dwg, .plt, and .pdf formats. The specification additional terms and conditions must be provided in both .pdf and .doc formats.

B2.06 Bidding and Award of Contract

B2.06-1 Bid Documents Approvals and Printing

Upon obtaining all necessary approvals of the Construction Documents, from authorities having jurisdiction, acceptance by the Town of the 100% Construction Documents and latest Statement of Probable Construction Cost, the Consultant must assist the Town in obtaining bids, preparing and awarding the construction contract. The Town, for bidding purposes, will have the bid documents printed, or, at its own discretion, may authorize such printing as a reimbursable service to the Consultant.

B2.06-2 Issuance of Bid Documents, Addenda and Bid Opening

a. The Town must issue the bid documents to prospective bidders.
b. The Consultant must assist the Town in the preparation of responses to questions if any are required during the bidding period. All addendum or clarifications, or responses must be issued by the Town.
c. The Consultant must prepare revised plans, at no cost to the Town, if any are required, for the Town to issue to all prospective bidders.
d. The Town will schedule a "Pre-Bid Meeting" on an as needed basis, for the Project. The Consultant may be required to attend any pre-bid meeting(s) and require attendance of Subconsultants at such meetings.

B2.06-3 Bid Evaluation and Award

The Consultant must assist the Town in evaluation of bids. If the lowest responsive Base Bid received exceeds the total allocated funds for construction, the Town may:

1. Approve an increase in the Project cost and award a Contract;
2. Reject all bids and re-bid the Project within a reasonable time with no change in the Project, or additional compensation to the Consultant;
3. Direct the Consultant to revise the scope and/or quality of construction, and rebid the Project. The Consultant must, without additional compensation, modify the Construction Documents as necessary to bring the Probable Construction Cost based on such revisions within the total authorized construction budget. The Town may exercise such option where the bid price exceeds 10% of the fixed construction budget provided to the Consultant and as may be modified by the Town and the Consultant prior to soliciting bids.
4. Suspend, cancel or abandon the Project.

NOTE: Under item three (3) above the Consultant must, without additional compensation, modify the Construction Documents as necessary to bring the Probable Construction Cost within the budgeted amount.

B2.07 Administration of the Construction Contract

B2.07-1

The Construction Phase will begin with the award of the construction contract and will end when the Consultant has provided to the Town all post construction documents, including Contractor As-Built drawings, Consultant's record drawings, warrantees, guarantees, operational manuals, and Certificate(s) of Occupancy have been delivered to the Town and the Town approves the final payment to the Consultant. During this period, the Consultant must provide administration of the construction contract as provided by this Agreement, and as provided by law.

B2.07-2

The Consultant, as the representative of the Town during the Construction Phase, must advise and consult with the Town and must have the authority to act on behalf of the Town to the extent provided in the terms and conditions of the construction contract and their Agreement with the Town.

B2.07-3

The Consultant and respective Subconsultants must visit the site to conduct field observations, at a minimum twice a week, to ascertain the progress of the Project and must visit the site as appropriate to conduct field inspections to ascertain the progress of the Project and determine, in general, if the work is proceeding in accordance with the Contract Documents. The Consultant must provide any site visits necessary for certification if required by the authorities having jurisdiction. The Consultant must report on the progress the Work, including any defects and deficiencies that may be observed in the work. The Consultant and/or Subconsultants will not be required to make extensive inspections or provide continuous daily on-site inspections to check the quality or quantity of the work unless otherwise set forth in this Agreement. The Consultant will be responsible for writing minutes of all meetings and field inspections report it is asked to attend, as well as the distribution of the minutes. Consultant and Subconsultants will not be held responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work. The Consultant and his/her Subconsultants will not be held responsible for the Contractor's or subcontractors', or any of their agents' or employees' failure to perform the work in accordance with the contract unless such failure of performance results from the Consultant's acts or omissions.

B2.07-4

The Consultant must furnish the Town with a written report of all observations of the Work made by Consultant and require all Subconsultants to do same during each visit to the Project. The Consultant must also note the general status and progress of the work. The Consultant must submit the reports in a timely manner. The Consultant and the Subconsultants must ascertain that the work is acceptable to the Town. Consultant must assist the Town in ensuring that the Contractor is making timely, accurate, and complete notations on the "as-built" drawings. Copies of the field reports must be attached to the monthly Professional Services payment request for construction administration services. The Consultant's failure to provide written reports of all site visits or minutes of meeting must result in the rejection of payment requests and may result in a proportional reduction in Construction Administration fees paid to the Consultant.

B2.07-5

a. Based on observations at the site and consultation with the Town, the Consultant must determine the amount due the Contractor based on the pay for performance milestones and must recommend approval of such amount as appropriate. This recommendation must constitute a representation by the Consultant to the Town that, to the best of the Consultant's knowledge, information and belief, the work has progressed to the point indicated and that,

the quality of the work is in accordance with the contract and the Contractor is entitled to amount stated on the requisition subject to: a detailed evaluation of the work for conformance with the contract upon substantial completion;

b. the results of any subsequent tests required by the contract;
c. minor deviations from the contract correctable prior to completion;
d. any specific qualifications stated in the payment certificate and further that the Contractor is entitled to payment in the amount agreed upon at a requisition site meeting or as stated on the requisition.

Prior to recommending payment to the Contractor, the Consultant will prepare a written statement to the Town on the status of the work relative to the Construction Schedule, which must be attached to the Contractor's Requisition. Such statement must be prepared immediately following the requisition field meeting and must not be cause for delay in timely payment to the Contractor. By recommending approval of a Payment Certificate, the Consultant must not be deemed to represent that the Consultant has made any examination to ascertain how and for what purpose the Contractor has used money paid on account of the Construction Contract Sum.

B2.07-6

The Town must be the interpreter of the requirements of the Contract Documents and the judge of the performance thereunder. The Consultant must render interpretations necessary for the proper execution or progress of the work upon written request of either the Town or the Contractor, and must render written decisions, within maximum of ten (10) calendar days, on all claims, disputes and other matters in question between the Town and the Contractor relating to the execution or progress of the work. Interpretations and decisions of the Consultant must be consistent with the intent of and reasonably inferable from, the Contract Documents and must be in written or graphic form.

B2.07-7

The Consultant must have the authority to recommend rejection of work, which does not conform to the Contract Documents. Whenever, in his/her reasonable opinion, the Consultant considers it necessary or advisable to insure compliance with the Contract Documents, the Consultant will have the authority to recommend special inspection or testing of any work deemed to be not in accordance with the Contract, whether or not such work has been fabricated and/or delivered to the Project, or installed and completed.

B2.07-8

The Consultant must promptly review and approve, reject or take action on shop drawings, samples, RFIs and other submissions of the Contractor. Changes or substitutions to the construction documents must not be authorized without concurrence of the Town. The Consultant must have a maximum of ten (10) calendar days from receipt of shop drawings, samples, RFI's or other submittals by the Contractor, to return the shop drawings or submittals to the Contractor with comments indicating either approval or disapproval. Consultant must provide the Contractor with a detailed written explanation as to the basis for any rejection.

B2.07-9

The Consultant must initiate and prepare required documentation for changes as required by the Consultant's own observations or as requested by the Town, and must review and recommend action on proposed changes. Where the Contractor submits a request for Change Order or Change Proposal request, ' the Consultant must, within ten (10) calendar days, review and submit to the Town, his/her recommendation or proposed action along with an analysis and/or study supporting such recommendation.

B2.07-10

The Consultant must examine the work upon receipt of the Contractor's request for substantial completion inspection of the Project and must, prior to acceptance by the Town, recommend execution of a "Certificate of Acceptance for Substantial Completion after first ascertaining that the Project is substantially complete in accordance with the contract requirements. The Consultant must in conjunction with representatives of the Town and the Contractor prepare a punch list of any defects and discrepancies in the work required to be corrected by the Contractor in accordance with Florida Statute 218.735. Upon satisfactory completion of the punch list the Consultant must recommend execution of a "Certificate of Final Acceptance" and final payment to the Contractor. The Consultant must obtain from the Contractor upon satisfactory completion of all items on the punch list all necessary closeout documentation from the Contractor, including but not limited to all guarantees, operating and maintenance manuals for equipment, releases of liens/claims and such other documents and certificates as may be required by applicable codes, law, and the contract, and deliver them to the Town before final acceptance must be issued to the Contractor.

Consultant must attend a second substantial completion inspection if required.

B2.07-11

The Consultant must review the Contractor's "as built" drawings and submit them to the Town upon approval by the Consultant. The Contractor is responsible for preparing the "as built" drawings.

B2.07-12

The Consultant must furnish to the Town the original documents, including drawings, revised to "as-built" conditions based on information furnished by the Contractor; survey, and specific condition. In preparing the "Record Set" documents the Consultant must rely on the accuracy of the information provided by the Contractor, including the Contractor's record drawings. Any certification required under this Agreement including the contents of "as-built" documents is conditioned upon the accuracy of the information and documents provided by the construction contractor. Transfer of changes made by "Change Authorization", "Change Order", "Request for Information", substitution approvals, or other clarifications will be the Consultant's responsibility to incorporate into the "Record Set". Changes made in the field to suit field conditions, or otherwise made by the Contractor for its convenience must be marked by the Contractor on the "Field Record Set" and transferred to the original contract documents by the Consultant. The original documents as well as the "Record Set" must become the property of the Town. A reproducible set of all other final documents will be furnished to the Town free of charge by the Consultant. The Consultant must furnish to the Town one complete set of "Record Set Drawings", in Auto CADD Version 2007 or such other format acceptable to the Town.

B2.07-14

The Consultant must prepare a statement of work completion and submit them to the Town and DERM.

B2.07-15

The Consultant must assist the Town in the completion of the Contractor's performance evaluation during construction work and upon final completion of the Project.

B2.08 Time Frames for Completion

The timeframes for the completion of a Project and its phase or tasks will be established in an approved Work Order Proposal.

Article B3 Additional Services

B3.01 General

Services categorized below as "Additional Services" may be specified and authorized by Town and are normally considered to be beyond the scope of the Basic Services. Additional Services must be authorized in a Work Order and will be compensated for as provided in **Section B**, Section B3.06.

B3.02 Examples

Except as may be specified in this Agreement, Additional Services may include, but are not limited to the following:

B3.02-1

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

B3.02-2

Specialty Design: Any additional special professional services not included in the Scope of Services.

B3.02-3

Extended Testing & Training: Extended assistance beyond that provided under Basic Services for the initial start-up, testing, adjusting and balancing of any equipment or system; extended training of Town's personnel in operation and maintenance of equipment and systems, and consultation during such training; and preparation of operating and maintenance manuals, other than those provided by the Contractor, subcontractor, or equipment manufacturer. Provide Commissioning Services as part of systems start-up.

B3.02-4

Major Revisions: Making major revisions to drawings and specifications resulting in or from a change in Scope of Work, when such revisions are inconsistent with written approvals or instructions previously given by Town and are due to causes beyond the control of Consultant. (Major revisions are defined as those changing the Scope of Work and arrangement of spaces and/or scheme and/or any significant portion thereof).

B3.02-5

Expert Witness: Preparing to serve or serving as an expert witness in connection with any arbitration proceeding or legal proceeding, providing, however, that Consultant cannot testify against Town in any proceeding during the course of this Agreement.

B3.02-6

Miscellaneous: Any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural/engineering practice related to construction.

B3.03 ADDITIONAL DESIGN

The Town may, at its option, elect to proceed with additional design work, which must be handled in accordance with the requirement for Additional Services.

Article B4 REIMBURSABLE EXPENSES

B4.01 GENERAL

Reimbursable Expenses cover those services and items authorized by Town in addition to the Basic and Additional Services and consist of actual, direct expenditures made by Consultant and the Subconsultant for the purposes listed below. Transportation, travel and per diem expenses within

Dade, Broward, or Palm Beach Counties must not be considered as reimbursable expenses under this Agreement.

Additional Reimbursable Expenses include, but are not limited to:

a. Communications Expenses: Identifiable communication expenses approved by the Project Manager, long distance telephone, courier and express mail between Consultant's various permanent offices and Subconsultant. Consultant's field office at the Project site is not considered a permanent office.
b. Reproduction, Photography: Cost of printing, reproduction or photography, beyond that which is required by or of Consultant's part of the work, set forth in this Agreement.
c. Surveys: Site surveys and special purpose surveys costs authorized by the Town.
d. Geotechnical Investigation: Identifiable Soil Borings and Reports and testing costs authorized by the Town.
e. Fees: All permit fees, review fees and other similar fees paid to regulatory agencies for approvals directly attributable to the Project.
f.

B4.02 SUBCONSULTANT REIMBURSEMENTS

Reimbursable Subconsultant expenses are limited to the items described above when the Subconsultant's agreement provides for reimbursable expenses and when such agreement has been previously approved, in writing, by the Town Manager and subject to all budgetary limitations of the Town and requirements of this Agreement.

END OF SECTION

SECTION C COMPENSATION AND PAYMENTS

Article C1 Method of Compensation

The fees for Professional Services for the Project and each Work Order must be determined by one of the following methods or a combination thereof, at the option of the Town Manager or designee, with the consent of the Consultant.

a) A Lump Sum, which may include not to exceed components in accordance with Section 3.01 below.
b) An Hourly Rate, in accordance with Section 3.02 below and at the rates set forth in the Agreement.
c) A Percentage of Construction Cost, in accordance with Section 3.03 below.

C1.01 Consultant Not To Exceed

Absent an amendment to the Agreement or to any specific Work Order, any maximum dollar or percentage amounts stated for compensation must not be exceeded. In the event they are so exceeded, the Town must have no liability or responsibility for paying any amount of such excess, which will be at Consultant's own cost and expense.

Article C2 Wage Rates

C2.01 Fee Basis

All fees and compensation payable under this Agreement must be formulated and based upon the certified negotiated Wage Rates stated in Schedule 1 of the Agreement. Said Wage Rates are the effective direct hourly rates, as approved by the Town, of Consultant and Subconsultant employees in the specified professions and job categories that are to be utilized to provide the services under this Agreement, regardless of manner of compensation.

Should the Consultant intend to utilize personnel or Subconsultants for a Project where the Wage Rates have not been established, the Consultant must request that the Town add the person or Subconsultant's wage rates to Schedule 1. The Town may require that the Consultant provide documentation substantiating the request.

C2.02 Employees and Job Classifications

Form SC identifies the professions, job categories and/or employees expected to be used during the term of this Agreement. These may include engineers, landscape architects, professional interns, designers, CADD technicians, project managers, GIS and environmental specialists, specification writers, clerical/administrative support, and others engaged in the Work. In determining compensation for a given Scope of Work, the Town reserves the right to recommend the use of Consultant employees at particular Wage Rate levels. Consultant must not include any profession, job category or employees in a Work Order Proposal that do not appear on Form SC. Consultant must submit a request to the Town to add such to Form SC prior to the submittal of any affected Work Order Proposal.

C2.03 Multiplier

For Work assigned under this Agreement, a maximum multiplier of 2.9 for home office and 2.4 for field must apply to Consultant's hourly Wage Rates in calculating compensation payable by the Town. Should the Consultant have an approved multiplier with the State of Florida or Miami Dade County, the Town may elect to utilize either of these multipliers should they be less than above stipulated rates. Said multiplier is intended to cover Consultant's employee benefits (e.g. sick leave, vacation, holiday, unemployment taxes, retirement, medical, insurance and unemployment benefits) and Consultant's profit, and overhead including, without limitation, office rent, local telephone and utility charges, office and drafting supplies, depreciation of equipment, professional dues, subscriptions, stenographic, administrative and clerical support, management and supervisory responsibilities, time or travel and subsistence not directly related to a Project. The multiplier must not be applied to the Principal, owner,

or partner of the Consultant except where they are preparing drawings or specifications, preparing a study report, or similar tasks.

C2.04 Calculation

Said Wage Rates are to be utilized by Consultant in calculating compensation payable for Work Orders Proposals requested by Town. Consultant must identify job classifications, available staff and projected man-hours required for the proper completion of tasks and/or groups of tasks, milestones and deliverables identified in a request for a Work Order Proposal.

C2.05 Wage Rate Adjustments

The Consultant may request an adjustment to the Wage Rates on an annual basis. Such request may only be made where there has been an actual increase in a Wage Rate(s) by the Consultant. The Town may also adjust the or where the Town Manager determines that extenuation circumstances exist. The maximum the Wage Rates depicted in Schedule 1 may be adjusted at the Consultant's request must be based on the Miami – Fort Lauderdale Consumer Price Index issued by the U.S. Department of Labor, Bureau of Labor Statistics. Such adjustment must be calculated by multiplying the ratio of the index in effect at that time divided by the previous year's index by the hourly rate entries in the Wage Rate Schedule to determine the adjusted Wage Rate Schedule. In no event must the Wage Rate increase by more than three percent (3%) in any one year period.

Article C3 Computation of Fees and Compensation

The Town agrees to pay the Consultant, and the Consultant agrees to accept for services rendered pursuant to this Agreement, fees computed by one or a combination of the methods outlined above, as applicable, in the following manner:

C3.01 Lump Sum

Compensation for a Scope of Work must generally be a Lump Sum, either a Fixed Fee or Not to Exceed Fee as deemed appropriate by the Town, to be mutually agreed upon in writing by the Town and the Consultant and stated in a Work Order. Lump Sum, and Lump Sum not to Exceed methods of compensation are the preferred methods of compensation.

C3.01-1 **Lump Sum Fixed Fee**: must be the total amount of compensation to be paid to the Consultant for the Services performed on a specific Project, or phase or task under a Work Order. Payments to the Consultant must be based on a percentage of completion basis.

C3.01-3 **Lump Sum Not to Exceed Fee** must establish the maximum amount of compensation to be paid to the Consultant for the Services performed on a specific Project, or phase, or task under a Work Order. Payments to the Consultant must be based on the actual work effort required to complete the Project, phase or task.

C3.01-3 **Guaranteed Maximum Lump Sum**: must be the total maximum fee amount payable by Town wherein certain aspects, tasks or allowances may not be defined, quantified and calculated at the time of Work Order issuance. A Guaranteed Maximum Lump Sum compensation may represent a combination of Fixed Fees for professional services and not to exceed allowances for Reimbursable Expenses or Additional Services.

C3.01-4 **Lump Sum Fee Adjustment:** Where the Town authorizes a substantial or material change in the Scope of Work, the Lump Sum Base Fee may be equitably adjusted by mutually consent of the parties, which must be reflected in an amendment to the Work Order.

C3.01-6 Lump Sum Fees must be calculated by Consultant utilizing the Wage Rates established in Schedule 1 of the Agreement.

C3.02 Hourly Rate Fees

C3.02-1 Hourly Rate Fees must be those rates for Consultant and Subconsultant employees identified in Schedule 1 Wage Rates. All hourly rate fees will include a maximum not to exceed figure, inclusive of all costs expressed in the contract documents. The Town must have no liability for any fee, cost or expense above this figure.

Hourly Rate Fees must be used only in those instances where the parties agree that it is not possible to determine, define, quantify and/or calculate the complete nature, and/or aspects, tasks, man-hours, or milestones for a particular Project or portion thereof at the time of Work Order issuance. In such cases, the Town will establish an Allowance in the Work Order that must serve as a Not to Exceed Fee for the Work to be performed on an Hourly Rate Basis.

Consultant must maintain records acceptable to the Town to track the hours of work performed by each person.

C3.03 Percentage of Construction Cost

This is a percentage fee based on the Total Authorized Design Value of a project said percentage being hereinafter called the "Base Fee," as mutually agreed upon in writing by the Town and the Consultant and stated in a Work Order or Notice to Proceed

C3.03-1 Fee Computation:

C3.03-1(a) The Total Authorized Design Value must be used and identified in the Work Order as the basis for establishing the compensatory fee for all phases identified as part of Basic Services.

C3.03-1(b) If the actual construction cost is increased during the construction phase, the "Actual Construction Cost" must be used as the basis for determining the fee for Construction Administration Phase if included in Basic Services.

C3.03-1(c) The term "Actual Construction Cost" does not include any compensation to the Consultant, the cost of the land, rights-of-way, works of art, permit fees or other costs which are the responsibility of the Town.

C3.03-2 Inclusive Fee

It is understood that with percentage compensation the Consultant must perform all services for the stated percentage of the construction cost budgeted when the contract is signed.

C3.03-3 Changes to Project Scope

If the Town authorizes an increase or decrease in the scope of the Project or the Total Authorized Design Value of the Project, the Base Fee will be adjusted accordingly, based on justification from the Wage Rates or as mutually agreed upon.

C3.04 Reimbursable Expenses

Any fees for authorized reimbursable expenses must not include charges for any expenses identified in Article C2.03, Multiplier. All reimbursable services must be billed to the Town at direct cost expended by the Consultant. Town authorized reproductions in excess of sets required at each phase of the Work will be a Reimbursable Expense.

The Town will reimburse the Consultant for authorized Reimbursable Expenses pursuant to the limitations of this Agreement as verified by supporting documentation deemed appropriate by Town Manager or designee including, without limitation, detailed bills, itemized invoices and/or copies of cancelled checks.

Article C5 contains additional information on the payment of Reimbursable Expenses.

C3.05 Fees for Additive or Deductive Alternates

The design of additive and deductive alternates contemplated as part of the original Scope for a Project as authorized by the Town Manager will be considered as part of Basic Services. The design of additive and deductive alternates that are beyond the original Scope of Work and construction budget must be authorized through a Work Order and must be billed to Town as Additional Services. The fees for alternates will be calculated by one of the three methods outlined above, as mutually agreed by the Town Manager and the Consultant.

C3.06 Fees for Additional Services

The Consultant may be authorized to perform Additional Services for which additional compensation and/or Reimbursable Expenses, as defined in this Agreement under Sections 0 and 0 respectively, may be applicable.

C3.06-1 Determination of Fee

The compensation for such services will be one of the methods described herein: mutually agreed upon Lump Sum; Hourly Rate with a Not to Exceed Limit, or Percentage of Construction Cost.

C3.06-2 Procedure and Compliance

An independent and detailed Work Order or an Amendment to a previously issued Work Order must be required to be issued and signed by the Town Manager for each additional service requested by the Town. The Work Order will specify the fee for such service and upper limit of the fee, which must not be exceeded, and must comply with the Town's regulations, including the Purchasing Ordinance, the Consultant's Competitive Negotiation Act, and other applicable laws.

C3.07 Payment Exclusions

Consultant must not be compensated by Town for revisions and/or modifications to drawings and specifications, for extended construction administration, or for other work when such work is due to errors or omissions of Consultant as determined by Town.

C3.08 Fees Resulting from Project Suspension

If a Project is suspended for the convenience of the Town for more than three (3) months or terminated without any cause in whole or in part, during any Phase, the Consultant must be paid for services duly authorized, performed prior to such suspension or termination, together with the cost of authorized reimbursable services and expenses then due, and all appropriate, applicable, and documented expenses resulting from such suspension or termination. If the Project is resumed after having been suspended for more than three months, the Consultant's further compensation must be subject to renegotiations.

Article C4 Payments to the Consultant

C4.01 Payments Generally

Payments for Basic Services may be requested monthly in proportion to Services performed during each Phase of the Work. Subconsultant fees and Reimbursable Expenses must be billed to the Town in the actual amount paid by Consultant. Consultant must utilize the Town standard Consultant Invoice Form that will be provided to the Consultant.

C4.02 For Comprehensive Basic Services

For those Projects and Work Orders contain multiple phases or task, payments must not exceed the amount stipulated for each phase and the aggregate payment must not exceed the total value of the Work Order

C4.03 Billing – Hourly Rate

Invoices submitted by Consultant must be sufficiently detailed and accompanied by supporting documentation to allow for proper audit of expenditures. When Services are authorized on an Hourly Rate basis, the Consultant must submit for approval by the Town Manager, a duly certified invoice, giving

names, classification, salary rate per hour, hours worked and total charge for all personnel directly engaged on a Project, phase or task. Reimbursable Services Cost should then be added to the sum for the total charges for the personnel. The Consultant must attach to the invoice all supporting data for payments made to and incurred by Subconsultants engaged on the Project. In addition to the invoice, the Consultant must, for Hourly Rate authorizations, submit a progress report giving an update on the completion of the Project and/or the applicable phase or task.

Article C5 Reimbursable Expenses

Article C5.01 General

Reimbursable Expenses are those items authorized by the Town outside of or in addition to the Scope of Work as identified in the Work Order (as Basic Services and/or Additional Services) and consist of actual expenditures made by the Consultant and the Consultant's Subconsultants for the following:

C5.01-1 Transportation

Identifiable transportation expenses in connection with the Project, subject to Section 112.061, Florida Statutes, as amended, excluding, however, all, general automobile transportation expenses within Miami-Dade, and Broward counties. Transportation expenses to locations outside the Miami-Dade-Broward-Palm Beach County area or from locations outside the Miami-Dade-Broward area will not be reimbursed unless specifically pre-authorized in writing by the Town Manager.

C5.01-2 Travel and Per Diem

Identifiable per diem, meals and lodging, lodging, taxi fares and miscellaneous travel-connected expenses for Consultant's personnel are subject to Section 112.061 Florida Statutes as amended. Meals for class C travel inside Miami-Dade or Broward County will not be reimbursed. Meals and lodging expenses will not be reimbursed for temporarily relocating Consultant's employees from one of Consultant's offices to another office if the employee is relocated for more than five (5) consecutive working days. Lodging will be reimbursed only for room rates equivalent to Holiday Inn, Howard Johnson or Ramada Inn. Governmental lodging or meals will not be reimbursed that result from travel within Miami-Dade, Broward or Palm Beach Counties. Travel and per diem expenses are subject to the prior approval of the Town Manager.

C5.01-3 Communication Expenses

Identifiable communication expenses approved, in writing and in advance by the Town Manager, including long distance telephone, courier and express mail between the Consultant's various permanent offices. The Consultant's field office at the Project site is not considered a permanent office. Express mail or courier services are to be used only where there are significant time constraints.

C5.01-4 Reproduction, Photography

Cost of printing, reproduction or photography, which is required by or of Consultant to deliver services, set forth in this Agreement.

C5.01-5 Permit Fees

All Permit fees paid to regulatory agencies for approvals directly attributable to the Project. These permit fees do not include those permits required to be paid by the construction Contractor.

C5.02 Reimbursements to Subconsultants

Reimbursable Subconsultant expenses are limited to the items described above when the Subconsultant agreement provides for reimbursable expenses and when such agreement has been previously approved in writing by the Town Manager and subject to all budgetary limitations of the Town and requirements of 0 herein.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

WITNESS/ATTEST

Signature

Joaquin A Mojica

Print Name, Title

ATTEST: Dylan Larson

Consultant Secretary
(Affirm Consultant Seal, if available)

Consultant, (Miller Legg, Inc.)

Signature

MICHAEL KROLL, PRESIDENT

Print Name, Title of Authorized Officer or Official

(Corporate Seal)

ATTEST:

Gina Inguanzo, Town Clerk

Town of Miami Lakes, a municipal corporation of the State of Florida

Alex Rey, Town Manager

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

Raul Gastesi, Town Attorney

CERTIFICATE OF AUTHORITY

(IF CORPORATION)

I HEREBY CERTIFY that at a meeting of the Board of Directors of MILLER LEGG & ASSOCIATES, INC, a corporation organized and existing under the laws of the State of FLORIDA, held on the 3rd day of January, 2017, a resolution was duly passed and adopted authorizing (Name) MICHAEL D. KROLL as (Title) PRESIDENT of the corporation to execute agreements on behalf of the corporation and providing that his/her execution thereof, attested by the secretary of the corporation, is the official act and deed of the corporation. I further certify that said resolution remains in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th, day of October, 2017.

Secretary: _____

Print: Dylan Larson

NOTARIZATION

STATE OF _____)

) SS:

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, who is personally known to me or who has produced _____ as identification and who (did / did not) take an oath.

_____

SIGNATURE OF NOTARY PUBLIC
STATE OF FLORIDA

_____

PRINTED, STAMPED OR TYPED
NAME OF NOTARY PUBLIC

SECTION D – FORMS & SCHEDULES

Form KS – KEY STAFF

NAME	JOB CLASSIFICATION
Michael Kroll	Principal-in-Charge/Project Manager
Brian Shore	Quality Assurance/Landscape Architect
C. Muguel Juncal	Landscape Architect
William Mohler	Certified Arborist
Dylan Larson	Project Biologist

SCHEDULE 1 - WAGE RATES SUMMARY

JOB CLASSIFICATION	BASE HOURLY RATE	LOADED HOURLY RATE (MULTIPLIER = 2.9)
Principal-in-Charge	$95.00	$275.50
Project Manager	$75.00	$217.50
Senior Landscape Architect	$48.00	$139.20
Landscape Architect	$28.60	$82.94
Landscape Designer II	$24.75	$71.78
Landscape Designer I	$21.00	$60.90
Certified Arborist	$28.97	$84.01
Project Biologist	$73.31	$212.60