

RESOLUTION NO. 11-937

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ENTER INTO A THREE (3) YEAR CONTRACT WITH BROWN & BROWN INSURANCE OF FLORIDA, FOR BROKERAGE SERVICES AND MANAGEMENT OF THE TOWN'S PROPERTY, CASUALTY, AND LIABILITY INSURANCE, IN AN AMOUNT NOT TO EXCEED \$26,982.00 AND, IN ADDITION, AUTHORIZING THE TOWN MANAGER TO PURCHASE PROPERTY, CASUALTY, AND LIABILITY INSURANCE FOR THE TOWN, FOR A PERIOD OF THREE (3) YEARS, IN AN AMOUNT NOT TO EXCEED \$353,018.00; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACTS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on August 2, 2011, the Town of Miami Lakes (the "Town") issued RFP 2011-18 for Property, Casualty, and Liability Insurance Program and notices of the RFP were forwarded to 6 companies; and

WHEREAS, on September 12, 2011, the Town received only one responsive Proposal to the RFP; and

WHEREAS, the responsive proposer was Brown & Brown of Florida, Inc, a company that has managed the Town's Property, Casualty, and Liability insurance for two years with a level of service that has met the Town's expectations; and

WHEREAS, the FY 2011-12 premium, inclusive of broker fees will be \$120,000.00, and the General Fund has \$130,000.00 budgeted for insurance services.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing Recitals are true and correct and incorporated herein by this reference.

Section 2. Approval of the Contract. The Town Council hereby approves and authorizes the Town Manager to enter into a three year contract with Brown & Brown Insurance of Florida for brokerage and management services for their property, casualty and liability insurance, and in addition, to purchase Property, Casualty, and Liability insurance with Brown & Brown Insurance of Florida, as set forth herein.

Section 3. Authorization of Town Manager. The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the Contracts.

Section 4. Authorization of Fund Expenditure. The Town Manager is authorized to expend budgeted funds to implement the terms and conditions of the Contracts, and in addition, to expend additional budgeted funds as he deems necessary for related additional services, such as increased coverage, modified coverage or other related additional services.

Section 5. Execution of the Contract. The Town Manager is authorized to execute a three (3) year contract with Brown & Brown Insurance of Florida, for brokerage and management services in an amount not to exceed \$26,982.00, and also to purchase Property, Casualty, and Liability Insurance from Brown & Brown Insurance of Florida for a three year period, in an amount not to exceed \$363,018.00; subject to the approval as to form and legality by the Town Attorney.

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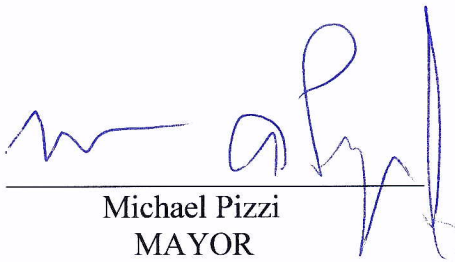
Section 6. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 30th day of September, 2011.

Motion to adopt by Councilmember Mary Collins, second by Vice Mayor Nick Perdomo.

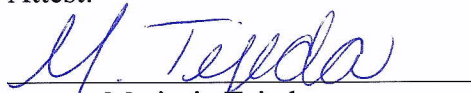
FINAL VOTE AT ADOPTION

Mayor Michael Pizzi	yes
Vice Mayor Nick Perdomo	yes
Councilmember Mary Collins	yes
Councilmember Tim Daubert	yes
Councilmember Nelson Hernandez	yes
Councilmember Ceasar Mestre	yes
Councilmember Richard Pulido	yes



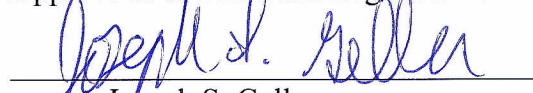
Michael Pizzi
MAYOR

Attest:



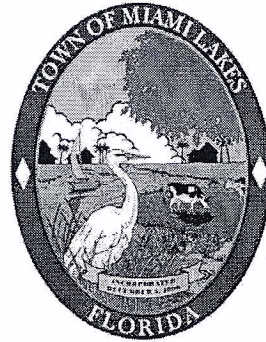
Marjorie Tejada
TOWN CLERK

Approve as to Form and Legal Sufficiency



Joseph S. Geller
INTERIM TOWN ATTORNEY

**PROFESSIONAL SERVICES AGREEMENT
PROPERTY, CASUALTY, LIABILITY INSURANCE PROGRAM**



The Town of Miami Lakes Council:

**Mayor Michael Pizzi
Vice Mayor Nick Perdomo
Councilmember Mary Collins
Councilmember Timothy Daubert
Councilmember Nelson Hernandez
Councilmember Ceasar Mestre
Councilmember Richard Pulido**

Alex Rey, Town Manager
The Town of Miami Lakes
15150 NW 79th Terrace
Miami Lakes, Florida 33016

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This Agreement made this **30th** day of **September** in the year **2011** ("Agreement") by and between the Town of Miami Lakes, Florida, hereinafter called the "Town," and **Brown and Brown of Florida, Inc.; (Miami Divison)**, hereinafter called the "Consultant", a corporation organized and existing under the laws of the State of Florida, having its principal office at **14900 NW 79th Court, Suite 200, Miami Lakes, Florida 33016.**

RECITAL

A. The Town issued a Request for Proposals ("RFP") 2011-18 on August 12, 2011 for the provision of professional services ("Services") for the Property, Casualty, & Liability Insurance Program ("Services") and Consultant's proposal ("Proposal"), in response thereto, was selected as one of the most qualified for the provision of said Services. The RFP and the Proposal are sometimes referred to herein, collectively, as the Solicitation Documents, and are by this reference 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 and/or the Town Council, as applicable, has selected the Consultant in accordance with, Florida Statutes, 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 1 Definitions**Additional Services** means any Services that increase, decrease, or otherwise modifies the Scope of Services.

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

Consultant means the individual, partnership, corporation, association, joint venture, or any combination thereof, which has entered into the Agreement to provide the professional services to the Town required by this Agreement.

Deliverables mean all documentation and any items of any nature submitted by the Consultant to the Town's Project Manager for review and acceptance pursuant to the terms of this Agreement.

Hourly Rates means the expense to Consultant and on an hourly rate basis for employees in the specified professions and job categories assigned to provide Services under this Agreement. Hourly rates are inclusive off all indirect expenses, cost, overhead, and margin.

Procurement Manager means the Town's Procurement Manager whom is responsible for the management of the Agreement.

Professional Services means those services within the scope of the insurance services, as defined by the laws of the State of Florida and the federal government, or those routinely and typically performed by any insurance broker, agent or agency in connection within its professional practice for the Services provided under this Agreement.

Project Manager means an employee or representative of the Town designated by the Town Manager to manage the Services to be performed under this Agreement.

Scope of Services or Services means the comprehensive description of the activities, tasks, design features, objectives, deliverables and milestones contained in this Agreement, which required for the completion of work performed by the Consultant, under this Agreement.

Town Council means the legislative body of the Town of Miami Lakes.

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

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 shall be deemed to have occurred pursuant to Town's authority as a governmental body and shall not be attributable in any manner to Town as a party to this Agreement. The Town of Miami Lakes shall be referred to herein as "Town". For the purposes of this Agreement, "Town" without modification shall mean the Town Manager.

Article 2 **Term**

The Agreement shall be effective upon its execution by the Town and shall be for an initial term of three years commencing on the date of execution of the Agreement. The Town, at its sole discretion may exercise an option to renew ("OTR") for two (2) additional one (1) year periods. The Agreement shall continue in full force and effect until all of the Services have been completed and the Town has issued final payment to the Consultant.

Article 3 **Order of Precedence**

Should a conflict exist between or among the provisions of, or the Attachments to the Agreement, the order of precedence shall be as follows: 1) these terms and conditions of the Agreement, 2) Attachments to the Agreement, 3) the Town's RFP No. 2011-15 and any associated addenda and attachments thereto, and 4) the Consultant's Proposal.

Article 4 **Notices**

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by registered or certified United States mail, return receipt requested, delivered personally, or delivered via e-mail addressed to the party for whom it is intended at the place/address last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice to or by the Procurement Manager. For the present, the parties designate the following as the respective places for giving of notice:

For Town of Miami:

Alex Rey
Town Manager
15150 NW 79th Terrace
Miami, Florida 33016
reya@miamilakes-fl.gov

With a copy to:

Gary Fabrikant, Procurement Manager
15150 NW 79th Terrace
Miami, Florida 33016
fabrikantg@miamilakes-fl.gov

For Consultant:

Robert W. Lloyd
General Counsel
Brown & Brown of Florida, Inc.
220 s. Ridgewood Avenue
Daytona Beach, Florida 32114
rlloyd@bbins.com

Article 5 **Compensation**

The amount of compensation payable by the Town to Consultant for the Services included in Attachment A, in accordance with the Price Schedule established in Attachment B; provided, however, that in no event shall the amount of compensation exceed **Twenty Six Thousand Nine Hundred Eighty Two Dollars and no cents (\$26,982.00)** in total for the initial three (3) year period unless **the insurance provided is modified under Article 6 of the Agreement, at which time the fee to be paid to Consultant shall be adjusted accordingly. Any adjustment to the fee shall be subject** explicitly to approval by action of the Town Manager, who has authority to authorize fee adjustments up to \$10,000 or Town Council for any fee adjustment exceeding \$10,000, and put into effect by written amendment to this Agreement.

Prices shall remain firm and fixed for the term of the Agreement. The annual broker fee for any option or extension periods may be negotiated. The Consultant shall provide written notification and justification to the Project Manager within ninety (90) days of the Agreement expiration date for any proposed increase in the Consultant's annual

compensation. Any agreed upon price increase by the Town shall be capped at 2% of the previous year's annual fee.

The Consultant shall not accept any remuneration other than the amount(s) stipulated in Attachment B in connection with providing the Services. The Consultant will disclose to the Town any and all commissions received by the Consultant for the Services provided to Town pursuant to this Agreement. Such commissions shall not include and the Consultant shall not accept in connection with the Services any additional remuneration.

The price for the insurance premium(s) shall be reviewed and approved by the Town each year of the Agreement, including option years.

All Services undertaken by the Consultant before the Town's approval of this Agreement shall be at the Consultant's own risk and expense.

Article 6 Additional Services

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When the Town desires to obtain insurance pursuant to this Agreement, it will notify the Consultant in writing of the specifics of the insurance required, including, but not limited to, the nature of the coverage, the amount of the coverage, and a specification of named insureds, additional insureds, or additional named insureds. The Consultant shall then proceed to obtain quotes for the requested insurance. At such time as the Consultant has completed the process, the Vendor shall submit to the Town a report detailing the work performed by the Consultant, the insurance options available to the Town, the Consultant's recommendations with explanation for the recommendation, and all costs, including premiums and commissions, associated with each option. The Town shall review the options and shall either select one of the options available or reject all options. If the Town selects an option, the Town will issue a Purchase Order to the company or companies providing the insurance under that option.

Article 7 Payments

Consultant shall invoice the Town in accordance with the Fee schedule contained in Attachment A.

The Consultant shall attach to the invoice all supporting data for payments acceptable to the Town that documents the costs incurred on an hourly rate.

All payments shall be made in accordance with the Florida Statute 218.74, which is also known as the Local Government Prompt Payment Act.

Article 8 Indemnification

The Consultant shall hold harmless, indemnify and defend the Town, its officials and employees to the extent of from any and all claims, losses and causes of actions which arise out of the performance of this Agreement as a direct result of any act of negligence or negligent omission, recklessness, or intentionally wrongful conduct of the Consultant. The Consultant shall pay all claims and losses of any nature whatsoever in connection therewith and shall defend all project related suits, in the name of the Town when applicable, and shall pay all costs, including without limitation reasonable attorney's and appellate

attorney's fees, and judgments issued thereon. The Consultant's obligation under this paragraph shall not be limited in any way by the agreed upon contract price, or the Consultant's limit of, or lack of, sufficient insurance protection and shall apply to the full extent that it is caused by the negligence, act, omission, recklessness or intentional wrongful conduct of the Consultants, its agents, servants, or representatives, but only to the extent such claims, losses and causes of action are not caused solely by the Town its agents, servants or representatives.

Article 9 Insurance

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

All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida and satisfactory to the Town Manager. All companies shall have a Florida resident agent and be rated at least B as to management and Class V as to financial strength, as per A.M. Best Company's Best Insurance Guide, latest edition or its equivalent.

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida", issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund. *

~~*Not applicable to PGIT per acknowledgement~~ *PGIT*
The Consultant shall furnish certificates of insurance to the Town Manager for review and approval prior to the execution of this Agreement. The Certificates shall 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 contract award to the Consultant. Consultant shall maintain coverage with equal or better rating as identified herein for the term of this Agreement. Consultant shall provide written notice to the Town Manager of any material change, cancellation and/or notice of non-renewal of the insurance within 30 days of the change. Consultant shall furnish a copy of the insurance policy or policies upon request of the Town Manager within ten (10) days of written request. The Certificate(s) of Insurance must include the Town's Agreement Number and Title.

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

Commercial General Liability and Automobile Liability

The Consultant shall maintain commercial general liability coverage with limits of at least \$300,000 combines single limit per occurrence for bodily injury and property damage. The Town shall be listed as an additional insured with respect to this coverage.

Business Automobile

The Consultant shall provide business automobile liability coverage including coverage for all owned, hired and non owned autos with a minimal combined single limit of \$300,000.

Professional Liability Insurance

The Consultant shall maintain Professional Liability Insurance in the minimum amount of 1,000,000.

Worker's Compensation Insurance

The Consultant shall maintain Worker's Compensation Insurance in compliance with Florida Statutes, Chapter 440, as amended.

Additional Insured

The Town is to be specifically included as an Additional Insured under the Commercial General Liability. This must be reflected in the "Description of Operations" section of the Certificate of Insurance.

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. Consultant shall 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 10 Performance

The Consultant shall provide the Services described in Attachment A, Scope of Services, in a competent and professional manner satisfactory to the Town in accordance with the Agreement. The Town shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Consultant in all aspects of the Services.

The Consultant agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements of the Agreement.

The Consultant shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

Article 11 Removal of Unsatisfactory Personnel

The Town Manager may make written request to Consultant for the prompt replacement of any personnel employed or retained by the Consultant, or any Subconsultants or subcontractors, or any personnel of any such Subconsultants or subcontractors engaged by the Consultant to provide and perform Services pursuant to the requirements of this Agreement. All decisions involving personnel will be made by Consultant. Such request shall solely relate to said employees work under this Agreement.

Consultant shall defend, hold harmless and indemnify the Town and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the Town, to the extent occurring on account of, arising

from or in connection with the removal and replacement of any Consultant 's personnel performing services hereunder.

Article 12 Consultant Key Staff

The parties acknowledge that Consultant was selected by 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 shall ensure that Key Staff identified in Attachment C are available for Services hereunder as long as said Key Staff is in Consultant's employ. Consultant will obtain prior written acceptance of Town Manager or designee to change Key Staff. Consultant shall provide the Town Manager with such information as necessary to determine the suitability of proposed new Key Staff. The Town Manager will act reasonably in evaluating Key Staff qualifications. Such acceptance shall not constitute any responsibility or liability for the individual's ability to perform.

Article 13 Independent Consultant

The Consultant is engaged as an independent business and agrees to perform Services as an independent consultant. In accordance with the status of an independent consultant, the Consultant covenants and agrees that the Consultant will conduct business in a manner consistent with that status, that the Consultant will not claim to be an officer or employee of the Town for any right or privilege applicable to an officer or employee of the Town, including, but not limited to: worker's compensation coverage; unemployment insurance benefits; social security coverage; retirement membership, or credit.

Article 14 Subconsultants

Consultant must directly provide all Services. No Subcontracting of the Services to be performed will be authorized by the Town.

Article 15 Authority of Town's Project Manager

The Town Manager hereby authorizes the Project Manager to determine in the first instance, all questions of any nature whatsoever arising out of, under or in connection with, or in any way relating to or on account of the Services, including without limitation, questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Agreement and questions as to the interpretation of the Services to be performed under the Agreement.

The Consultant shall be bound by all determinations or orders of the Project Manager and shall promptly respond to requests of the Project Manager, including the withdrawal or modification of any previous order, and regardless of whether the Consultant agrees with the Project Manager's determination or requests.

The Project Manager and the Town will not be responsible for the acts or omissions of the Consultant, or any of their agents or employees, or any other persons performing any of the Work.

Article 16 *Assumptions, Parameters, Projections, Estimates and Explanations*

The Consultant understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the Town may be provided to the Consultant for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the town makes no representations or guarantees; and the Town shall not be responsible for the accuracy of the assumptions presented; and the Town shall not be responsible for conclusions to be drawn therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Consultant. The Consultant accepts all risk associated with using this information.

Article 17 *Patent & Copyright Infringement*

The Consultant shall not infringe any copyright, trademark, service mark, trade secrets, patent rights, or other intellectual property rights in the performance of the Services. The Consultant warrants that all Deliverables furnished hereunder, including but not limited to: programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any patent, copyrights, service marks, trade secret, or any other third party proprietary rights.

The Consultant shall be liable and responsible for any and all claims made against the Town for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with providing the Services, or the Town's continued use of the Deliverables furnished hereunder. Consultant at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the Town and defend any action brought against the Town with respect to any claim, demand, cause of action, debt, or liability. Consultant shall notify the Town within forty-eight (48) hours of any action by a third party alleging any infringement as detailed above.

Article 18 *Nondisclosure*

To the extent allowed by law, Consultant agrees not to divulge, furnish or make available to any third person, firm or organization any Deliverables, materials, data, transactions of all forms, financial information, documents or other similar information or documentation, without Town Manager's prior written consent unless required by law. This includes all Town employee information and Town financial information, which shall be considered confidential information. Consultant shall immediately notify the Town of any disclosure of such information by its employees or agents. The Town may seek injunctive relief to restrain any such breach or potential breach. Consultant may disclose any such information (a) to all its directors, officers, employees, representatives (including without limitation, financial advisors, attorneys and accountants), affiliates or agents (collectively

“Representatives”) who need to know such information for the purpose of furthering the Agreement, (b) to any other insurance intermediary organization, insurance company or other risk-assuming entity for the purpose of furthering the Agreement, (c) if required to do so in connection with any legal proceeding, or (d) if otherwise required by law or requested by any government or governmental agency or authority with valid jurisdiction.

Article 19 **Documents and Records**

Consultant acknowledges and agrees that the Town retains all rights, title, and interest in and to all materials, data, documentation, and copies of thereof furnished by the Town to the Consultant.

All documents, data, computer files, and/or reports prepared or obtained under this Agreement by the Consultant, as well as all data collected, together with summaries and charts derived therefrom, including all electronic digital copies shall be considered works made for hire and are the property of the Town. The Town shall retain all rights, title, and interest and the neither the Consultant nor its employees or agents shall have any proprietary or ownership rights to any of the above. However, Consultant, reserves the right to retain a copy of any information, including confidential information provided that the Consultant and its Representatives shall maintain confidentiality of any such record to the same extent as required by the Agreement.

Article 20 **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, shall 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 final payment or termination of this Agreement. Town, or any duly authorized agents or representatives of Town, shall have 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 shall be conducted only during normal business hours. 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.

Article 21 **Default**

a. 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 shall 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 shall be immediately returned to the Town. Consultant understands and agrees that termination of this Agreement under this section shall 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 shall 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.

b. Conditions of Default

Conditions of default include, but are not limited to:

- A finding of default and subsequent termination for cause may include, without limitation, any of the following:
- Consultant fails to obtain or maintain the required insurance.
- Consultant has failed to obtain the approval of the Town where required by the Agreement
- Consultant fails to comply, in a substantial or material sense, with any of its duties under this Agreement.
- 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.

c. Time To Cure Default; Force Majeure

Town through the Procurement Manager shall provide written notice to Consultant as to a finding of default, and Consultant shall 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 that 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 22 Termination of Agreement

The Town, including the Town Manager, has the right to terminate this Agreement for any reason or no reason, upon ten (10) days' written notice. The date of notification shall serve as the effective date of termination and Consultant shall immediately stop all Services under this Agreement as of the date stipulated in the notification. 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 Manager. The Consultant shall be paid in accordance with provisions of this Agreement, provided that said documentation is turned over to Procurement Manager within ten (10) business days of termination. Failure to timely deliver the documentation shall be cause to withhold any payments due without recourse by Consultant until all documentation is delivered to the Procurement Manager or designee.

Consultant shall have no recourse or remedy from a termination made by the Town except to retain the fees earned 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.

Article 23 Successors and Assigns

The performance of this Agreement shall 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 shall 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 shall be cause for the Town to terminate this Agreement. The Consultant shall have no recourse from such cancellation.

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.

Article 24 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 shall be submitted for resolution in the following manner.

The initial step shall be for the Consultant to notify the Procurement Manager in writing of the dispute identified in Article 4, Notices. Consultant shall, 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 shall constitute acceptance of the finding by the Consultant. Upon receipt of said documentation the Procurement Manager shall 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 shall submit their dispute in writing within five (5) calendar days to the Town Manager. Failure to submit such appeal of the written finding shall constitute acceptance of the finding by the Consultant. Upon receipt of said notification the Town Manager shall 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 mediation in connection therewith, as stipulated in Article ~~24~~ ²⁵.

Article 25 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 design and /or construction of the subject project(s), and/or following the completion of the projects(s), the parties to this Agreement agree all disputes between

them shall 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. The Consultant agrees to include such similar contract provisions with all Subconsultants and/or independent contractors and/or Consultants retained for the project(s), thereby providing for non-binding mediation as the primary mechanism for dispute resolution.

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.

Article 26 **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 shall prevail and be given effect.

Article 27 **Compliance with Laws**

Consultant shall 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 shall be no unlawful discrimination as provided by law in connection with the performance of this Agreement.

a. Non-Discrimination

Consultant warrants and represents that it does not and will not engage in discriminatory practices and that there shall 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 shall, 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.

b.- OSHA Compliance

The Consultant warrants that it will comply with all safety precautions as required by federal, state or local laws, rules, regulations and ordinances to ensure employee safety.

c. ADA Compliance

Consultant shall 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 shall take affirmative steps to—insure nondiscrimination in employment of disabled persons.

Article 28 **Discretion of Town Manager**

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

Article 29 **Contingency Clause**

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

Article 30 **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.

Article 31 **No Estoppel**

Neither the Town's review, approval and/or acceptance of, or payment for Services performed under this Agreement shall 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 shall 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.

Where the Consultant is comprised of more than one legal entity, each such entity shall be jointly and severally liable under this Agreement.

Article 32 **Interpretation**

The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall 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.

Article 33 Joint Preparation

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

Article 34 Applicable Law and Venue of Litigation

This Agreement shall 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, shall be brought in Miami-Dade County, Florida. Each party shall bear its own attorney's fees except in actions arising out of Consultant's duties to indemnify the Town Article 8 where Consultant shall pay the Town's reasonable attorney's fees.

Article 35 Severability

If this Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Agreement without affecting the binding force of this Agreement as it shall remain after omitting such provision.

Article 36 Entire Agreement

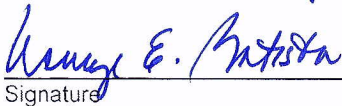
This Agreement, as it may be amended from time to time, represents the entire and integrated Agreement between the Town and the Consultant and supersedes all prior negotiations, representations or agreements, written or oral. This Agreement may not be amended, changed, modified, or otherwise altered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

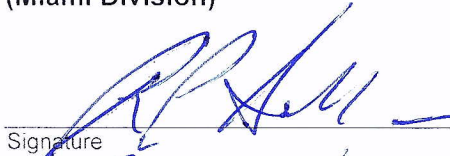
END OF SECTION

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

WITNESS/ATTEST

Consultant, Brown & Brown of Florida, Inc.;-
(Miami Division)


Signature


Signature

NANCY E. BATISTA
Print Name, Title ASST. CL NGR.

Robert P. Handen EVP
Print Name, Title of Authorized Officer or Official

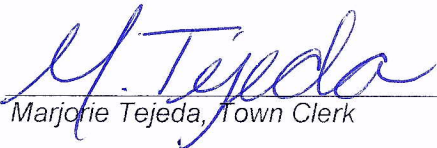
ATTEST:

(Corporate Seal)

Consultant Secretary
(Affirm Consultant Seal, if available)

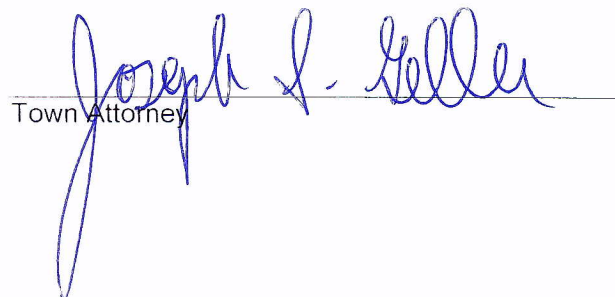
ATTEST:

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


Marjorie Tejada, Town Clerk


Alex Rey, Town Manager

APPROVED AS TO LEGAL FORM AND
CORRECTNESS:


Town Attorney

CERTIFICATE OF AUTHORITY

(IF CORPORATION)

I HEREBY CERTIFY that at a meeting of the Board of Directors of Brown and Brown of Florida, Inc., a corporation organized and existing under the laws of the State of Florida, held on the ___ day of _____, _____, a resolution was duly passed and adopted authorizing (Name) _____ as (Title) _____ 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, shall be 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 _____, day of _____, 20____.

Secretary: _____

Print: _____

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

ATTACHMENT A - SCOPE OF SERVICES

The Request For Proposal (RFP), inclusive of its Scope of Work, and Brown and Brown's Submittal in response to the RFP are hereby incorporated into the Agreement and stipulate the Scope of Work to be performed by Brown and Brown of Florida, Inc.

END OF SECTION

Attachment C – Key Personnel

NAME	JOB CLASSIFICATION
Robert P. Hollander	Executive Vice President
Colin E. Lowe	Profit Center Leader
Mercy Garcia	Senior Account Manager

Attachment B – Compensation

Annual Fees

Type of Insurance	Annual Fee
Property & Inland Marine Coverage	\$3,247.00
General Liability	\$3,573.00
Automobile Coverage	\$ 396.00
Public Officials Liability Coverage	\$1,040.00
Employment Practices Liability Coverage	\$ 592.00
Crime Coverage	\$ 146.00