

CITY OF NORTH MIAMI
PROFESSIONAL BUILDING INSPECTION &
PERMITTING SERVICES AGREEMENT
(Phase I – Hourly Rate Structure– RFP 02-11-12)

THIS PROFESSIONAL BUILDING INSPECTION & PERMITTING SERVICES AGREEMENT (“Agreement”) is entered into this ____ day of _____, 2012, between the **City of North Miami**, a Florida municipal corporation with a principal address of 776 NE 125th Street, North Miami, Florida (“City”), and **C.A.P. Government, Inc.**, a for-profit corporation organized and existing under the laws of the State of Florida, having its principal business office at 8350 NW 52 Terrace, Suite 209, Doral, FL 33166 (“Contractor”). The City and Contractor shall collectively be referred to as the “Parties”.

RECITALS

WHEREAS, on December 8, 2011, the City issued *Request for Proposal #02-11-12 Building Inspection & Permitting Services* (“RFP”), to obtain proposals from qualified firms to provide building, plumbing, electrical, roofing, mechanical and structural inspections, plan reviews and other related services, pursuant to the Florida Building Code (“Code”), and in accordance with the terms, conditions and specifications contained in the RFP (“Services”); and

WHEREAS, in response to the RFP, C.A.P. Government, Inc., submitted its proposal which was subsequently evaluated by evaluation committee as the highest ranked proposer whose qualifications, experience, and use of local preference contracting demonstrated to be the most advantageous to the City; and

WHEREAS, C.A.P. Government, Inc., has expressed its capability, expertise and willingness to perform the Services pursuant to the Code and to the terms, conditions, requirements and specifications of the RFP; and

WHEREAS, on March 27, 2012, the Mayor and City Council approved by Resolution, the selection of C.A.P. Government, Inc., and further authorized the City Manager to negotiate and execute an agreement for the provision of Services.

NOW, THEREFORE, in consideration of the mutual terms and conditions set forth herein and other good and valuable consideration, the Parties hereto agree as follows:

ARTICLE 1 - RECITALS

1.1 The recitals are true and correct and are hereby incorporated into and made a part of this Agreement.

ARTICLE 2 - CONTRACT DOCUMENTS

2.1 The following documents are incorporated into and made a part of this Agreement (collectively referred to as the "Contract Documents"):

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2.1.1 City's Request for Proposal #02-11-12 Building Inspection & Permitting Services, attached hereto by reference;

2.1.2 Contractor's proposal in response to the RFP ("Proposal"), attached hereto by reference;

2.1.3 Contractor's Rate Schedule dated April 12, 2012, attached hereto as Exhibit A;

2.1.4 Any additional documents which are required to be submitted by Contractor under this Agreement.

2.2 In the event of any conflict between the Contract Documents or any ambiguity or missing specification or instruction, the following priority is hereby established:

2.2.1 Specific written direction from the City Manager or City Manager's designee.

2.2.2 This Agreement.

2.2.3 The RFP.

2.3 The Parties agree that Contractor is responsible for clarifying any ambiguity, conflict, discrepancy, omission, or other error found in the RFP prior to Contractor submitting its Qualifications or the right to clarify same shall be waived.

ARTICLE 3 – TERM OF AGREEMENT

3.1 The Initial Term of this Agreement shall commence on May 14, 2012, through September 31, 2012 ("Initial Term"), unless terminated earlier by either Party. The City may opt to renegotiate the terms of this Agreement at anytime if deemed to be in the best interest of the City.

3.2 Following the Initial Term, this Agreement may be extended for a period of three (3) years upon mutual consent of both Parties.

3.3 When, in the opinion of the City, reasonable grounds for uncertainty exist with respect to the Contractor's ability to timely perform Services or any portion thereof, the City may request that Contractor, within a reasonable period of time, provide adequate assurances to the City in writing, of Contractor's ability to perform in accordance with terms of this Agreement. In the event that Contractor fails to provide the City the requested assurances within the prescribed time frame, the City may treat such failure as a repudiation or breach of this Agreement, and resort to any remedy for breach provided for in this Agreement or at law.

ARTICLE 4 - COMPENSATION

4.1 Contractor shall be compensated for Services rendered, at the hourly rate indicated in Exhibit A. Funding for this Agreement is contingent on the availability of funds and the Agreement is subject to amendment or termination due to lack of funds or a reduction of funds.

4.2 The City shall pay Contractor within forty five (45) days of receipt of any invoice, the total shown to be due on such invoice, provided the City has accepted the Contractor's performance.

ARTICLE 5 - SCOPE OF SERVICES

5.1 Contractor agrees to perform building, plumbing, electrical, mechanical and structural inspection and plan review services pursuant to the Florida Building Code, and in accordance with the terms, conditions and specifications contained in the RFP. Contractor shall perform Services in accordance with that degree of care and skill ordinarily exercised by reputable members of its profession.

5.2 Contractor represents and warrants to the City that: (i) Contractor possesses all qualifications, licenses and expertise required in the provision of Services, with personnel fully licensed by the State of Florida; (ii) Contractor is not delinquent in the payment of any sums due the City, including payment of permit fees, local business taxes, or in the performance of any obligations to the City; (iii) all personnel assigned to perform work shall be, at all times during the term hereof, fully qualified and trained to perform the tasks assigned to each; (iv) the Services will be performed in the manner as described in the Contract Documents for the budgeted amounts, rates and schedules; and (v) the person executing this Agreement on behalf of Contractor is duly authorized to execute same and fully bind Contractor as a party to this Agreement.

5.3 Contractor agrees and understands that: (i) any and all subcontractors used by Contractor shall be paid by Contractor and not paid directly by the City; and (ii) any and all liabilities regarding payment to or use of subcontractors for any of the work related to this Agreement shall be borne solely by Contractor. Any work performed for Contractor by a subcontractor will be pursuant to an appropriate agreement between Contractor and subcontractor which specifically binds the subcontractor to all applicable terms and conditions of the Contract Documents.

5.4 Local Preference. Contractor agrees to comply with Section 7-151, of the City Code and confirms the use of local contractors and/or local workforce, in accordance with Contract Documents. Contractor shall be responsible for providing reports to the City on a quarterly basis, or upon the City's reasonable request for such reports, for the purpose of confirming Contractor's compliance with this subsection.

ARTICLE 6 - CITY'S TERMINATION RIGHTS

6.1 The City shall have the right to terminate this Agreement, in its sole discretion at any time, with or without cause, with thirty (30) days written notice to Contractor. In such an event, the City shall pay Contractor compensation for Services rendered prior to the effective date of termination. The City shall not be liable to Contractor for any additional compensation, or for any consequential or incidental damages.

ARTICLE 7 - INDEPENDENT CONTRACTOR

7.1 The Contractor, its employees and agents shall be deemed to be independent contractors and not agents or employees of the City and shall not attain any rights or benefits under the civil

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service or pension ordinances of the City, or any rights generally afforded to classified or unclassified employees. The Contractor shall not be deemed entitled to the Florida Workers' Compensation benefits as an employee of the City.

ARTICLE 8 - DEFAULT

8.1 In the event the Contractor fails to comply with any provision of this Agreement, the City may declare the Contractor in default by written notification. The City shall have the right to terminate this Agreement if the Contractor fails to cure the default within five (5) days after receiving notice of default from the City. If the Contractor fails to cure the default, the Contractor will only be compensated for completed Services. The Contractor understands and agrees that termination of this Agreement under this section shall not release Contractor from any obligations accruing prior to the effective date of termination.

ARTICLE 9 - INDEMNIFICATION

9.1 Contractor agrees to indemnify, defend, save and hold harmless the City its officers, agents and employees, from and against any and all claims, liabilities, suits, losses, fines, and/or causes of action that may be brought against the City, its officers, agents and employees, on account of any negligent act or omission of Contractor, its agents, servants, or employees in the performance of Services under this Agreement and resulting in personal injury, loss of life or damage to property sustained by any person or entity, caused by or arising out of Contractor's negligence within the scope of this Agreement, including all costs, reasonable attorneys fees, expenses, including any appeal, and including the investigations and defense of any action or proceeding and any order, judgment, or decree which may be entered in any such action or proceeding, except for damages specifically caused by or arising out of the negligence, strict liability, intentional torts or criminal acts of the City, its officer, agents, employees or contractors, which claims are lodged by any person, firm, or corporation.

9.2 Nothing contained in this Agreement is any way intended to be a waiver of the limitation placed upon the City's liability as set forth in Chapter 768, Florida Statutes. Additionally, the City does not waive sovereign immunity, and no claim or award against the City shall include attorney's fees, investigative costs or pre-judgment interest.

ARTICLE 10 - INSURANCE

10.1 Prior to the execution of this Agreement, the Contractor shall submit certificate(s) of insurance evidencing the required coverage and specifically providing that the City is an additional named insured or additional insured with respect to the required coverage under this Agreement. Contractor shall not commence work until after Contractor has obtained all of the minimum insurance described in the RFP, and the policies of such insurance detailing the provisions of coverage have been received and approved by the City. Contractor shall not permit its subcontractor to begin work until after similar minimum insurance to cover subcontractor has been obtained and approved.

10.2 All insurance policies required from Contractor shall be written by a company with a Best rating of B+ or better and duly authorized and licensed to do business in the State of Florida and be executed by duly licensed agents upon whom service of process may be made in Miami-Dade County, Florida.

ARTICLE 11 - OWNERSHIP OF DOCUMENTS

11.1 All documents and deliverables developed by Contractor under this Agreement shall be delivered to the City by the Contractor upon completion of the Services and shall become property of the City, without restriction or limitation of its use. The Contractor agrees that all documents generated hereto shall be subject to the applicable provisions of the Public Records Law, Chapter 119, Florida Statutes. In the event the Agreement is terminated, Contractor agrees to provide the City all such documents in its possession, within 10 days from the date the Agreement is terminated.

11.2 It is further understood by and between the Parties that any information, writings, tapes, Contract Documents, reports or any other matter whatsoever which is given by the City to the Contractor pursuant to this Agreement shall at all times remain the property of the City and shall not be used by the Contractor for any other purposes whatsoever without the written consent of the City.

ARTICLE 12 - NOTICES

12.1 All notices, demands, correspondence and communications between the City and Contractor shall be deemed sufficiently given under the terms of this Agreement when delivered by personal service, faxed, or dispatched by mail or certified mail, addressed as follows:

For Contractor: C.A.P. Government, Inc.
Attn: Carlos A. Penin
8350 NW 52 Terrace, Suite 209
Doral, FL 33166
Phone: (305) 448-1711
Fax: (305) 448-1712

For the City: City of North Miami
Attn: City Manager
776 N.E.125th Street
North Miami, Florida 33161

With copy to: City of North Miami
Attn: City Attorney
776 N.E.125th Street
North Miami, Florida 33161

12.2 Either Party may at any time designate a different address and/or contact person by giving notice as provided above to the other Party. Such notices shall be deemed given upon receipt by the addressee.

12.3 In the event there is a change of address and the moving Party fails to provide notice to the other Party, then notice sent as provided in this Article shall constitute adequate notice.

ARTICLE 13 - CONFLICTS OF INTEREST

13.1 Contractor represents and warrants to the City that it has not employed or retained any person or company employed by the City to solicit or to secure this Agreement and that it has not

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offered to pay, paid, or agreed to pay any person any fee, commission, percentage, brokerage fee, or gift of any kind contingent upon or in connection with, the award of this Agreement.

13.2 Contractor covenants that no person under its employ who presently exercises any functions or responsibilities on behalf of the City in connection with this Agreement has any personal financial interest, directly or indirectly, with contractors or vendors providing professional services on work assigned to the Contractor, except as fully disclosed and approved by the City.

13.3 Contractor, its subcontractors, and any and all subsidiaries and personnel of the Contractor and their subcontractors, shall not be eligible for any design or construction contracts within the City's jurisdiction that would constitute a direct or indirect conflict with Services being performed under this Agreement. Subsequent to the execution of this Agreement, Contractor, its subcontractors, and the subsidiaries and personnel of the Contractor and their subcontractors shall not propose on, bid for, or otherwise compete for, or participate in any contracts for design or construction projects within the City's jurisdiction. Contractor, its subcontractors, and the subsidiaries and personnel of the Contractor and their subcontractors shall not participate in or receive any financial or other benefits, in any manner whatsoever, from any of the design or construction contracts that will be processed by the City in connection with the Services required under this Agreement.

13.4 Contractor, its subcontractors, and the subsidiaries and personnel of the Contractor and their subcontractors shall not engage or perform Services where a conflict of interest exists, such as being associated with the sale or promotion of equipment or material which may be used for Services under this Agreement; the sale or lease of land around the projects being processed under this Agreement which is to be acquired by the City; or participation in design or construction services contracts that are being processed under the Services of this Agreement.

13.5 Contractor, its subcontractors, and the subsidiaries and personnel of the Contractor and their subcontractors shall not be engaged in or perform any legal or other services in connection with, or in any way related to any project being assigned under this Agreement.

13.6 Contractor, its subcontractors, and the subsidiaries and personnel of the Contractor and their subcontractors shall not serve as an adverse or hostile witness against the City in any legal or administrative proceeding whatsoever, of any nature or subject matter related to the Services rendered under this Agreement, nor shall any of them give sworn testimony or issue a report in writing, as an expression of opinion, which is adverse or prejudicial to the interest of the City, in any pending or threatened legal or administrative proceeding whatsoever, of any nature or subject matter related to the Services being provided to the City through this Agreement. The limitations of this paragraph shall not preclude any such Party from testifying truthfully in pursuing its rights against the City, or representing itself as a defendant in any action or in any administrative or legal proceeding, or from complying with a subpoena, or from testifying truthfully if subpoenaed.

13.7 Contractor, its subcontractors, and the subsidiaries and personnel of the Contractor and its subcontractors shall not solicit or accept compensation, work, a promise for future compensation

or work, or other consideration in exchange for Contractor's or subcontractor's recommendation for the City's award of a professional services agreement, construction contract, equipment or materials contract.

13.8 Contractor shall include the foregoing provisions in all agreements between the Contractor and its subcontractors.

13.9 Failure of Contractor to comply with the provisions of this section shall constitute cause for the immediate termination of this Agreement. Contractor covenants to indemnify City on all claims, liabilities, suits, losses, fines, and/or causes of action that may be brought against the City, its officers, agents and employees, on account of any negligent act or omission of Contractor, its agents, servants, or employees for failure to comply with the provisions of this Article.

ARTICLE 14 - MISCELLANEOUS PROVISIONS

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

14.2 All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with this Agreement, as well as all continuing obligations indicated in the Contract Documents, shall survive final payment, completion and acceptance of the Services and termination or completion of the Agreement.

14.3 Should any provision, paragraph, sentence, word or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect or limitation of its use.

14.4 This Agreement and Contract Documents constitute the sole and entire agreement between the Parties. No modification or amendments to this Agreement shall be binding on either Party unless in writing and signed by both Parties.

14.5 This Agreement shall be construed and enforced according to the laws of the State of Florida. Venue in any proceedings between the Parties shall be in Miami-Dade County, Florida.

14.6 The City reserves the right to audit the records of the Contractor covered by this Agreement at any time during the provision of Services and for a period of three years after final payment is made under this Agreement.

14.7 The Contractor agrees to comply with and observe all applicable federal, state, and local laws, rules, regulations, codes and ordinances, as they may be amended from time to time.

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14.8 Services shall not be subcontracted, transferred, conveyed, or assigned under this Agreement in whole or in part to any other person, firm or corporation without the prior written consent of the City.

14.9 The City of North Miami is exempt from Federal Excise and State taxes. The applicable tax exemption number or certificate shall be made available upon request.

14.10 The professional Services to be provided by Contractor pursuant to this Agreement shall be non-exclusive, and nothing herein shall preclude the City from engaging other firms to perform Services.

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

14.12 The Contractor agrees that it shall not discriminate as to race, sex, color, creed, national origin, or disability, in connection with its performance under this Agreement.

14.13 All other terms, conditions and requirements contained in the Contract Documents, which have not been modified by this Agreement, shall remain in full force and effect.

14.14 This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their respective proper officers duly authorized the day and year first written above.

ATTEST:

C.A.P. Government, Inc., a Florida for-profit corporation:

~~Corporate Secretary or~~ Witness:

"Contractor":

By: Guerlin Escalante Mangos

By: Carlos A. Penin

Print Name: GUERLIN ESCALANTE MANGOS

Print Name: Carlos A. Penin

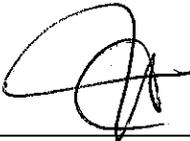
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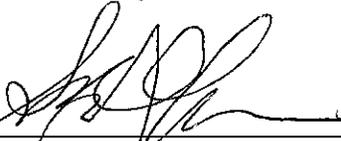
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ATTEST:

City of North Miami, a Florida municipal corporation: "City"

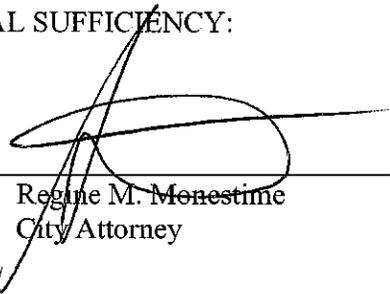
By: 

Michael A. Etienne
City Clerk

By: 

Stephen E. Johnson
City Manager *rs*

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: 

Regine M. Monestime
City Attorney

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April 12, 2012

Ms. Maxine Calloway
Director
City of North Miami
Community Planning &
Development Department
12400 NE 8 Avenue
North Miami, FL 33161

RE: **Request for Proposal (RFP) #02-11-12 City of North Miami
Building Inspection and Permitting Services/Revised Hourly Rates**

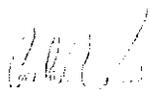
Dear Ms. Calloway:

Below is the revised hourly rate sheet requested and discussed in our meeting today for services rendered during Phase 1.

Additional Services	
<u>Title:</u>	<u>Hourly Rate</u>
Building Official	\$ 85.00
Building Plans Reviewer	\$ 65.00
Building Inspector	\$ 65.00
Structural Plans Reviewer	\$ 65.00
Structural Inspector	\$ 65.00
Electrical, Mechanical and Plumbing Plans Reviewer	\$ 65.00
Electrical, Mechanical and Plumbing Inspector	\$ 65.00
Permit Technician	\$ 27.00

Please contact me if you have any questions or need additional information.

Very truly yours,
C.A.P. Government, Inc.


Carlos A. Penin, PE
President

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