

**CONTRACT FOR PROFESSIONAL SERVICES - CONTINUING
LANDSCAPE ARCHITECTURE SERVICES
CONTRACT NO. 2005-50**

This Contract and Agreement is made and entered into between The City of Daytona Beach, Volusia County, Florida, a municipal corporation, created and existing under the laws of the State of Florida, hereinafter referred to as the CITY, and **Miller Legg (Consultant)**, authorized by the Florida Department of State to conduct business in the State of Florida, hereinafter referred to as the CONSULTANT, on the date appearing on the last page hereof.

WHEREAS, the CITY intends to proceed with its Capital Improvement Program, the purpose of which is to establish a comprehensive approach to provide for logical, economic improvements to the proposed and existing public works infrastructures, and

WHEREAS, the CITY desires the services of a qualified professional **landscape architecture** consultant for design and specification and related services; and

WHEREAS, the CITY has duly advertised for proposals from professional consultants desiring to provide such services; and

WHEREAS, the CITY's Selection Committee recommends that the CITY enter into negotiations with CONSULTANT for purposes of securing a contract for said Professional **Landscape Architecture** services; and

WHEREAS, negotiations ensued between the CITY and the CONSULTANT, and an agreement was reached for a Contract for Professional Services subject to approval by the City Commission.

WITNESSETH, that in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

ARTICLE I – Definition of Understanding: This Contract and Agreement defines all items of responsibility and is the only understanding between the parties. No oral understanding exists for performing the scope of work as set forth herein.

ARTICLE II – Overall Scope of Services: The Overall Scope of Services to be provided by the CONSULTANT shall include, but not be limited to **Landscape Architecture** related design of systems necessary for complete function of various building types, structures, site infrastructure, mechanisms and systems under control by the City. Related coordination of certain additional services dependent on specific project needs to include architecture, landscape architecture and engineering (various areas of practice) and environmental services determined by The CITY to be provided by the CONSULTANT to the CITY and defined in the "INVITATION TO SUBMIT PROPOSALS" and the "REQUEST FOR STATEMENTS OF QUALIFICATIONS NUMBER: 2005-50, CONSULTANT SERVICES PROFESSIONAL ENGINEERING, LANDSCAPE ENGINEERING, ELECTRICAL, STRUCTURAL AND TRAFFIC ENGINEERING", attached hereto as Exhibit "A". The specific services to be provided under a particular work element of this Contract, however, may vary from the services defined in the "REQUEST FOR STATEMENTS OF QUALIFICATIONS".

ARTICLE III – Work Authorization Agreements: The Scope of Service for Work may be modified from time to time to provide for additional services, deletions of service, or redefinitions of services, for specific work assignments, as deemed necessary by the CITY. All such modifications as to services, schedules, and fees for Work Authorizations, shall be subject to negotiation between the CITY and CONSULTANT and approval by the City Commission, the City Manager, or his designee, as described in Article II of this Contract.

The Scope of Services to be provided by the CONSULTANT under Work Authorizations of this Contract shall be clearly described and attached as Exhibit "C", "**Work Authorization Agreements**".

ARTICLE IV – CITY's Responsibilities: The CITY agrees to make available for review and use by the CONSULTANT, reports, studies, and data relating to each project.

ARTICLE V – Compensation: Compensation for the specific task assignments are identified and defined in each Work Authorization Agreement, and represent the total compensation for all services, equipment and work products to be provided by the CONSULTANT under the Work Elements authorized by this Contract.

Fees for work authorized can be either Lump Sum fees, or Actual Cost with an Upset Limit, whichever is approved through the Work Authorization Agreement.

Lump Sum:

The Lump Sum fee constitutes a total cost for the services in individual scopes of work negotiated prior to the start of CONSULTANT's services, generally with an allowance for reimbursable expenses associated with the work. Lump Sum fees shall be based upon an identifiable scope of work. Prior to finalizing the negotiation of a Lump Sum fee, CONSULTANT shall provide the CITY with a detailed breakdown of man-hours by task and discipline, used in preparing the proposed Lump Sum.

Actual Cost with an Upset Limit:

Actual Cost with an Upset Limit fees shall be based upon actual hourly wages paid to CONSULTANT professionals, times a multiplier of 3.4 for services rendered by employees assigned to the project. Reimbursable expenses associated with the project shall be invoiced to the CITY at the actual cost incurred by the CONSULTANT. The not-to-exceed upset Limit shall be negotiated prior to the start of CONSULTANT's services for any project or task. The Upset Limit can be exceeded only upon written authorization from the CITY.

CONSULTANT agrees that the hourly rates used to determine rate charges for employees rendering services to the CITY pursuant to the Agreement shall not exceed the maximum rates as shown in the Schedule attached hereto as Exhibit "B" throughout the duration of Work Authorizations. The maximum rates listed in the Schedule shown in Exhibit "B" may be modified to compensate for CONSULTANT's salary adjustments for subsequently authorized Work Elements as approved by the City Commission.

Sub-consultants:

The cost of services and reimbursable expenses for sub-consultants required for a project and employed by CONSULTANT shall be negotiated as an element of the Lump Sum fee for the project. All sub-consultants proposed for use shall be named by CONSULTANT at the time the Lump Sum fee is negotiated. No other special sub-consultants shall be used on a project unless and until approved by the City Commission of the CITY. Nothing contained herein shall be deemed to preclude the CITY from contracting for the services of special sub-consultants directly with the provider of such services.

When sub-consultants are engaged for an Actual Cost with an Upset Limit project, CONSULTANT will invoice the CITY for the work provided by the sub-consultant at the actual fee amount invoiced by the sub-consultant, **plus 15% to cover administrative costs**.

Modifications to Append Work Authorization Agreements:

In the event that the CITY requests a modification to Work Element Scope of Service, or any subsequently executed Work Authorization Agreements, the fees for such modification shall be negotiated based upon the specific services requested and at a level of compensation acceptable to both parties. The final authorization shall be subject to CITY approval as described in Article II of this Contract.

ARTICLE VI – Method of Payment: For Work Elements, the CONSULTANT shall invoice the CITY no greater than once monthly and such invoices shall contain a Progress Certification Statement. The statement shall state that the Work Element is completed to at least the percentage shown on the invoice and further supported by adequate documentation to justify the percentage completed, to the satisfaction of the City Engineer. The CITY shall only be required to pay monthly progress invoices up to 90 percent of the Lump Sum fee for Work Element services. The remainder of the Lump Sum fee for Work Element services shall be paid upon the CITY's review and approval of the Work Element.

All monthly invoices submitted by the CONSULTANT and approved by the CITY shall be due and payable within 30 calendar days after such approval. The CITY agrees not to unreasonably withhold its approval of invoices submitted in compliance with the terms of this Contract.

The method of payment for services provided as part of future Work Elements of this Contract shall be negotiated to the satisfaction of both parties, with final authorization being subject to CITY approval as described in Article II of this Contract.

ARTICLE VII – Termination: It is agreed by and between each of the parties hereto, respectively, that each of the parties shall have, and there is hereby reserved to such parties and each of them, the right to cancel and annul this Contract upon thirty (30) days written notice to the other party.

Further, it is covenanted and agreed by and between the parties hereto, and each of them, respectively, that upon the expiration of such (30) day period from the notice of cancellation by either party, as herein provided, this Contract shall cease, and thereafter each of the parties shall be released from further liability under the terms hereof.

It is further covenanted and agreed by and between the parties hereto, that in case or in the event this Contract shall be canceled as herein provided, the CITY will pay unto the CONSULTANT all amounts due under the terms hereof that can be justified to the CITY as of date of cancellation. The CONSULTANT agrees that upon receipt of justified portion of fee, all documents will immediately be transmitted to the CITY for the CITY's use in accordance with their terms of this Contract.

ARTICLE VIII – Ownership of Documents: All reports, estimates, logs, original drawings, and other materials furnished, prepared or executed during the term of and in accordance with the provisions of this Contract shall be the property of the CITY and delivered to the CITY upon demand, provided the payment of fees has been received by CONSULTANT in accordance with the terms of this Contract.

ARTICLE IX – Reuse of Documents: CITY agrees to hold harmless and indemnify the CONSULTANT from and against any claims, demands, actions or causes of actions as a result of the CITY's reuse of documents and drawings or other work products.

ARTICLE X – Nondiscrimination: CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, sex, or national origin. CONSULTANT will

take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their sex, race, creed, color, or national origin.

CONSULTANT agrees to comply with all local, state and federal laws and ordinances regarding discrimination in employment against any individual on the basis of race, color, religion, sex, national origin, physical or mental impairment, or age. In particular, CONSULTANT agrees to comply with the provisions of Title 7 of the Civil Rights Act of 1964, as amended, and applicable executive orders including, but not limited to, Executive Order No. 11246.

ARTICLE XI – Contingency Fee: CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

ARTICLE XII – Indemnification: The Consultant shall indemnify and hold harmless the City of Daytona Beach, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the design professional and other persons employed or utilized by the design professional in the performance of the contract.

ARTICLE XIII – Insurance: CONSULTANT shall purchase and maintain, as its own expense, the following types and amounts of insurance, in form and from companies satisfactory to the CITY:

1. **Workers' Compensation Insurance:** As required by Florida Statutes, Chapter 440, Workers' Compensation Insurance, for all employees of the CONSULTANT, employed at the site of the work or in any way connected with the work, which is the subject of this service. The insurance required by this provision shall comply fully with the Florida Workers' Compensation Law and include Employer's Liability Insurance with limits of not less than \$500,000 per occurrence. Any associated or subsidiary company involved in the service must be named in the Workers' Compensation coverage.
2. **Liability Insurance:** Comprehensive General Liability Insurance, including coverage for operations, independent contractors, products-completed operations, broad form property damage, and personal injury on an "occurrence" basis insuring the Consultant and any other interests, including but not limited to any associated or subsidiary companies involved in the work. Automobile Liability Insurance which shall insure claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle used by the Consultant at the site of the project or in any way connected with the work which is the subject of this agreement. THE LIABILITY INSURANCE SHALL NAME THE CITY AS AN ADDITIONAL INSURED.

The limit of liability shall be a combined single limit for bodily injury and property damage of no less than \$1,000,000. If insurance is provided with a general aggregate, then the aggregate shall be in an amount of no less than \$1,000,000.

3. **Professional Liability Insurance:** Professional Liability Insurance insuring the CONSULTANT and other interest, including, but not limited to, any associated or sub-sidiary companies involved in the work, for errors or omissions in the performance of professional services to be rendered pursuant to this Agreement. The limit of liability of Professional Liability Insurance shall be no less than \$1,000,000.

Any insurance policy required by Article XIII, Section 3, hereof may contain a reasonable deductible provision provided advance notice of said deductible provision is given by the CONSULTANT to the CITY and approval from the CITY is given, which approval shall not be unreasonably withheld or delayed.

The CONSULTANT shall furnish proof of insurance acceptable to the City prior to or at the time of execution of the agreement and the Consultant shall not commence work under this agreement until he has obtained all the insurance required under this agreement and such insurance has been filed with and approved by the City, nor shall the Consultant allow any subcontractor to commence work on its subcontract until similar insurance required of the subcontractor has been so obtained and approved.

The CONSULTANT shall furnish evidence of all required insurance in the form of certificates of insurance which shall clearly outline all hazards covered as itemized above, the amounts of insurance applicable to each hazard, the expiration dates, and shall contain the following language as to cancellation: "In the event of cancellation of this policy by the insurer or any insured, the company shall give not less than thirty (30) days advance written notice to: "City Clerk, The City of Daytona Beach, P. O. Box 2451, Daytona Beach, FL 32215-2451." If requested by the CITY, the CONSULTANT will furnish copies of the insurance contracts to support the certificates of insurance and the copies of said insurance must be acceptable to the CITY.

The Consultant shall file replacement certificates 30 days prior to expiration of termination of the required insurance occurring prior to the acceptance of the work by the City. In the event such insurance shall lapse, the City expressly reserves the right to renew the insurance at the Consultant's expense.

The Consultant may not cancel the insurance required by this agreement until the work is completed, accepted by the City and the Consultant has received written notification from the Risk Management Division of the City that the Consultant may cancel the insurance required by this agreement and the date upon which the insurance may be canceled. The Risk Management Division of the City will provide such written notification at the request of the Consultant if the request is made no earlier than two weeks before the work is to be completed.

ARTICLE XIV - Truth in Negotiations Certificate: The CONSULTANT hereby certifies that the wages and other factual unit costs supporting the compensation herein are accurate, complete, and current at the time of this Contract.

ARTICLE XV – Opinions of Cost: Opinions or probable construction costs, financial evaluations feasibility studies, economic analyses of alternate solutions and utilitarian considerations of operations and maintenance costs prepared by CONSULTANT hereunder will be made on the basis of CONSULTANT's experience and qualifications and represent CONSULTANT's best judgement as an experienced and qualified *landscape architecture* professional. It is recognized, however, that CONSULTANT does not have control over the cost of labor, material, equipment or services furnished by others or over market conditions or contractor's methods of determining their prices, and that any utilitarian evaluation of any facility to be constructed or work to be performed on the basis of the report, must of necessity be speculative until completion of its detailed design.

Accordingly, CONSULTANT does not guarantee that proposals, bids, or actual costs will not vary from opinions, evaluations or studies submitted by CONSULTANT to CITY hereunder.

ARTICLE XVI – Third Parties: Nothing contained in this agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CITY or the CONSULTANT. The CONSULTANT'S services under this agreement are being performed

solely for the CITY's benefit, and no other entity shall have any claim against the CONSULTANT because of this agreement or the performance or nonperformance of services hereunder.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in triplicate original and effective this 25th day of May, 2006.

WITNESSES:

Shirley L. Stickney
TODD A. BROWN

THE CITY OF DAYTONA BEACH

By:

Yvonne Scarlett-Golden
Yvonne Scarlett-Golden, Mayor

Attest:

Jennifer L. Thomas
Jennifer L. Thomas, City Clerk

WITNESSES:

Julie Y. Saffdie
Galina C. Ceras

**MILLER, LEGG & ASSOCIATES, INC, d/b/a
MILLER LEGG**

By:

Attest:

Julie Y. Saffdie

APPROVED AS TO LEGAL FORM:

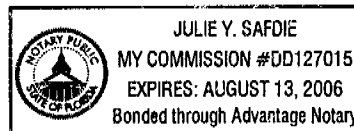
T. A. Brown
City Attorney

STATE OF FLORIDA
ORANGE COUNTY
BROWARD

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Dan A. Tintner, well known to me to be Vice President of **Miller Legg** and that he executed the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State last aforesaid this 14th day of March, 2006.

Julie Y. Safdie
Notary Public



Commission Expires

STATE OF FLORIDA
VOLUSIA COUNTY

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgment, personally appeared Wanne Scarlett-Gadden and Jennifer L. Thomas, well known to me to be the Mayor and City Clerk, respectively, of **THE CITY OF DAYTONA BEACH**, a Florida municipal corporation, and that they severally acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by THE CITY OF DAYTONA BEACH.

WITNESS my hand and official seal in the County and State last aforesaid this 25th day of May, 2006.

Valerie J. Rackliff
Notary Public

Commission Expires

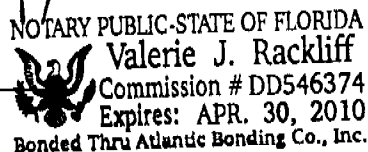


EXHIBIT "A"

REQUEST FOR STATEMENTS OF QUALIFICATIONS

PROFESSIONAL CONSULTING SERVICES – CONTINUING CONTRACT

FOR

THE CITY OF DAYTONA BEACH
DAYTONA BEACH, FLORIDA

PROPOSAL NO.: 2005-50

Prepared By

City Engineering Division
Public Works Department
The City of Daytona Beach
950 Bellevue Avenue
Daytona Beach, FL 32114

MAY 4, 2005

INVITATION
REQUEST FOR STATEMENTS OF QUALIFICATIONS

The City of Daytona Beach, in compliance with the Consultants Competitive Negotiation Act (Section 287.055, Florida Statutes), is seeking a minimum of one (1) qualified Consultant to provide professional consulting services under a continuing contract to support The City's Capital Improvement Program and other various City projects for each of the following listed areas of practice: ARCHITECTURAL; LANDSCAPE ARCHITECTURAL; ELECTRICAL, STRUCTURAL AND TRAFFIC ENGINEERING.

Persons interested in providing these services may obtain a "REQUEST FOR QUALIFICATIONS NUMBER: 2005-50, PROFESSIONAL CONSULTING SERVICES - CONTINUING CONTRACT from:

James Dearing, C.P.M.
Purchasing Agent

P.O. Box 2451

Daytona Beach, FL 32115-2451
(386) 671-8082

Eight (8) copies of the proposal must be submitted no later than 2:00 P.M., June 24, 2005 to the following address:

James Dearing, C.P.M.
Purchasing Agent

Engineering Division

950 Bellevue Avenue, Room 600
Daytona Beach, FL 32114

THE CITY RESERVES THE RIGHT to reject any or all proposals or parts thereof, or to accept the proposal(s) or parts thereof when considered by it to be in the best interest of the City. Any proposal received after the time and date specified will not be considered.

THE CITY OF DAYTONA BEACH

VOLUSIA COUNTY, FLORIDA

By: James Dearing, C.P.M.

Purchasing Agent

STATEMENT OF PURPOSE

The City of Daytona Beach, in accordance with The Consultants' Competitive Negotiation Act (CCNA), Florida Statutes 287.055, is seeking a minimum of one (1) qualified Consultant to provide professional services under a continuing contract for various City projects for each of the following listed areas of practice: ARCHITECTURAL; LANDSCAPE ARCHITECTURAL; ELECTRICAL ENGINEERING; STRUCTURAL ENGINEERING; TRAFFIC ENGINEERING.

SCOPE OF SERVICES

The Consultant is to provide the necessary services to perform work on various capital improvement projects for use by the City. These services will include, but not be limited to: architectural, landscape architectural, electrical, structural and traffic engineering design and related coordination of ancillary system components necessary for the complete and proper function of various facility types and structures under control by the City.

Architects, Landscape Architects and Engineers shall be required to be knowledgeable in permitting requirements of local, state and federal agencies. Related coordination of certain additional services, dependent on specific project needs, to include architecture; landscape architecture; surveying; civil, mechanical, electrical, structural, traffic and geotechnical engineering and environmental services.

Each project will be negotiated at the time of the development of the specific scope of work. The duration of the continuing services contract is not to be limited except that the contract shall contain a termination clause, acceptable to both The City and the selected firms providing said services.

The successful consultant(s) will work closely with various City Departments to include the Engineering Division of the Public Works Department. The City intends to enter into a continuing contract covering any one or more of these services. As the need for assistance in the desired discipline arises, the Consultant will be asked for a fee proposal for a specific work assignment. A Work Authorization Agreement will be prepared for acceptance and confirmation by the City Commission upon successful completion of a mutually accepted scope of services, schedule, and fee proposal. The Consultant will be expected to perform the work within the stated time frame unless changes in the scope warrant additional time.

STATEMENT OF QUALIFICATIONS REQUIREMENTS

1. Inquiries concerning this Request for Statements of Qualifications should be addressed to David C. Ponitz, P.E., Deputy City Engineer at 386.671.8621.
2. Eight copies of the Qualifications Package must be submitted no later than 2:00 p.m., June 24, 2005, and addressed to:

James Dearing, C.P.M.
Purchasing Agent
Engineering Division
950 Bellevue Avenue, Room 600
Daytona Beach, FL 32114
386.671.8082; or hand delivered to:

James Dearing, C.P.M.
Purchasing Agent
Engineering Division
950 Bellevue Avenue, Room 600
Daytona Beach, Florida 32114

All Qualifications Packages shall be plainly marked on the outside of the submitted documents: "REQUEST FOR STATEMENT OF QUALIFICATIONS NUMBER: 2005-05, PROFESSIONAL CONSULTING SERVICES – CONTINUING CONTRACT"

3. The Statement of Qualifications shall be organized to generally conform to the following, as these will constitute the basis of evaluation:
 - a. Letter on Consulting Firm's letterhead expressing interest to be considered for this Professional Consulting Services continuing contract.
 - b. Related project experience and performance.
 - c. Project team with proposed key personnel identified, including brief resumes, of who will be assigned to provide the requested services. This element of the Statement of Qualifications should express the general and specific project related capability of the in-house staff and should indicate the adequate depth and abilities of the Consulting firm. This will include management, technical, and support staff.
 - d. If a joint venture or prime/subcontractor arrangement of two firms is used, indicate how the work will be distributed between partners, and who will be responsible for the satisfactory completion of the project.
 - e. Responsible Office:
The office assigned responsibility for the project shall be identified. If different elements of the work will be done at different locations, those locations and the work they are expected to perform shall also be listed.
 - f. Current Certificates of Insurance
 - g. Brochure of the firm

4. The drawings and other materials prepared pursuant to a contract for Professional services are to become the property of the City upon the Consultant being paid in full for such services and are subject to reuse in accordance with the provisions of Section 287.055 Subsection (11) Florida Statutes.
5. The Consultant should be aware of The City of Daytona Beach's Minority Business Enterprise (MBE) requirements contained in Chapter 30, Article III of the City Code, Ordinance 84-131 and Resolutions 94-123 and 94-124.
6. The Consultant shall purchase and maintain, at a minimum and at its own expense, the following types and amounts of insurance in form and companies satisfactory to the City and shall furnish proof of insurance prior to commencing work.

Workers Compensation Insurance - As required by Florida Statutes, Chapter 440, Workers' Compensation Insurance, for all employees of the Consultant, employed at the site of the work or in any way connected with the work, which is the subject of this service.

The insurance required by this provision shall comply fully with the Florida Workers' Compensation Law and include Employers' Liability Insurance with limits of not less than \$500,000 per occurrence. Any associated or subsidiary company involved in the service must be named in the Workers' Compensation coverage.

Liability Insurance - Comprehensive General Liability Insurance, including coverage for operations, independent contractors, products-completed operations, broad form property damage, and personal injury on an "occurrence" basis insuring the Consultant and any other interests, including but not limited to any associated or subsidiary companies involved in the work.

Automobile Liability Insurance which shall insure claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle used by the Consultant at the site of the project or in any way connected with the work which is the subject of this agreement.

THE LIABILITY INSURANCE SHALL NAME THE CITY AS AN ADDITIONAL INSURED.

The limit of liability shall be a combined single limit for bodily injury and property damage of no less than \$1,000,000. If insurance is provided with a general aggregate, then the aggregate shall be in an amount of no less than \$1,000,000.

Professional Liability Insurance - Professional Liability Insurance insuring the CONSULTANT and other interest, including, but not limited to, any

associated or subsidiary companies involved in the work, for errors or omissions in the performance of professional services to be rendered pursuant to this Agreement. The limit of liability of Professional Liability Insurance shall be no less than \$1,000,000.

Proof of Insurance

The Consultant shall furnish proof of insurance acceptable to the City prior to or at the time of execution of the agreement and the Consultant shall not commence work under this agreement until he has obtained all the insurance required under this agreement and such insurance has been filed with and approved by the City, nor shall the Consultant allow any subcontractor to commence work on its subcontract until similar insurance required of the subcontractor has been so obtained and approved. The Consultant shall furnish evidence of all required insurance in the form of certificates of insurance which shall clearly outline all hazards covered as itemized above, the amounts of insurance applicable to each hazard, the expiration dates, and shall contain the following language as to cancellation”:

“In the event of cancellation of this policy by the insurer or any insured, this Company shall give not less than thirty (30) days advance written notice to:

City Clerk
The City of Daytona Beach
P.O. Box 2451
Daytona Beach, Florida 32115-2451”

If requested by the City, the Consultant will furnish copies of the insurance contracts to support the certificates of insurance and the copies of said insurance must be acceptable to the City.

The Consultant shall file replacement certificates 30 days prior to expiration of termination of the required insurance occurring prior to the acceptance of the work by the City. In the event such insurance shall lapse, the City expressly reserves the right to renew the insurance at the Consultant's expense.

Termination of Insurance

The Consultant may not cancel the insurance required by this agreement until the work is completed, accepted by the City and the Consultant has received written notification from the Risk Management Division of the City that the Consultant may cancel the insurance required by this agreement and the date upon which the insurance may be canceled. The Risk Management Division of the City will provide such written notification at the request of the Consultant if the request is made no earlier than two weeks before the work is to be completed.

Indemnification: The Consultant shall indemnify and hold harmless the City of Daytona Beach, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the design professional and other persons employed or utilized by the design professional in the performance of the contract.

7. Statements of Qualifications received by The City of Daytona Beach are exempt from the provisions of Florida's Public Records Law until such time as the proposals are opened. Thereafter, all Statements of Qualifications shall be open for a personal inspection by any person. If you believe that your Statement of Qualifications, or any portions thereof, is exempt from disclosure under the public records law, state the grounds for your position in CAPITAL LETTERS on the cover sheet accompanying your sealed proposal. You will be contacted prior to the opening of your proposal and a determination will be made as to whether or not it is exempt prior to opening. If a determination is made that it is not exempt from disclosure, the sealed proposal will be returned to you upon request.
8. The City reserves the right to reject any and all Statements of Qualifications if it is determined to be in the best interests of the City.

SELECTION PROCESS

For the purpose of selecting the most qualified Consultant(s), the City will use a competitive selection process. The procedure will involve the following steps:

- a. The City will advertise and mail formal requests for qualifications to interested Consultants.
- b. The City's selection committee will review and rank (if necessary) all submittals received for submission by the established deadline for each area of practice indicated.
- c. Oral presentations by a minimum of three Consultants for each area of practice indicated may be held to clarify and discuss their Statements of Qualifications.
- d. The selection committee will then rank each consultant and prepare a recommendation for approval by the City Manager. When authorized by the City Manager, the City staff shall attempt to negotiate contracts with the Consultant(s) determined to be most qualified. Should the City staff be unable to negotiate a satisfactory contract with the Consultant(s) considered to be most qualified, the City staff shall terminate such negotiations with that Consultant and begin negotiations with the next most qualified Consultant and so on until negotiations are successful.

EXHIBIT "B"

**CONTRACT FOR PROFESSIONAL SERVICES –
CONTINUING LANDSCAPE ARCHITECTURE
CODB CONTRACT NO.: 2005-50**

2006 Hourly Rate Schedule

The following schedule provides a maximum direct salary hourly rate for the disciplines which are likely to be engaged for projects associated with the contract referenced above for The City of Daytona Beach.

MILLER LEGG



MILLER LEGG & ASSOCIATES, INC.

Hourly Rates

April 27, 2006

Title	Hourly Raw Salary
Engineer I	\$ 28.00
Engineer II	\$ 30.74
Landscape Designer II	\$ 23.56
Principal	\$ 81.25
Project Biologist	\$ 28.37
Project Landscape Architect	\$ 35.51
Senior Engineer	\$ 57.70
Senior Environmental Scientist	\$ 50.58
Sr Landscape Architect	\$ 45.98
Sr Technical Specialist	\$ 25.00
Sr. Biologist	\$ 41.83
Technical Specialist	\$ 22.43

Note: Actual Cost with and Upset Limit fee for projects will be based upon actual hourly wages paid to CONSULTANT professionals, not to exceed the above listed rates, times the multiplier contained in ARTICLE V of the Contract.

IMPROVING COMMUNITIES. CREATING ENVIRONMENTS.

South Florida Office: 1800 N Douglas Road • Suite 200 • Pembroke Pines, Florida • 33024-3200

(954) 436-7000 • Fax: (954) 436-8664

www.millerlegg.com

"WORK AUTHORIZATION AGREEMENT NO. 1"

**CONTRACT FOR PROFESSIONAL SERVICES - CONTINUING
LANDSCAPE ARCHITECTURE**

(insert project name - TBD)

CODB CONTRACT NO.: *(insert CODB contract no. - TBD)*

This Contract and Agreement is made and entered into between The City of Daytona Beach, Volusia County Florida, a municipal corporation, created and existing under the laws of the State of Florida, hereinafter referred to as the CITY, and **Miller Legg**, authorized by the Florida Department of State to conduct business in the State of Florida, hereinafter referred to as the CONSULTANT, on the date appearing on the last page hereof.

WHEREAS, the CITY desires the services of a professional consultant to perform Professional Architectural services for the **project name to be determined**, and

WHEREAS, the CITY's Selection Committee recommends that the CITY enter into negotiations with CONSULTANT for purposes of securing a contract for said services; and

WHEREAS, negotiations ensued between the CITY and the CONSULTANT, and an Agreement was reached for a Contract for Professional Services – Continuing subject to approval by the City Commission.

WITNESSETH, that in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

ARTICLE I – Definition of Understanding: This Contract and Agreement defines all items of responsibility and is the only understanding between the parties. No oral understanding exists for performing the scope of work as set forth herein.

The services to be provided by the CONSULTANT shall consist of professional **landscape architecture** related design services required for **project name to be determined** located in Daytona Beach, Florida.

ARTICLE II – Overall Scope of Services: The Overall Scope of Services to be provided by the CONSULTANT shall include, but not be limited to: providing the necessary services to prepare:

(insert specific scope of work, task outline)

Task 1:

Task 2:

Deliverables: *Describe both amount of document sets (plans and specifications) intended for submittal review and additional final signed and sealed version for record and permit submittal purposes; format of documents (plans: AutoCad format version 2004 or more recent; text documents format in Microsoft Word).*

Schedule: The CONSULTANT agrees to complete the professional services under this Work Authorization Agreement according to the following schedule: *(provide basic itemized schedule below:)*

ARTICLE III – Work Authorization Agreements: The Scope of Service for Work may be modified from time to time to provide for additional services, deletions of service, or redefinitions of services, for specific work assignments, as deemed necessary by the CITY. All such modifications as to services, schedules, and fees for Work Authorizations, shall be subject to negotiation between the CITY and CONSULTANT and approval by the City Commission, the City Manager, or his designee, as described in Article II of this Contract.

ARTICLE IV – CITY’s Responsibilities: The CITY agrees to make available for review and use by the CONSULTANT, existing plans, maps, reports, studies, and data relating to the project. *(insert additional understanding related to City provided information supporting the project, if any.)*

ARTICLE V – Compensation: The CITY shall compensate the CONSULTANT in exchange for completed and accepted services described herein, and in the manner stipulated in “ARTICLE V – Compensation of the Contract for Professional Services- Continuing: Contract 2005-50”, in the lump sum fee amount not to exceed \$ fill in for total below, further described and/or itemized below.

(SAMPLE illustrated below:)

Part I	Surveying	\$ 5,000.00
Part II	Conceptual Design	\$ 10,000.00
Part III	Construction Documents	\$ 15,000.00
Part IV	Bidding	\$ 5,000.00
Part VII	Construction Administration	HOURLY
	Reimbursable Expenses (@ ??%)	\$ 2,000.00
	TOTAL	\$ 37,000.00

Reimbursable Expenses - The CONSULTANT shall be reimbursed for expenses incurred during the duration of the project. These expenses include blueprinting, copying and CAD plotting; long distance telephone calls; express delivery, courier and overnight delivery; and automobile mileage. Reimbursable expenses are included in the total fee and will be billed as a percent completed against the allowed amount.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in triplicate original and effective this _____ day of _____, 2006.

WITNESSES:

THE CITY OF DAYTONA BEACH

By: _____
Yvonne Scarlett-Golden, Mayor

Attest: _____
Jennifer L. Thomas, City Clerk

WITNESSES:

**MILLER, LEGG & ASSOCIATES, INC. d/b/a
MILLER LEGG**

By: _____

Attest: _____

APPROVED

City Attorney

**STATE OF FLORIDA
ORANGE COUNTY**

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared _____, well known to me to be _____ of **Miller Legg** and that he executed the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 2006.

Notary Public

Commission Expires

**STATE OF FLORIDA
VOLUSIA COUNTY**

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgment, personally appeared _____ and _____, well known to me to be the Mayor and City Clerk, respectively, of **THE CITY OF DAYTONA BEACH**, a Florida municipal corporation, and that they severally acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by THE CITY OF DAYTONA BEACH.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 2006.

Notary Public

Commission Expires

ACORD CERTIFICATE OF LIABILITY INSURANCE		CSR MJ MILLE-6	DATE (MM/DD/YYYY) 03/15/06
PRODUCER ACEC/MARSH 701 Market St., Ste. 1100 St. Louis MO 63101 Phone: 800-338-1391 Fax: 888-621-3173		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Miller, Legg & Associates, Inc. 1800 N. DOUGLAS STE. 200 PEMBROKE PINES FL 33024-3200		INSURERS AFFORDING COVERAGE INSURER A Hartford Insurance Company INSURER B INSURER C INSURER D INSURER E	NAIC # 22357

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADDITIONAL INSURED	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A	X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CONTRACTUAL <input checked="" type="checkbox"/> XCU GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO. ECCT <input type="checkbox"/> LOC	84SBWBU0728	11/01/05	11/01/06	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000 \$ 1,000,000
						MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	\$ 10,000 \$ 1,000,000 \$ 2,000,000 \$ 2,000,000
A	X	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	84UEGLL3809	11/01/05	11/01/06	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
						BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	\$ \$ \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC AGG	\$ \$ \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE RETENTION \$				EACH OCCURRENCE AGGREGATE	\$ \$ \$ \$ \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 \$ \$ \$
A		OTHER					
A		COMPUTER/MEDIA	84MSGXT8373	11/01/05	11/01/06	ALL RISK	140,000
A		VALUABLE PAPERS	84SBWBU0728	11/01/05	11/01/06	LIMIT	100,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

THE CITY OF DAYTONA BEACH IS INCLUDED AS ADDITIONAL INSURED ON ALL POLICIES.

CERTIFICATE HOLDER

CITY OF DAYTONA BEACH PO BOX 2451 DAYTONA BEACH FL 32115-2451	CTTYDAY1
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CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
AUTHORIZED REPRESENTATIVE <i>Alfred A. Patterson</i>

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

Client#: 5769

MILLLEG3

ACORD CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YY) 03/14/06
PRODUCER Suncoast Insurance Associates P.O. Box 22668 Tampa, FL 33622-2668 813 289-5200		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURED Miller Legg & Associates, Inc. 1800 N. Douglas Road, #200 Pembroke Pines, FL 33024		INSURERS AFFORDING COVERAGE INSURER A: St. Paul Fire & Marine Ins Co INSURER B: XL Specialty Insurance Company INSURER C: INSURER D: INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ FIRE DAMAGE (Any one fire) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
	EXCESS LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WVA2448829	05/01/05	05/01/06	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
B	OTHER Professional Liability	DPR9418073	02/21/06	02/21/07	\$2,000,000 Each Claim \$4,000,000 Ann Aggr

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS
 Professional Liability is written on a claims made and reported basis.

CERTIFICATE HOLDER	ADDITIONAL INSURED/INSURER LETTER:	CANCELLATION
City of Daytona Beach PO Box 2451 Daytona Beach, FL 32115-2451		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 