RESOLUTION NO. 23R-09-272

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAUDERHILL APPROVING THE LIST OF QUALIFIED CONSULTING FIRMS IN RESPONSE TO RFQ 2023-045, AS RECOMMENDED BY THE EVALUATION COMMITTEE, TO PROVIDE MISCELLANEOUS PROFESSIONAL SERVICES FOR THE CITY IN VARIOUS DISCIPLINES AND IN ACCORDANCE WITH FLORIDA STATUTES, CHAPTER 287, THE CONSULTANTS` COMPETITIVE NEGOTIATION ACT ("CCNA"); PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY CITY MANAGER, DESORAE GILES-SMITH)

BE IT RESOLVED BY THE COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA:

SECTION 1. The attached list of Qualified Consulting Firms in response to Request for Qualfications (RFQ) #2023-045 to provide miscellaneous professional services for the City in various disciplines and in accordance with Florida Statutes, Chapter 287, The Consultants` Competitive Negotiation Act ("CCNA") on an as needed basis, in no particular order, a copy of which is attached hereto and incorporated herein, is hereby approved. All consultants must have current Certificates of Use to be considered qualified and to actually be awarded any work.

SECTION 2. This Resolution shall take effect immediately upon its passage an adoption.

DATED this 28 day of September, 2023.

PASSED AND ADOPTED on first reading this 28 day of September, 2023.

PRESIDING OFFICER

ATTEST:

CITY CLERK

MOTION	L. Martin
SECOND	S. Martin
M. DUNN	Yes
D. GRANT	Absent
L. MARTIN	Yes
S. MARTIN	Yes
K. THURSTON	Yes

Approved as to Form

Angel Petti Rosenberg
City Attorney

City of Lauderhill

City Commission
Chambers at City Hall
5581 W. Oakland Park Blvd.
Lauderhill, FL, 33313
www.lauderhill-fl.gov

File Details

File Number: 23R-5349

File ID:	23R-5349	**Type:**	Resolution	**Status:**	Agenda Ready
Version:	1	**Reference:**		**In Control:**	City Commission Meeting
				File Created:	09/18/2023
File Name:	MISCELLANEOUS PROFESSIONAL SERVICES			**Final Action:**	

Title: **RESOLUTION NO. 23R-09-272: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAUDERHILL APPROVING THE LIST OF QUALIFIED CONSULTING FIRMS IN RESPONSE TO RFQ 2023-045, AS RECOMMENDED BY THE EVALUATION COMMITTEE, TO PROVIDE MISCELLANEOUS PROFESSIONAL SERVICES FOR THE CITY IN VARIOUS DISCIPLINES AND IN ACCORDANCE WITH FLORIDA STATUTES, CHAPTER 287, THE CONSULTANTS' COMPETITIVE NEGOTIATION ACT ("CCNA"); PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY CITY MANAGER, DESORAE GILES-SMITH).**

Notes:

Sponsors:		**Enactment Date:**	
Attachments:	RES-23R-09-272-List-Qualified Consultants-Misc Disciplines.pdf, RFQ 2023-045 FINAL SCORES, Recommendations List	**Enactment Number:**	
Contact:		**Hearing Date:**	
*** Drafter:**	kwhite@lauderhill-fl.gov	**Effective Date:**	

History of Legislative File

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:

Text of Legislative File 23R-5349

RESOLUTION NO. 23R-09-272: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAUDERHILL APPROVING THE LIST OF QUALIFIED CONSULTING FIRMS IN RESPONSE TO RFQ 2023-045, AS RECOMMENDED BY THE EVALUATION COMMITTEE, TO PROVIDE MISCELLANEOUS PROFESSIONAL SERVICES FOR THE CITY IN VARIOUS DISCIPLINES AND IN ACCORDANCE WITH FLORIDA STATUTES, CHAPTER 287, THE CONSULTANTS' COMPETITIVE NEGOTIATION ACT ("CCNA"); PROVIDING FOR AN EFFECTIVE DATE

(REQUESTED BY CITY MANAGER, DESORAE GILES-SMITH).

Request Action:
The City Commission is being requested accept the recommendations of the evaluation committee and to approve the below list of consulting firms to provide Miscellaneous Professional Services with the City in various disciplines and in accordance with Florida Statutes, Chapter 287 (CCNA).

Need:
The City uses a pool of consultants to maintain workload and ensure qualified design compliance of capital improvement projects related with public roads, utilities, ENVIRONMENTAL services and facilities. The list of consultants will aid the City in it impeding design and construction projects.

Summary Explanation/ Background:
In August of 2023 the City issued RFQ 2023-045 Miscellaneous Professional Services. A total of 41 responses were received and the evaluation committee after careful consideration is recommending the selection of the attached list of consultants.

Attachments:
final scores
Recommendations List

Cost Summary/ Fiscal Impact:
varies budget codes

Estimated Time for Presentation:

Master Plan:

Goal 1: Clean, Green Sustainable Environment
[ ] Increase mass transit ridership [ ] Reduce City energy consumption
[ ] Reduce water consumption

Goal 2: Safe and Secure City of Lauderhill
[ ] Crime in lower 50% in Broward [ ] Residents feel safe in neighborhood
[ ] Reduce emergency fatalities

Goal 3: Open Spaces and Active Lifestyle for all ages
[ ] Increase participation in youth sports [ ] Add new park land and amenities
[ ] Increase attendance at cultural programs and classes

Goal 4: Growing Local Economy, Employment and Quality of Commercial Areas
[ ] Increase commercial tax base [ ] Increase employment in Lauderhill businesses
[ ] Decrease noxious and blighted uses in commercial areas

Goal 5: Quality Housing at all Price Ranges and Attractive Communities
[ ] Neighborhood signs and active HOAs [ ] Housing & streets improved, litter reduced
[ ] Increase proportion of single family homes and owner occupied housing

Goal 6: Efficient and Effective City Government, Customer Focused & Values Diversity

[ ] Improves City efficiency [ ] Increase use of Information Technology
[ ] Increases residents perception of Lauderhill as an excellent place to live

RFQ 2023-045									
Miscellaneous Professional Services									
FINAL RANKING OF PROPOSERS									
	Letter of Intrest and Qualifications	Experience, Stability and availability of staff	Similar projects	Prior Experience	Client references	Feature Project	Project Management and Cost	Internal QA/QC	TOTAL
BRIAN PICINIC									
ADA ENGINEERING	14.00	9.00	13.00	9.00	8.00	9.00	9.00	9.00	80.00
AVIROM ASSOCIATES	14.00	10.00	14.00	10.00	17.00	9.00	10.00	9.00	93.00
BAXTER WOODMAN	14.00	9.00	15.00	0.00	13.00	10.00	10.00	9.00	80.00
BCC ENGINEERING	14.00	10.00	15.00	10.00	16.00	10.00	10.00	10.00	95.00
BEA ARCHITECTS	14.00	9.00	14.00	0.00	16.00	10.00	9.00	9.00	81.00
CALVIN, GIORDANO, & ASSOCIATES	15.00	9.00	15.00	10.00	16.00	10.00	9.00	9.00	93.00
CARNAHAN, PROCTOR, & CROSS	14.00	10.00	14.00	0.00	17.00	9.00	9.00	8.00	81.00
CAULFEILD & WHEELER	13.00	8.00	12.00	8.00	17.00	8.00	8.00	8.00	82.00
CONEMCO ENGINEERING	12.00	8.00	11.00	0.00	16.00	8.00	8.00	8.00	71.00
CORRADINO GROUP	14.00	10.00	14.00	7.00	16.00	8.00	9.00	9.00	87.00
CPZ ARCHITECTS	14.00	9.00	15.00	0.00	17.00	10.00	10.00	9.00	84.00
CRAIG A SMITH	13.00	10.00	13.00	8.00	16.00	8.00	8.00	8.00	84.00
CRAVEN, THOMPSON, & ASSOCIATES	14.00	9.00	13.00	5.00	18.00	9.00	9.00	9.00	86.00
DESIGN 2 FORM	13.00	8.00	12.00	0.00	15.00	8.00	8.00	8.00	72.00
DRMP	13.00	9.00	13.00	0.00	16.00	8.00	8.00	8.00	75.00
EAC CONSULTING	14.00	9.00	14.00	0.00	17.00	9.00	9.00	9.00	81.00
ENGENUITY GROUP	13.00	8.00	13.00	5.00	15.00	9.00	9.00	8.00	80.00
ENGINEERING CONSORTIUM	12.00	8.00	12.00	8.00	15.00	9.00	8.00	8.00	80.00
FLORIDA TECHNICAL CONSULTANT	13.00	8.00	12.00	0.00	15.00	9.00	9.00	9.00	75.00
FLYNN ENGINEERING	14.00	9.00	14.00	9.00	17.00	9.00	10.00	10.00	92.00
HSQ GROUP	13.00	10.00	13.00	9.00	16.00	8.00	9.00	9.00	87.00
KCI TECHNOLOGIES	14.00	9.00	14.00	0.00	18.00	9.00	9.00	9.00	82.00
LAKDAS-YOHALEM	14.00	9.00	14.00	9.00	17.00	8.00	9.00	9.00	89.00
LANGAN ENGINEERING	14.00	9.00	15.00	8.00	15.00	9.00	9.00	10.00	89.00
MCMAHON	14.00	10.00	14.00	7.00	17.00	9.00	9.00	9.00	89.00
MILLER LEGG	14.00	10.00	15.00	9.00	17.00	9.00	10.00	10.00	94.00
RAYMOND	13.00	8.00	11.00	0.00	15.00	8.00	9.00	9.00	73.00
SALTZ MICHELSON ARCHITECTS	13.00	8.00	13.00	7.00	16.00	8.00	8.00	8.00	81.00
STAR CONTROL	14.00	9.00	14.00	0.00	17.00	9.00	9.00	8.00	80.00
SYNALOVSKI, ROMANIK, & SAYE (SRS)	14.00	9.00	15.00	10.00	18.00	10.00	7.00	8.00	91.00
TERRACON	13.00	9.00	14.00	8.00	15.00	9.00	10.00	9.00	87.00
TRC WORLDWIDE	14.00	9.00	14.00	0.00	16.00	9.00	9.00	9.00	80.00
WEST CONSTRUCTION	10.00	5.00	5.00	0.00	15.00	7.00	8.00	5.00	55.00

	Letter of Intrest and Qualifications	Experience, Stability and availability of staff	Similar Projects	Prior Experience	Client references	Feature Project	Project Management and Cost	Internal QA/QC	TOTAL
RANDY YOUSE									
CALVIN, GIORDANO, & ASSOCIATES	11.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**81.00**
FLYNN ENGINEERING	11.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**81.00**
ADA ENGINEERING	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
AVIROM ASSOCIATES	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
CARNAHAN, PROCTOR, & CROSS	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
CORRADINO GROUP	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
CPZ ARCHITECTS	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
CRAIG A SMITH	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
CRAVEN, THOMPSON, & ASSOCIATES	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
DESIGN 2 FORM	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
EAC CONSULTING	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
ENGENUITY GROUP	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
FLORIDA TECHNICAL CONSULTANT	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
HSQ GROUP	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
LAKDAS-YOHALEM	11.00	7.00	13.00	9.00	20.00	6.00	7.00	7.00	**80.00**
LANGAN ENGINEERING	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
MCMAHON	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
MILLER LEGG	11.00	6.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
SALTZ MICHELSON ARCHITECTS	11.00	6.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
SYNALOVSKI, ROMANIK, & SAYE (SRS)	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
STAR CONTROL	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
TERRACON	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
TRC WORLDWIDE	10.00	7.00	13.00	9.00	20.00	7.00	7.00	7.00	**80.00**
BEA ARCHITECTS	10.00	7.00	13.00	9.00	20.00	6.00	7.00	7.00	**79.00**
CONEMCO ENGINEERING	10.00	7.00	13.00	9.00	20.00	6.00	7.00	7.00	**79.00**
DRMP	10.00	7.00	13.00	9.00	20.00	6.00	7.00	7.00	**79.00**
ENGINEERING CONSORTIUM	10.00	7.00	13.00	9.00	20.00	6.00	7.00	7.00	**79.00**
KCI TECHNOLOGIES	10.00	7.00	13.00	9.00	20.00	6.00	7.00	7.00	**79.00**
BAXTER WOODMAN	10.00	7.00	13.00	9.00	20.00	6.00	6.00	7.00	**78.00**
BCC ENGINEERING	10.00	7.00	13.00	9.00	20.00	6.00	6.00	7.00	**78.00**
CAULFEILD & WHEELER	9.00	7.00	13.00	9.00	20.00	6.00	7.00	7.00	**78.00**
RAYMOND	9.00	6.00	13.00	9.00	20.00	7.00	7.00	7.00	**78.00**
WEST CONSTRUCTION	9.00	6.00	13.00	9.00	20.00	7.00	7.00	6.00	**77.00**

	Letter of Intrest and Qualifications	Experience, Stability and availability of staff	Similar Projects	Prior Experience	Client References	Feature Project	Project Management and Cost	Internal QA/QC	TOTAL
J. MARTIN CALA									
BCC ENGINEERING	15.00	10.00	15.00	10.00	20.00	10.00	8.00	10.00	**98.00**
SYNALOVSKI, ROMANIK, & SAYE (SRS)	15.00	10.00	15.00	10.00	20.00	10.00	8.00	8.00	**96.00**
AVIROM ASSOCIATES	15.00	10.00	15.00	10.00	20.00	10.00	8.00	7.00	**95.00**
MCMAHON	15.00	10.00	10.00	10.00	20.00	10.00	10.00	10.00	**95.00**
TERRACON	15.00	10.00	15.00	10.00	18.00	10.00	8.00	8.00	**94.00**
BAXTER WOODMAN	15.00	10.00	15.00	10.00	18.00	10.00	5.00	10.00	**93.00**
CPZ ARCHITECTS	15.00	10.00	10.00	10.00	20.00	10.00	8.00	10.00	**93.00**
EAC CONSULTING	15.00	10.00	15.00	7.00	18.00	10.00	8.00	10.00	**93.00**
FLYNN ENGINEERING	15.00	10.00	10.00	10.00	20.00	10.00	8.00	10.00	**93.00**
LANGAN ENGINEERING	15.00	10.00	10.00	10.00	20.00	10.00	8.00	10.00	**93.00**
SALTZ MICHELSON ARCHITECTS	15.00	10.00	10.00	10.00	20.00	10.00	8.00	10.00	**93.00**
CORRADINO GROUP	15.00	10.00	10.00	10.00	18.00	10.00	8.00	10.00	**91.00**
CRAIG A SMITH	15.00	10.00	10.00	8.00	20.00	10.00	8.00	10.00	**91.00**
DRMP	15.00	10.00	10.00	10.00	20.00	10.00	8.00	8.00	**91.00**
ENGENUITY GROUP	15.00	10.00	15.00	7.00	18.00	10.00	8.00	8.00	**91.00**
HSQ GROUP	15.00	10.00	10.00	10.00	20.00	10.00	8.00	8.00	**91.00**
LAKDAS-YOHALEM	15.00	10.00	10.00	10.00	18.00	10.00	8.00	10.00	**91.00**
MILLER LEGG	15.00	10.00	10.00	10.00	18.00	10.00	8.00	10.00	**91.00**
CARNAHAN, PROCTOR, & CROSS	15.00	10.00	10.00	10.00	20.00	10.00	8.00	7.00	**90.00**
CAULFEILD & WHEELER	15.00	10.00	15.00	7.00	18.00	10.00	5.00	10.00	**90.00**
STAR CONTROL	15.00	10.00	15.00	7.00	18.00	10.00	8.00	7.00	**90.00**
TRC WORLDWIDE	15.00	10.00	15.00	7.00	18.00	10.00	8.00	7.00	**90.00**
WEST CONSTRUCTION	15.00	10.00	15.00	7.00	18.00	10.00	8.00	7.00	**90.00**
ADA ENGINEERING	15.00	10.00	10.00	10.00	18.00	10.00	8.00	7.00	**88.00**
CALVIN, GIORDANO, & ASSOCIATES	15.00	10.00	10.00	10.00	18.00	10.00	8.00	7.00	**88.00**
ENGINEERING CONSORTIUM	15.00	10.00	10.00	10.00	18.00	10.00	8.00	7.00	**88.00**
RAYMOND	15.00	10.00	10.00	7.00	18.00	10.00	8.00	10.00	**88.00**
BEA ARCHITECTS	15.00	10.00	10.00	7.00	18.00	10.00	8.00	7.00	**85.00**
CONEMCO ENGINEERING	15.00	10.00	10.00	7.00	18.00	10.00	8.00	7.00	**85.00**
CRAVEN, THOMPSON, & ASSOCIATES	15.00	10.00	10.00	7.00	18.00	10.00	8.00	7.00	**85.00**
DESIGN 2 FORM	15.00	10.00	10.00	7.00	18.00	10.00	8.00	7.00	**85.00**
FLORIDA TECHNICAL CONSULTANT	15.00	10.00	10.00	7.00	18.00	10.00	8.00	7.00	**85.00**
KCI TECHNOLOGIES	15.00	10.00	10.00	7.00	18.00	10.00	8.00	7.00	**85.00**

	Letter of Intrest and Qualifications	Experience, Stability and availability of staff	Similar Projects	Prior Experience	Client references	Feature Project	Project Management and Cost	Internal QA/QC	TOTAL
MARC CELETTI									
ADA ENGINEERING									90.00
AVIROM ASSOCIATES									85.00
BAXTER WOODMAN									85.00
BCC ENGINEERING									85.00
BEA ARCHITECTS									85.00
CALVIN, GIORDANO, & ASSOCIATES									85.00
CARNAHAN, PROCTOR, & CROSS									85.00
CAULFEILD & WHEELER									85.00
CONEMCO ENGINEERING									80.00
CORRADINO GROUP									80.00
CPZ ARCHITECTS									80.00
CRAIG A SMITH									80.00
CRAVEN, THOMPSON, & ASSOCIATES									80.00
DESIGN 2 FORM									80.00
DRMP									80.00
EAC CONSULTING									80.00
ENGENUITY GROUP									75.00
ENGINEERING CONSORTIUM									75.00
FLORIDA TECHNICAL CONSULTANT									75.00
FLYNN ENGINEERING									75.00
HSQ GROUP									70.00
KCI TECHNOLOGIES									70.00
LAKDAS-YOHALEM									70.00
LANGAN ENGINEERING									70.00
MCMAHON									70.00
MILLER LEGG									70.00
RAYMOND									70.00
SALTZ MICHELSON ARCHITECTS									70.00
SYNALOVSKI, ROMANIK, & SAYE (SRS)									70.00
STAR CONTROL									70.00
TERRACON									70.00
TRC WORLDWIDE									70.00
WEST CONSTRUCTION									60.00

	Letter of Intrest and Qualifications	Experience, Stability and availability of staff	Similar projects	Prior Experience	Client references	Feature Project	Project Management and Cost	Internal QA/QC	TOTAL
HERB JOHNSON									
FLYNN ENGINEERING	14.00	9.00	14.00	10.00	18.00	9.00	9.00	9.00	**92.00**
CALVIN, GIORDANO, & ASSOCIATES	14.00	9.00	13.00	10.00	18.00	9.00	9.00	9.00	**91.00**
CRAIG A SMITH	14.00	9.00	13.00	9.00	18.00	9.00	9.00	9.00	**90.00**
SALTZ MICHELSON ARCHITECTS	14.00	9.00	14.00	9.00	18.00	9.00	9.00	8.00	**90.00**
ADA ENGINEERING	13.00	8.00	14.00	10.00	18.00	9.00	9.00	8.00	**89.00**
BAXTER WOODMAN	14.00	9.00	14.00	8.00	19.00	9.00	7.00	8.00	**88.00**
HSQ GROUP	13.00	9.00	14.00	10.00	17.00	8.00	8.00	9.00	**88.00**
BCC ENGINEERING	13.00	8.00	14.00	9.00	17.00	9.00	8.00	9.00	**87.00**
AVIROM ASSOCIATES	12.00	8.00	13.00	10.00	18.00	9.00	8.00	8.00	**86.00**
LAKDAS-YOHALEM	14.00	8.00	14.00	10.00	17.00	7.00	7.00	9.00	**86.00**
MCMAHON	14.00	8.00	14.00	8.00	18.00	8.00	9.00	7.00	**86.00**
MILLER LEGG	14.00	9.00	13.00	9.00	17.00	7.00	8.00	8.00	**85.00**
CRAVEN, THOMPSON, & ASSOCIATES	13.00	8.00	13.00	8.00	17.00	8.00	8.00	8.00	**83.00**
WEST CONSTRUCTION	14.00	8.00	13.00	8.00	18.00	8.00	7.00	7.00	**83.00**
CAULFEILD & WHEELER	12.00	8.00	12.00	7.00	18.00	8.00	8.00	9.00	**82.00**
TERRACON	14.00	9.00	14.00	7.00	17.00	7.00	7.00	7.00	**82.00**
BEA ARCHITECTS	11.00	9.00	13.00	8.00	17.00	8.00	7.00	8.00	**81.00**
LANGAN ENGINEERING	13.00	7.00	13.00	8.00	17.00	8.00	8.00	7.00	**81.00**
CARNAHAN, PROCTOR, & CROSS	12.00	8.00	12.00	7.00	17.00	8.00	8.00	8.00	**80.00**
RAYMOND	13.00	7.00	12.00	7.00	16.00	8.00	8.00	7.00	**78.00**
TRC WORLDWIDE	12.00	7.00	12.00	5.00	17.00	8.00	9.00	8.00	**78.00**
SYNALOVSKI, ROMANIK, & SAYE (SRS)	12.00	7.00	12.00	8.00	16.00	8.00	7.00	7.00	**77.00**
CPZ ARCHITECTS	13.00	7.00	12.00	5.00	16.00	7.00	7.00	8.00	**75.00**
DESIGN 2 FORM	12.00	7.00	12.00	6.00	16.00	7.00	8.00	7.00	**75.00**
EAC CONSULTING	12.00	8.00	12.00	5.00	16.00	8.00	7.00	7.00	**75.00**
ENGENUITY GROUP	13.00	7.00	12.00	6.00	16.00	7.00	7.00	7.00	**75.00**
KCI TECHNOLOGIES	12.00	7.00	13.00	5.00	16.00	8.00	7.00	7.00	**75.00**
STAR CONTROL	13.00	7.00	12.00	5.00	15.00	8.00	8.00	7.00	**75.00**
CORRADINO GROUP	12.00	8.00	12.00	5.00	15.00	7.00	8.00	7.00	**74.00**
DRMP	12.00	7.00	12.00	5.00	15.00	7.00	7.00	7.00	**72.00**
ENGINEERING CONSORTIUM	12.00	7.00	11.00	5.00	15.00	7.00	8.00	7.00	**72.00**
FLORIDA TECHNICAL CONSULTANT	12.00	7.00	12.00	5.00	15.00	7.00	7.00	7.00	**72.00**
CONEMCO ENGINEERING	12.00	7.00	10.00	5.00	16.00	7.00	7.00	7.00	**71.00**

Applicants	1. Roadway, Traffic and Transportation	2. Land development, Civil-Site and Drainage	3. Electromechanical and Instrumentation	4. Structural Engineering	5. Water Treatment and Water Distribution	6.Wastewater and Lift Stations	7. Hydrogeology and Environmental	8. Landscape Architecture	9. Architectural Design	10 Surveying and Utility Locates	11. Construction Inspection	12. SCADA	13. Cost Estimating/Value Engineering
ADA ENGINEERING			X		X								
AVIROM ASSOCIATES										X			
BCC ENGINEERING	X	X		X									
BEA ARCHITECTS									X				
CALVIN, GIORDANO, & ASSOCIATES					X			X					
CONEMCO ENGINEERING											X		
CRAIG A SMITH					X	X							
DESIGN 2 FORM									X				
DRMP	X	X								X			
EAC CONSULTING						X							
ENGINEERING CONSORTIUM			X										
FLYNN ENGINEERING						X							
KCI TECHNOLOGIES		X						X		X			
LAKDAS-YOHALEM				X							X		
LANGAN ENGINEERING							X						
MCMAHON	X												
MILLER LEGG								X					
SYNALOVSKI, ROMANIK, & SAYE (SRS)									X				
STAR CONTROL												X	
TERRACON				X			X						

Applicants	Score	1. Roadway, Traffic and Transportation	2. Land development, Civil-Site and Drainage	3. Electromechanical and Instrumentation	4. Structural Engineering	5. Water Treatment and Water Distribution	6.Wastewater and Lift Stations	7. Hydrogeology and Environmental	8. Landscape Architecture	9. Architectural Design	10 Surveying and Utility Locates	11. Construction Inspection	12. SCADA	13. Cost Estimating/Value Engineering
ADA ENGINEERING	82.80	82.80		82.80		82.80								
AVIROM ASSOCIATES	87.60										87.60			
BAXTER WOODMAN	77.40						77.40			77.40				
BCC ENGINEERING	86.80	86.80	86.80		86.80									
BEA ARCHITECTS	84.60									84.60				
CALVIN, GIORDANO, & ASSOCIATES	81.80	81.80				81.80			81.80					
CARNAHAN, PROCTOR, & CROSS	88.60													
CAULFEILD & WHEELER	76.40										76.40			
CONEMCO ENGINEERING	79.60				79.60						79.60	79.60		
CORRADINO GROUP	79.80	79.80												
CPZ ARCHITECTS	81.20									81.20				
CRAIG A SMITH	80.40					80.40	80.40				80.40			
CRAVEN, THOMPSON, & ASSOCIATES	76.40		76.40				76.40		76.40					
DESIGN 2 FORM	87.00									87.00				
DRMP	86.80	86.80	86.80								86.80			
EAC CONSULTING	80.20		80.20			80.20	80.20							
ENGENUITY GROUP	77.80		77.80				77.80				77.80			
ENGINEERING CONSORTIUM	85.80			85.80										
FLORIDA TECHNICAL CONSULTANT	79.00										79.00			
FLYNN ENGINEERING	83.40	83.40	83.40				83.40							
HSQ GROUP	81.40	81.40	81.40								81.40			
KCI TECHNOLOGIES	85.20		85.20						85.20		85.20			
LAKDAS-YOHALEM	86.00				86.00							86.00		
LANGAN ENGINEERING	81.40		81.40					81.40			81.40			
MCMAHON	87.60	87.60												
MILLER LEGG	79.20		79.20						79.20		79.20			
RAYMOND	78.40				78.40					78.40				
SALTZ MICHELSON ARCHITECTS	75.20									75.20				
SYNALOVSKI, ROMANIK, & SAYE (SRS)	87.00									87.00				
STAR CONTROL	80.20												80.20	
TERRACON	85.60				85.60			85.60						
TRC WORLDWIDE	84.20				84.20									
WEST CONSTRUCTION	73.00									73.00				

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: DESIGN 2 FORM

Categories for consideration:
Architectural Design

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal		
Engineer P.E.		
Engineer E.I.		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal was $280	$290.00	Zamarr Brown
Architect R.A.	$250.00 ✓	Joelle Flowers / Maurice Walden
Architect A.I.	$95.00 ✓	T.B.D.
Design Architect was $175	$210.00 ✓	Katie Arredondo
Project Manager	$180.00 ✓	Ivonne Sanchez / Crispin Walsh
Drafting Technician was $110	$145.00 ✓	Amaya Cameron
Scheduler/Estimator	$160.00 ✓	T.B.D.
Clerical	$92.00 ✓	Ketlene Pierre / Brenda Shuler
Construction Inspector	$140.00 ✓	Crispin Walsh / Maurice Walden
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: ADA ENGINEERING

Categories for consideration:
Electromechanical and Instrumentation
Water Treatment and Water Distribution

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	$276	Alberto D. Argudin
Engineer P.E.	$219	Waddie Ruiz, Ramiro Herdocia,
		Oscar Rubio, Michael Casanova
Engineer E.I.	$168	Olga Casadevall, Edgar
		Espinoza
Project Manager	$225	Jorge Plasencia
Drafting Technician	$129	Misael Ramirez, Jose Lima,
		Christian Penate
Scheduler/Estimator	$177	Julio Cuenca
Clerical	$96	Memuna Latif
Construction Inspector	$144	Carlos Villarreal
Environmental Consultation		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

Bowman

BOWMAN CONSULTING GROUP LTD.

East Coast Transportation

SCHEDULE B - HOURLY RATE

January 2024

CLASSIFICATION	HOURLY RATES
Principal	$285.00
Department Executive	$270.00
Senior Project Manager II	$240.00
Senior Project Manager I	$220.00
Project Manager II	$200.00
Project Manager	$180.00
Technical Lead	$185.00
Assistant Project Manager	$170.00
Project Coordinator	$135.00
Engineer I | Engineer II | Engineer III	$120.00 | $140.00 | $150.00
Planner I | Planner II | Planner III	$110.00 | $135.00 | $150.00
Designer I | Designer II | Designer III	$105.00 | $115.00 | $120.00
CAD Drafter I	$95.00
Senior Construction Inspector	$165.00
Construction Manager	$180.00
Construction Inspector	$130.00
Sr. PR Hyd/Geo	$200.00
Traffic Technician	$115.00
Traffic Counter	$70.00
Survey Tech I | Survey Tech II | Survey Tech III	$100.00 | $110.00 | $150.00
Senior Surveyor	$190.00
Survey Field Crew–1 Man	$115.00
Field Party	$100.00
UAV Operation	$105.00
Administrative Professional	$95.00

Initials: Bowman_____/ Client_____

THE CITY OF LAUDERHILL

PROPOSED SERVICE CATEGORIES AND FEES

2023-045 Miscellaneous Professional Service

Name of Firm: EAC CONSULTING

Categories for consideration:

Wastewater and Lift Stations

Engineering Services	**Maximum Billable Hourly Rate ($)**	**Name of Professional**
Principal	323.60	Huntley Higgins, PE
Chief Engineer	313.48	Michael Adeife, PE
Project Manager	260.31	Satiar Shirazi, PE
Senior Project Engineer	214.65	Evelyn Rodriguez, PE
Project Engineer	197.80	Eduardo Garces, PE
Design Engineer	168.54	Elias Guevara, PE
Engineering Intern	124.97	Matheus Dutra, EI
CAD Drafting Technician	113.69	Kelly Carpenter, EI
Senior Construction Manager	249.76	Jenner Alfaro, EI
Senior Inspector	146.28	Andres McEwen
Inspector	87.64	Daniel Morales
Clerical	101.76	Nicole Mallard

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: ENGINEERING CONSORTIUM

Categories for consideration:
Electromechanical and Instrumentation

Engineering Services	Maximum Hourly Rate Hourly Rate ($)	Name of Professional
Principal	200.00	Wayne A. Williams, P.E
Engineer P.E.	165.87	Wayne A. Williams, P.E
Engineer E.I.	105.05	
Project Manager	132.69	Hector Stevens
Drafting Technician	49.76	Rhyan Smith
Scheduler/Estimator		
Administrative	53.08	Sophia Mannings
Construction Inspector	105.05	
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: MCMAHON

Categories for consideration:
Roadway, Traffic and Transportation

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	255	R. Trent Ebersole, P.E.
Engineer P.E.	140	Scott Gehman, P.E.
Engineer E.I.	115	Anika Tabassum, E.I.
Project Manager	175	William Grieve, P.E.
Drafting Technician	90	Hector Ortiz
Scheduler/Estimator		
Clerical	90	Giselle Marquez
Construction Inspector		
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: TERRACON

Categories for consideration:
Structural Engineering
Hydrogeology and Environmental

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	$250	Hugo Soto, P.E.
Engineer P.E.	$180	Rutugandha Nulkar, P.E.
Engineer E.I.	$125	Edwin Roa Ramos
Project Manager	$160	Nick Mata, P.E.
Drafting Technician	$90	Andy Schifano
Scheduler/Estimator	$105	Guillermo Maya
Clerical	$75	Sylvia Serrano, Imilsi Santos Guerra
Construction Inspector	$90	David O'Farill
Environmental Consultation		
Principal	$250	Richard Minichiello
Engineer P.E. /Geologist (P.G.)	$185	Shawn Oulette/Donna Cline
Engineer E.I./Geologist (G.I.T)	$125	Jonathan Wright, Jessica Endicott
Hydro geologist/Geologist/Scientist	$115	Gabrielle Skelton, Katherine Espinal
Senior Scientist /Sr. Project Manager	$175	Paul Thornbury
Drafting Technician	$85	Andy Schifano
Project Director — Scheduler/Estimator	$230	Steven Harrison
Clerical	$75	Sylvia Serrano, Danielle Adams
Project Manager — Construction Inspector	$150	Mark Kearns
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm SALTZ MICHELSON ARCHITECTS

Categories for consideration:

Architectural Design

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal		
Engineer P.E.		
Engineer E.I.		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal	**$295.00**	**Charles Michelson, Robert Halula, Moe Azar**
~~Design Architect~~ **Designer**	**$195.00**	**Victor Alvarez**
~~ArchitectR.A.~~ **Senior Project Manager**	**$195.00**	**Sheffey Devier, Mary Farlander, Monica Capelluto**
Architect A.I.	**---**	**---**
Project Manager	**$175.00**	**Elias Ramos / Maday Gutierrez / Frida Dunayer / Zack Hamid**
Job Captain	**$160.00**	Elvis Tapia Jervez, Geraldine Medina, Yi-Wei Chiou
~~DraftingTechnician~~ **Project Specialist III**	**$145.00**	Baran Gul, Juan Garcia
~~Scheduler/Estimator~~ **Project Specialist II**	**$135.00**	Stacy Ramos

~~ConstructionInspector~~ **Project Specialist I**	**$125.00**	Jennyfer Hernandez, Alejandro Calzadilla Moises Homes
Clerical	**$95.00**	Jessica Weatherspoon
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

C

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm SALTZ MICHELSON ARCHITECTS

Categories for consideration:

Architectural Design

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal		
Engineer P.E.		
Engineer E.I.		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal	**$295.00**	**Charles Michelson, Robert Halula, Moe Azar**
~~Design Architect~~ **Designer**	**$195.00**	**Victor Alvarez**
~~ArchitectR.A.~~ **Senior Project Manager**	**$195.00**	**Sheffey Devier, Mary Farlander, Monica Capelluto**
Architect A.I.	---	---
Project Manager	**$175.00**	**Elias Ramos / Maday Gutierrez / Frida Dunayer / Zack Hamid**
Job Captain	**$160.00**	Elvis Tapia Jervez, Geraldine Medina, Yi-Wei Chiou
~~DraftingTechnician~~ **Project Specialist III**	**$145.00**	Baran Gul, Juan Garcia
~~Scheduler/Estimator~~ **Project Specialist II**	**$135.00**	Stacy Ramos

~~ConstructionInspector~~ **Project Specialist I**	**$125.00**	Jennyfer Hernandez, Alejandro Calzadilla Moises Homes
Clerical	**$95.00**	Jessica Weatherspoon
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

C

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: DRMP

Categories for consideration:
Roadway, Traffic, and Transportation
Land Development, Civil-Site and Drainage
Surveying and Utility Locates

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	$280.00	Amanda Woods
Engineer P.E.	$230.00	Adam Maze
Engineer E.I.	$150.00	Josh Carter
Project Manager	$220.00	Evhen Kyj
Drafting Technician	$110.00	Abdalla Hidaytalla
Scheduler/Estimator	$180.00	Rasha Al Obaydi
Clerical	$95.00	Kelly Stout
Construction Inspector	$135.00	Joe Michel
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.		
Professional Surveyor	$220.00	Matt Floyd
Survey Crew	$260.00	Lake Howard/Dave Ferels/Jerry Gallegos/Hunter Sears
Drafting Technician	$120.00	Landis Downs
Senior Inspector (C.E.I.)	$160.00	Arne Lash
Field technician	$120.00	Ronald Hutson
Clerical		
(list special equipment separately)	$4500.00	Mobile Lidar Equipment daily rate

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: DRMP

Categories for consideration:
Roadway, Traffic, and Transportation
Land Development, Civil-Site and Drainage
Surveying and Utility Locates

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	$280.00	Amanda Woods
Engineer P.E.	$230.00	Adam Maze
Engineer E.I.	$150.00	Josh Carter
Project Manager	$220.00	Evhen Kyj
Drafting Technician	$110.00	Abdalla Hidaytalla
Scheduler/Estimator	$180.00	Rasha Al Obaydi
Clerical	$95.00	Kelly Stout
Construction Inspector	$135.00	Joe Michel
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.		
Professional Surveyor	$220.00	Matt Floyd
Survey Crew	$260.00	Lake Howard/Dave Ferels/Jerry Gallegos/Hunter Sears
Drafting Technician	$120.00	Landis Downs
Senior Inspector (C.E.I.)	$160.00	Arne Lash
Field technician	$120.00	Ronald Hutson
Clerical		
(list special equipment separately)	$4500.00	Mobile Lidar Equipment daily rate

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: CRAIG A SMITH

Categories for consideration:
Water Treatment and Water Distribution
Wastewater and Lift Stations

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	250.00	
Engineer P.E.	195.00	
Engineer E.I.	145.00	
Project Manager	170.00	
Drafting Technician	100.00	
Scheduler/Estimator	125.00	
Clerical	65.00	
Construction Inspector	105.00	
Environmental Consultation		
Principal	250.00	
Engineer P.E.	195.00	
Engineer E.I.	145.00	
Hydro geologist		
Senior Scientist		
Drafting Technician	100.00	
Scheduler/Estimator	125.00	
Clerical	65.00	
Construction Inspector	105.00	
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.	195.00	
Professional Surveyor	165.00	
Survey Crew	165.00	
Drafting Technician	100.00	
Senior Inspector (C.E.I.)	130.00	
Field technician	105.00	
Clerical	65.00	
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: CRAIG A SMITH

Categories for consideration:
Water Treatment and Water Distribution
Wastewater and Lift Stations

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	250.00	
Engineer P.E.	195.00	
Engineer E.I.	145.00	
Project Manager	170.00	
Drafting Technician	100.00	
Scheduler/Estimator	125.00	
Clerical	65.00	
Construction Inspector	105.00	
Environmental Consultation		
Principal	250.00	
Engineer P.E.	195.00	
Engineer E.I.	145.00	
Hydro geologist		
Senior Scientist		
Drafting Technician	100.00	
Scheduler/Estimator	125.00	
Clerical	65.00	
Construction Inspector	105.00	
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.	195.00	
Professional Surveyor	165.00	
Survey Crew	165.00	
Drafting Technician	100.00	
Senior Inspector (C.E.I.)	130.00	
Field technician	105.00	
Clerical	65.00	
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: STAR CONTROL

Categories for consideration:
Scada

Maximum Hourly Rate

Scada Services	Hourly Rate ($)	Name of Professional Note: Name in RED is the leading professional
Scada System Engineer	$200	Ron Zetouni, Diego Pinto, James Mondale, Charles Mondale, Gilbert Greene, Matheus Melo, Tzvi Magril
Control Comm. Instrumentation	$150	Charles Mondale, Ron Zetouni, Diego Pinto, James Mondale, Tzvi Magril
Electrical Devices	$150	Charles Mondale, James Mondale, Tzvi Magril
Project Manager	$200	Tzvi Magril, Ron Zetouni, Inda Lapidot, Charles Mondale, Diego Pinto
Documentation Drafting	$110	James Mondale, Tzvi Magril, Charles Mondale, Gilbert Greene
Scheduler/Estimator	$180	Tzvi Magril, Diego Pinto, Charles Mondale, Ron Zetouni, Inda Lapidot
Clerical	$95	Inda Lapidot, Tzvi Magril
Construction Inspector		
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: STAR CONTROL

Categories for consideration:
Scada

Maximum Hourly Rate

Scada Services	Hourly Rate ($)	Name of Professional Note: Name in RED is the leading professional
Scada System Engineer	$200	Ron Zetouni, Diego Pinto, James Mondale, Charles Mondale, Gilbert Greene, Matheus Melo, Tzvi Magril
Control Comm. Instrumentation	$150	Charles Mondale, Ron Zetouni, Diego Pinto, James Mondale, Tzvi Magril
Electrical Devices	$150	Charles Mondale, James Mondale, Tzvi Magril
Project Manager	$200	Tzvi Magril, Ron Zetouni, Inda Lapidot, Charles Mondale, Diego Pinto
Documentation Drafting	$110	James Mondale, Tzvi Magril, Charles Mondale, Gilbert Greene
Scheduler/Estimator	$180	Tzvi Magril, Diego Pinto, Charles Mondale, Ron Zetouni, Inda Lapidot
Clerical	$95	Inda Lapidot, Tzvi Magril
Construction Inspector		
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

Flynn Engineering Services, PA

Maximum Hourly Rate

City of Lauderhill Oct 2023

Engineering Services	Hourly Rate	Name of Professional
Principal	$270	Jay Flynn, PE
Engineer, PE	$225	Blake Kidwell, PE
		Dennis Shultz, PE
		Shane Grabski, PE
Engineer, EI	$185	Andres Salzberger, EI
Project Manager	$225	one of the above engineers
Drafting Technician	$125	Julia Gaffney
Scheduler/Estimator		one of the above engineers
Clerical	$80	Susan Storelli
Construction Inspector		one of the above engineers

Flynn Engineering Services, PA

Maximum Hourly Rate

City of Lauderhill Oct 2023

Engineering Services	Hourly Rate	Name of Professional
Principal	$270	Jay Flynn, PE
Engineer, PE	$225	Blake Kidwell, PE
		Dennis Shultz, PE
		Shane Grabski, PE
Engineer, EI	$185	Andres Salzberger, EI
Project Manager	$225	one of the above engineers
Drafting Technician	$125	Julia Gaffney
Scheduler/Estimator		one of the above engineers
Clerical	$80	Susan Storelli
Construction Inspector		one of the above engineers

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: CONEMCO ENGINEERING

Categories for consideration:
Construction Inspection

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	225.15	Jose A. Compres
Engineer P.E.	206.63	Alfonso Alzamora
Engineer E.I.	150.00	Jose M. Peralta
Project Manager	168.15	Marieli P. Sosa
Drafting Technician	79.80	Moises Arias
Scheduler/Estimator	179.55	Carmen Serrano
Clerical	71.25	Marquesa Avila
Construction Inspector	99.75	Oscar Zamora
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.	206.63	Hector Vergara
Professional Surveyor	199.50	John Sassine
Survey Crew	182.40	Luis Soto (2 men crew)
Drafting Technician	79.80	Raymundo Garcia
Senior Inspector (C.E.I.)	168.15	Romulo Badell
Field technician	99.75	Enmanuel Ferreiras
Clerical	71.25	Dayana Perez
(list special equipment separately)		

Hourly Rates based on a 2.85 multiplier

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: CONEMCO ENGINEERING

Categories for consideration:
Construction Inspection

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	225.15	Jose A. Compres
Engineer P.E.	206.63	Alfonso Alzamora
Engineer E.I.	150.00	Jose M. Peralta
Project Manager	168.15	Marieli P. Sosa
Drafting Technician	79.80	Moises Arias
Scheduler/Estimator	179.55	Carmen Serrano
Clerical	71.25	Marquesa Avila
Construction Inspector	99.75	Oscar Zamora
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.	206.63	Hector Vergara
Professional Surveyor	199.50	John Sassine
Survey Crew	182.40	Luis Soto (2 men crew)
Drafting Technician	79.80	Raymundo Garcia
Senior Inspector (C.E.I.)	168.15	Romulo Badell
Field technician	99.75	Enmanuel Ferreiras
Clerical	71.25	Dayana Perez
(list special equipment separately)		

Hourly Rates based on a 2.85 multiplier

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: AVIROM ASSOCIATES

Categories for consideration: Surveying and Utility Locates

Maximum Hourly Rate

Land Surveying Services	Hourly Rate ($)	Name of Professional
Principal	300	Michael D. Avirom
Senior PLS	175	John T. Doogan
Survey crew (2 person)	160	
Survey crew (3 person)	220	
CAD technician	100	
Senior CAD technician	125	William Evans

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: AVIROM ASSOCIATES

Categories for consideration: Surveying and Utility Locates

Maximum Hourly Rate

Land Surveying Services	Hourly Rate ($)	Name of Professional
Principal	300	Michael D. Avirom
Senior PLS	175	John T. Doogan
Survey crew (2 person)	160	
Survey crew (3 person)	220	
CAD technician	100	
Senior CAD technician	125	William Evans

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: SYNALOVSKI ROMANIK SAYE, LLC

Categories for consideration:
Architectural Design

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal		
Engineer P.E.		
Engineer E.I.		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal	$250.00	Manuel Synalovski, AIA, LEED AP
Architect R.A.	$225.00	Merrill Romanik, AIA, LEED AP
Architect A.I.	$175.00	
Design Architect	$150.00	Chris Bray / Carlos Diaz
Project Manager	$125.00	Steven Hatzidakis
Drafting Technician	$100.00	Javier Reboyras / Shalina Chugani
Scheduler/Estimator	$150.00	
Clerical / Admin	$125.00	Cristi Marin
Interior Design	$110.00	Nicole Puente-Solis
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: SYNALOVSKI ROMANIK SAYE, LLC

Categories for consideration:
Architectural Design

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal		
Engineer P.E.		
Engineer E.I.		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal	$250.00	Manuel Synalovski, AIA, LEED AP
Architect R.A.	$225.00	Merrill Romanik, AIA, LEED AP
Architect A.I.	$175.00	
Design Architect	$150.00	Chris Bray / Carlos Diaz
Project Manager	$125.00	Steven Hatzidakis
Drafting Technician	$100.00	Javier Reboyras / Shalina Chugani
Scheduler/Estimator	$150.00	
Clerical / Admin	$125.00	Cristi Marin
Interior Design	$110.00	Nicole Puente-Solis
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: BCC ENGINEERING

Categories for consideration:
Roadway, Traffic, and Transportation
Land Development, Civil-Site, and Drainage
Structural Engineering

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	$248.22	Victor Herrera, PE
Engineer P.E.	$202.39	Lazaro Ferrero, PE
Engineer E.I.	$136.00	Yairen Sotolongo, EI
Project Manager	$228.79	Alex Vazquez, PE, CFM
Drafting Technician	$89.62	Aymara Sanz
Scheduler/Estimator	$172.70	David Soler, PE
Clerical	$73.01	Vanessa Arango
Construction Inspector	$117.31	Willy Rodriguez, PE
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: BCC ENGINEERING

Categories for consideration:
Roadway, Traffic, and Transportation
Land Development, Civil-Site, and Drainage
Structural Engineering

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	$248.22	Victor Herrera, PE
Engineer P.E.	$202.39	Lazaro Ferrero, PE
Engineer E.I.	$136.00	Yairen Sotolongo, EI
Project Manager	$228.79	Alex Vazquez, PE, CFM
Drafting Technician	$89.62	Aymara Sanz
Scheduler/Estimator	$172.70	David Soler, PE
Clerical	$73.01	Vanessa Arango
Construction Inspector	$117.31	Willy Rodriguez, PE
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: CARNAHAN PROCTOR AND CROSS

Categories for consideration:
Roadway Traffic
Land Development
Construction Inspection

Engineering Services	Maximum Hourly Rate Hourly Rate ($)	Name of Professional
Principal	$ 280.00	Dan Tinter, PE
Engineer P.E. (Senior)	$ 230.00	Rolando Raymundo, PE
Engineer E.I.	$ 150.00	Terence Castillo, EI
Project Manager (Senior)	$ 220.00	Bill Barbaro, PE
Drafting Technician	$ 110.00	Kristian Jameson
Scheduler/Estimator	$ 160.00	Cedonia Da Salvia
Clerical	$ 80.00	Mariela Vazquez
Construction Inspector (Senior)	$ 120.00	Eduardo Baquero
Environmental Consultation	N/A	
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services	N/A	
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E. (Senior)	$ 230.00	Mohan Gopalakrishna, PE, PTOE
Professional Surveyor (Senior)	$ 200.00	Landon "Alfie" Cross, PSM
Survey Crew	$ 160.00	2-Man Crew
Drafting Technician	$ 110.00	Kristian Jameson
Senior Inspector (C.E.I.)	$ 120.00	David Sandusky
Field technician (Senior SUE)	$ 105.00	Eric Mulroney
Clerical	$ 65.00	Ingrid Aguirre
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: CARNAHAN PROCTOR AND CROSS

Categories for consideration:
Roadway Traffic
Land Development
Construction Inspection

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	$ 280.00	Dan Tinter, PE
Engineer P.E. (Senior)	$ 230.00	Rolando Raymundo, PE
Engineer E.I.	$ 150.00	Terence Castillo, EI
Project Manager (Senior)	$ 220.00	Bill Barbaro, PE
Drafting Technician	$ 110.00	Kristian Jameson
Scheduler/Estimator	$ 160.00	Cedonia Da Salvia
Clerical	$ 80.00	Mariela Vazquez
Construction Inspector (Senior)	$ 120.00	Eduardo Baquero
Environmental Consultation	N/A	
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services	N/A	
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E. (Senior)	$ 230.00	Mohan Gopalakrishna, PE, PTOE
Professional Surveyor (Senior)	$ 200.00	Landon "Alfie" Cross, PSM
Survey Crew	$ 160.00	2-Man Crew
Drafting Technician	$ 110.00	Kristian Jameson
Senior Inspector (C.E.I.)	$ 120.00	David Sandusky
Field technician (Senior SUE)	$ 105.00	Eric Mulroney
Clerical	$ 65.00	Ingrid Aguirre
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: CALVIN, GIORDANO, & ASSOCIATES

Categories for consideration:
Water Treatment and Water Distribution
Landscape Architecture

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	$252.00	Chris Giordano, David Stambaugh
Engineer P.E.	$179.00	Nico Kanelidis, Jimmy Messick, Sebastian Soria
Engineer E.I.	$133.00	Moshiur Rahman, Pablo Munoz
Project Manager	$196.00	Jenna Martinetti
Drafting Technician	$135.00	Lee Rowbotham, Carlos Lemus
Scheduler/Estimator	$109.00	Lissette Valdes
Clerical	$86.00	Dawn Hopkins
Construction Inspector	$125.00	Richard Freeman
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services Landscape Architecture		
Principal		
Architect R.A.	$150.00 Sophia	$225.00 Gianno Feoli / Landscape Architect
Architect A.I.		
Design Architect Landscape	$165.00	Dominic Mack
Project Manager	$179.00	Michael Conner
Drafting Technician	$135.00	Lee Rowbotham, Marcos Mendoza
Scheduler/Estimator		
Clerical	$86.00	Dawn Hopkins
Construction Inspector	$125.00	Drew Lindemann
Technical Service		
Engineer P.E.	$179.00	Nico Kanelidis, Jimmy Messick, Sebastian Soria
Professional Surveyor	$225.00	Steve Watts
Survey Crew	$164.00	TBD
Drafting Technician	$115.00	Kyle
Senior Inspector (C.E.I.)	$152.00	TBD
Field technician	$113.00	TBD
Clerical	$86.00	TBD
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: CALVIN, GIORDANO, & ASSOCIATES

Categories for consideration:
Water Treatment and Water Distribution
Landscape Architecture

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	$252.00	Chris Giordano, David Stambaugh
Engineer P.E.	$179.00	Nico Kanelidis, Jimmy Messick, Sebastian Soria
Engineer E.I.	$133.00	Moshiur Rahman, Pablo Munoz
Project Manager	$196.00	Jenna Martinetti
Drafting Technician	$135.00	Lee Rowbotham, Carlos Lemus
Scheduler/Estimator	$109.00	Lissette Valdes
Clerical	$86.00	Dawn Hopkins
Construction Inspector	$125.00	Richard Freeman
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services Landscape Architecture		
Principal		
Architect R.A.	$150.00 Sophia	$225.00 Gianno Feoli / Landscape Architect
Architect A.I.		
Design Architect Landscape	$165.00	Dominic Mack
Project Manager	$179.00	Michael Conner
Drafting Technician	$135.00	Lee Rowbotham, Marcos Mendoza
Scheduler/Estimator		
Clerical	$86.00	Dawn Hopkins
Construction Inspector	$125.00	Drew Lindemann
Technical Service		
Engineer P.E.	$179.00	Nico Kanelidis, Jimmy Messick, Sebastian Soria
Professional Surveyor	$225.00	Steve Watts
Survey Crew	$164.00	TBD
Drafting Technician	$115.00	Kyle
Senior Inspector (C.E.I.)	$152.00	TBD
Field technician	$113.00	TBD
Clerical	$86.00	TBD
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: MILLER LEGG

Categories for consideration:
Landscape Architecture

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	$375	Michael Kroll, RLA, FASLA
Engineer P.E.	$205	Joaquin Mojica, PE
Engineer P.E	$145	Javier Lopez Gonzalez, PE
Project Manager	$205	Joaquin Mojica, PE
Drafting Technician	$140	Michael Dunshee
Scheduler/Estimator		
Clerical	$ 95	Marina Hannwacker
Construction Inspector	$155	Anthony Hudson, MBA
Environmental Consultation		
Principal	$275	Dylan Larson, SPWS, CEP, GTA
Engineer P.E.	$205	Joaquin Mojica, PE
Engineer P.E.	$145	Javier Lopez Gonzalez, PE
Hydro geologist		
Senior Scientist	$165	William Mohler, CA, TRAQ, PWS,CLI
Drafting Technician	$140	Michael Dunshee
Scheduler/Estimator		
Clerical	$ 95	Marina Hannwacker
Construction Inspector	$155	Anthony Hudson, MBA
Landscape Architectural Svcs		
Principal	$375	Michael Kroll, RLA, FASLA
Sr. Landscape Architect II, RLA	$205	Brian Shore, RLA
Sr. Landscape Architect I, RLA	$170	Miguel Juncal,RLA, CA
Sr. Landscape Designer	$140	Nelson Perez
Landscape / Irrigation Designers	$110	Andrew Pereda, MLA /
		Jarred Randall / Jessica Romer
Recreational Planner	$135	Liudmila Fuentes, MLA
Certified Arborist (CA)	$145	William Mohler,CA/Matthew Dancho,CA,MS
Project Manager	$205	Brian Shore, RLA
Landscape Inspector	$145	Wiliam Mohler, CA, CLI, TRAQ, PWS
Clerical	$ 95	Marina Hannwacker
Technical Service		
Engineer P.E.	$205	Joaquin Mojica, PE
Professional Surveyor	$190	Martin Rossi, PSM
Survey Crew	$200/hour	
Drafting Technician	$155	Larisa Podolskaya, CST I
Field technician	$155	Anthony Hudson, MBA
Clerical	$ 95	Marina Hannwacker

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: MILLER LEGG

Categories for consideration:
Landscape Architecture

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	$375	Michael Kroll, RLA, FASLA
Engineer P.E.	$205	Joaquin Mojica, PE
Engineer P.E	$145	Javier Lopez Gonzalez, PE
Project Manager	$205	Joaquin Mojica, PE
Drafting Technician	$140	Michael Dunshee
Scheduler/Estimator		
Clerical	$ 95	Marina Hannwacker
Construction Inspector	$155	Anthony Hudson, MBA
Environmental Consultation		
Principal	$275	Dylan Larson, SPWS, CEP, GTA
Engineer P.E.	$205	Joaquin Mojica, PE
Engineer P.E.	$145	Javier Lopez Gonzalez, PE
Hydro geologist		
Senior Scientist	$165	William Mohler, CA, TRAQ, PWS,CLI
Drafting Technician	$140	Michael Dunshee
Scheduler/Estimator		
Clerical	$ 95	Marina Hannwacker
Construction Inspector	$155	Anthony Hudson, MBA
Landscape Architectural Svcs		
Principal	$375	Michael Kroll, RLA, FASLA
Sr. Landscape Architect II, RLA	$205	Brian Shore, RLA
Sr. Landscape Architect I, RLA	$170	Miguel Juncal,RLA, CA
Sr. Landscape Designer	$140	Nelson Perez
Landscape / Irrigation Designers	$110	Andrew Pereda, MLA /
		Jarred Randall / Jessica Romer
Recreational Planner	$135	Liudmila Fuentes, MLA
Certified Arborist (CA)	$145	William Mohler,CA/Matthew Dancho,CA,MS
Project Manager	$205	Brian Shore, RLA
Landscape Inspector	$145	Wiliam Mohler, CA, CLI, TRAQ, PWS
Clerical	$ 95	Marina Hannwacker
Technical Service		
Engineer P.E.	$205	Joaquin Mojica, PE
Professional Surveyor	$190	Martin Rossi, PSM
Survey Crew	$200/hour	
Drafting Technician	$155	Larisa Podolskaya, CST I
Field technician	$155	Anthony Hudson, MBA
Clerical	$ 95	Marina Hannwacker

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: BEA ARCHITECTS

Categories for consideration:
Architectural Design

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal		
Engineer P.E.		
Engineer E.I.		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal	$255.00 ✓	Bruno-Elias Ramos
Architect R.A.	$250.00 ✓	Adrian Price
Architect A.I. $230	$250.00 ✗	Robert Draper
Design Architect $175	$230.00 ✗	Mario F. Ortega
Project Manager $220	$230.00 ✗	Gustavo Santos
Drafting Technician $110	$125.00 ✗	Walter Carranza
Scheduler/Estimator $130	$205.00 ✗	Adrian Price
Clerical	$90.00 ✓	Janet Bencomo
Construction Inspector $175	$205.00 ✗	Robert Draper
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: BEA ARCHITECTS

Categories for consideration:
Architectural Design

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal		
Engineer P.E.		
Engineer E.I.		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal	$255.00 ✓	Bruno-Elias Ramos
Architect R.A.	$250.00 ✓	Adrian Price
Architect A.I. $230	$250.00 ✗	Robert Draper
Design Architect $175	$230.00 ✗	Mario F. Ortega
Project Manager $220	$230.00 ✗	Gustavo Santos
Drafting Technician $110	$125.00 ✗	Walter Carranza
Scheduler/Estimator $130	$205.00 ✗	Adrian Price
Clerical	$90.00 ✓	Janet Bencomo
Construction Inspector $175	$205.00 ✗	Robert Draper
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: KCI Technologies

Categories for consideration:
Land Development, Civil-Site and Drainage
Landscape Architecture
Surveying and Utility Locates

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	$245.00	
Engineer P.E.	$210.00	
Engineer E.I.	$140.00	
Project Manager	$210.00	
Drafting Technician	$130.00	
Scheduler/Estimator		
Clerical	$95.00	
Construction Inspector	$125.00	
Environmental Consultation		
Principal	N/A	
Engineer P.E.	N/A	
Engineer E.I.	N/A	
Hydro geologist	N/A	
Senior Scientist	N/A	
Drafting Technician	N/A	
Scheduler/Estimator	N/A	
Clerical	N/A	
Construction Inspector	N/A	
Landscape Architectural Services		
Principal	$245.00	
Landscape Architect R.L.A.	$175.00	
Landscape Architect Intern	$115.00	
Design Architect	$140.00	
Project Manager	$210.00	
Drafting Technician	$130.00	
Scheduler/Estimator		
Clerical	$95.00	
Construction Inspector	$125.00	

Services	Hourly Rate ($)	Name of Professional
Technical Service		
Engineer P.E.	$210.00	
Professional Surveyor	$215.00	
Survey Crew (2 person)	$210.00	3 person Crew $300.00
Drafting Technician	$130.00	
Senior Inspector (C.E.I.)	$150.00	
Field technician	$130.00	
Clerical	$95.00	
(list special equipment separately)		
UAS Operator (Drone Pilot)	$150.00	
Mobile Survey Analyst	$150.00	
Laser Scan/Specialty Survey Crew	$400.00	
Subsurface Utility Exploration		
SUE Project Manager	$185.00	
1 Man Designator ELM - GPR equipped with des truck day rate		$1,800.00 Day Rate
2 Man Designator crew ELM - GPR equipped with des truck	$315.00	
1Man GPR crew with a LMX -100 GPR unit day rate		$1,650.00 Day Rate
2 Man TELLUS Vacuum excavation crew with support vehicle D/R		$3,000.00 Day Rate
2 Man TELLUS Vacuum excavation crew with support vehicle H/R	$375.00	
3 Man TELLUS Vacuum excavation crew with support vehicle H/R	$450.00	
1 each Test hole not to exceed 18" x 4'D probed to 10' deep		$850.00 Per Hole
Cross section trench for clearing hole in dirt per foot		$250.00 per foot
(Field crew rates are portal to portal and with a 4-hour minimum)		
(Day Rate is based on a 8 hour day)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: KCI Technologies

Categories for consideration:
Land Development, Civil-Site and Drainage
Landscape Architecture
Surveying and Utility Locates

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	$245.00	
Engineer P.E.	$210.00	
Engineer E.I.	$140.00	
Project Manager	$210.00	
Drafting Technician	$130.00	
Scheduler/Estimator		
Clerical	$95.00	
Construction Inspector	$125.00	
Environmental Consultation		
Principal	N/A	
Engineer P.E.	N/A	
Engineer E.I.	N/A	
Hydro geologist	N/A	
Senior Scientist	N/A	
Drafting Technician	N/A	
Scheduler/Estimator	N/A	
Clerical	N/A	
Construction Inspector	N/A	
Landscape Architectural Services		
Principal	$245.00	
Landscape Architect R.L.A.	$175.00	
Landscape Architect Intern	$115.00	
Design Architect	$140.00	
Project Manager	$210.00	
Drafting Technician	$130.00	
Scheduler/Estimator		
Clerical	$95.00	
Construction Inspector	$125.00	

Services	Hourly Rate ($)	Name of Professional
Technical Service		
Engineer P.E.	$210.00	
Professional Surveyor	$215.00	
Survey Crew (2 person)	$210.00	3 person Crew $300.00
Drafting Technician	$130.00	
Senior Inspector (C.E.I.)	$150.00	
Field technician	$130.00	
Clerical	$95.00	
(list special equipment separately)		
UAS Operator (Drone Pilot)	$150.00	
Mobile Survey Analyst	$150.00	
Laser Scan/Specialty Survey Crew	$400.00	
Subsurface Utility Exploration		
SUE Project Manager	$185.00	
1 Man Designator ELM - GPR equipped with des truck day rate		$1,800.00 Day Rate
2 Man Designator crew ELM - GPR equipped with des truck	$315.00	
1Man GPR crew with a LMX -100 GPR unit day rate		$1,650.00 Day Rate
2 Man TELLUS Vacuum excavation crew with support vehicle D/R		$3,000.00 Day Rate
2 Man TELLUS Vacuum excavation crew with support vehicle H/R	$375.00	
3 Man TELLUS Vacuum excavation crew with support vehicle H/R	$450.00	
1 each Test hole not to exceed 18" x 4'D probed to 10' deep		$850.00 Per Hole
Cross section trench for clearing hole in dirt per foot		$250.00 per foot
(Field crew rates are portal to portal and with a 4-hour minimum)		
(Day Rate is based on a 8 hour day)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: LAKDAS-YOHALEM

Categories for consideration:
Structural Engineering
Construction Inspection

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	$200.00	Lakdas Nanayakkara, P.E.
Engineer P.E.	$165.00	Zuhair Jalloul, P.E. Lakdas Nanayakkara, P.E.
Engineer E.I.	$120.00	Luis Beltran-Rossi
Project Manager	$145.00	Pravin Nanayakkara Luan Nguyen
Drafting Technician	$100.00	George Estrada
Scheduler/Estimator	$105.00	Miguel Magallanes
Clerical	$67.00	LaQuavian Crawford
Construction Inspector	$100.00	Todd Brummer Robert Abbate Leonard Rolle
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: LAKDAS-YOHALEM

Categories for consideration:
Structural Engineering
Construction Inspection

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	$200.00	Lakdas Nanayakkara, P.E.
Engineer P.E.	$165.00	Zuhair Jalloul, P.E. Lakdas Nanayakkara, P.E.
Engineer E.I.	$120.00	Luis Beltran-Rossi
Project Manager	$145.00	Pravin Nanayakkara Luan Nguyen
Drafting Technician	$100.00	George Estrada
Scheduler/Estimator	$105.00	Miguel Magallanes
Clerical	$67.00	LaQuavian Crawford
Construction Inspector	$100.00	Todd Brummer Robert Abbate Leonard Rolle
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: LANGAN ENGINEERING

Categories for consideration:
Hydrogeology and Environmental

Engineering Services	Maximum Hourly Rate Hourly Rate ($)	Name of Professional
Principal		
Engineer P.E.		
Engineer E.I.		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Environmental Consultation		
Principal	$275	Yarina
Engineer P.E.	$225	Spievack/Sherman/Chin Fatt
Engineer E.I.	$150	LeBlanc/DeBianchi
Hydro geologist	$200	Simon/Zeigerman
Senior Scientist	$175	Beckles/Troast
Drafting Technician	$90	White/Cofrancesco
Scheduler/Estimator	$150	Bejarando
Clerical	$80	Florencia/Chaviano
Construction Inspector	$115	Zapata
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: LANGAN ENGINEERING

Categories for consideration:
Hydrogeology and Environmental

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal		
Engineer P.E.		
Engineer E.I.		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Environmental Consultation		
Principal	$275	Yarina
Engineer P.E.	$225	Spievack/Sherman/Chin Fatt
Engineer E.I.	$150	LeBlanc/DeBianchi
Hydro geologist	$200	Simon/Zeigerman
Senior Scientist	$175	Beckles/Troast
Drafting Technician	$90	White/Cofrancesco
Scheduler/Estimator	$150	Bejarando
Clerical	$80	Florencia/Chaviano
Construction Inspector	$115	Zapata
Architectural Services		
Principal		
Architect R.A.		
Architect A.I.		
Design Architect		
Project Manager		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Technical Service		
Engineer P.E.		
Professional Surveyor		
Survey Crew		
Drafting Technician		
Senior Inspector (C.E.I.)		
Field technician		
Clerical		
(list special equipment separately)		

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

DRMP, INC.

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 18 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and DRMP, INC. ("CONSULTANT") 941 Lake Baldwin Lane, Orlando, FL 32814 for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options.

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: Adam K. Maze, PE
DRMP, INC.
6853 S.W. 18th St., Suite 310
Boca Raton, FL 33433

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of

this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 Ownership of Documents. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 Audit and Inspection Rights and Retention of Records. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If

any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit,

that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

Adam K. Maze, PE

7.8 **Assignment and Performance**. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts**. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 Materiality and Waiver of Breach. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 Compliance with Laws. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 Severance. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 Applicable Law and Venue. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 Amendments. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 Prior Agreements. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 Drug-Fee Workplace. CONSULTANT shall maintain a drug-free workplace.

7.20 Incorporation by Reference. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 Multiple Originals. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 Headings. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 Public Records. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S

failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 Survival of Provisions. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 Truth-in-Negotiation Certificate. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

18 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature
Patsy Fuscheffo
Print Name

_____
Signature
Evhen Kyj
Print Name

By: _____
Signature
ADAM MAZE / SE FL OFFICE LEADER
Print Name and Title

7TH Day of NOVEMBER, 2023

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

MILLER, LEGG & ASSOCIATES, INC.

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 18 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and MILLER, LEGG & ASSOCIATES, INC. ("CONSULTANT") 13680 N.W. 5th St., Suite 200, Sunrise, FL 33325, for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options.

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: Michael D. Kroll, RLA, FASLA, President
Miller, Legg & Associates, Inc.
13680 N.W. 5th St., Suite 200
Sunrise, FL 33325

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of

this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 **Ownership of Documents**. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 **Audit and Inspection Rights and Retention of Records**. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If

any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit,

that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

Michael D. Kroll, RLA, FASLA, President
Miller, Legg & Associates, Inc.
13680 N.W. 5th St., Suite 200
Sunrise, FL 33325

7.8 **Assignment and Performance**. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts**. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees

to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 **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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 **Materiality and Waiver of Breach**. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 **Compliance with Laws**. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 **Severance**. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 **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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 **Applicable Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 **Amendments**. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 **Prior Agreements**. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 **Drug-Fee Workplace**. CONSULTANT shall maintain a drug-free workplace.

7.20 **Incorporation by Reference**. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 **Multiple Originals**. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 **Headings**. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 **Binding Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 **Public Records**. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida

Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 **Survival of Provisions**. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 **Truth-in-Negotiation Certificate**. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

18 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature
Dylan Larson
Print Name

By: _____
Signature
MICHAEL KROLL, RLA FASLA - PRESIDENT
Print Name and Title

7 Day of NOVEMBER, 2023

Cara Pasquale
Signature
CARA PASQUALE
Print Name

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

KCI TECHNOLOGIES, INC.

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 18 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and KCI TECHNOLOGIES, INC. ("CONSULTANT") 1425 W. Cypress Creek Road, Suite 101, Fort Lauderdale, FL 33309 for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options.

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT's services that do not meet the Standard of Care, which have not been remedied or resolved after providing CONSULTANT notice in a manner satisfactory to City Manager and to meet the Standard of Care. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at: Attention:

Bruce Reed, Regional Practice Leader/V.P.
KCI Technologies, Inc.
1425 W. Cypress Creek Rd., Suite 101
Ft. Lauderdale, FL 33309

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services in accordance with this Agreement, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or

multiple breach of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.1 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

CONSULTANT shall not be obligated to indemnify the CITY in any manner whatsoever for the CITY's own negligence.

PURSUANT TO FLORIDA STATUTE § 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT OF CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR DAMAGES RESULTING FROM NEGLIGENCE OCCURRING WITHIN THE COURSE AND SCOPE OF SERVICES RENDERED UNDER THIS AGREEMENT.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "B".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 **Ownership of Documents**. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 **Audit and Inspection Rights and Retention of Records**. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY

for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified or by e-mail. Notice will be considered made as of the date of actual delivery if in person, as of the date of the receipt if sent via certified mail, or two (2) business days after the date of the e-mail. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313
dgiles@lauderhill-fl.gov; and
jboukhari@lauderhill-fl.gov

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351
angel@hallrosenberg.com

CONSULTANT:

Bruce Reed, Regional Practice Leader/V.P.
KCI Technologies, Inc.
1425 W. Cypress Creek Rd., Suite 101
Ft. Lauderdale, FL 33309
Bruce.Reed@kci.com

7.8 **Assignment and Performance**. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction and in accordance with this Agreement for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts**. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual

relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 **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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 **Materiality and Waiver of Breach**. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 **Compliance with Laws**. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 **Severance**. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this

provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 Applicable Law and Venue. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 Amendments. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 Prior Agreements. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 Drug-Fee Workplace. CONSULTANT shall maintain a drug-free workplace.

7.20 Incorporation by Reference. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 **Multiple Originals**. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 **Headings**. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 **Binding Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 **Public Records**. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 **Survival of Provisions**. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 **Truth-in-Negotiation Certificate**. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue,

or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

18 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature
Joi-Phyle Hallem
Print Name

_____
Signature
Brian S. Wilkes
Print Name

By: _____
Signature
BRUCE REED REGIONAL Practice Leader, V.P.
Print Name and Title

14th Day of DECEMBER, 2023

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

STAR CONTROLS, INC.

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 18 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and STAR CONTROLS INC. ("CONSULTANT") 11555 Heron Bay Blvd., Suite 200, Coral Springs FL 33076, for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options.

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: Tzvi Magril, President
Star Controls, Inc.
11555 Heron Bay Blvd., Suite 200
Coral Springs, FL 33076

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of

this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 **Ownership of Documents**. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 **Audit and Inspection Rights and Retention of Records**. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If

any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit,

that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

Tzvi Magril, President
Star Controls, Inc.
11555 Heron Bay Blvd., Suite 200
Coral Springs, FL 33076

7.8 **Assignment and Performance**. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts**. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees

to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 Materiality and Waiver of Breach. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 Compliance with Laws. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 Severance. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 Applicable Law and Venue. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 Amendments. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 Prior Agreements. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 Drug-Fee Workplace. CONSULTANT shall maintain a drug-free workplace.

7.20 Incorporation by Reference. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 Multiple Originals. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 Headings. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 Public Records. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida

Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 Survival of Provisions. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 Truth-in-Negotiation Certificate. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

18 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

Inda Lapidot
Signature
Inda Lapidot
Print Name

_____
Signature
Ron Zetouni
Print Name

By: _____
Signature
Tzvi Magril
Print Name and Title

3 Day of January 2024, ~~2023~~

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

ENGINEERING CONSORTIUM, INC.

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 18 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and ENGINEERING CONSORTIUM, INC. ("CONSULTANT") 4907 N. University Dr., Suite 203, Lauderhill FL 33351 for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options.

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: Wayne A. Williams, PE
Engineering Consortium, INC.
4907N. University Drive, Suite 203
Lauderhill, FL 33351

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of

this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 **Ownership of Documents**. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 **Audit and Inspection Rights and Retention of Records**. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If

any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit,

that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

Wayne A. Williams, PE

7.8 **Assignment and Performance**. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts**. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 **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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 **Materiality and Waiver of Breach**. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 **Compliance with Laws**. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 **Severance**. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 **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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 Applicable Law and Venue. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 Amendments. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 Prior Agreements. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 Drug-Fee Workplace. CONSULTANT shall maintain a drug-free workplace.

7.20 Incorporation by Reference. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 Multiple Originals. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 Headings. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 Public Records. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S

failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 Survival of Provisions. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 Truth-in-Negotiation Certificate. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

18 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature

Print Name

_____
Signature

Print Name

By: _____
Signature

Wayne A. Williams
Print Name and Title

18 Day of October, 2023

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

LAKDAS/YOHALEM ENGINEERING, INC.

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 18 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and LAKDAS/YOHALEM ENGINEERING, INC. ("CONSULTANT") 2211 N.E. 54th St., FL 33308 for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options.

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: Lakdas Nanayakkara, P.E.
Lakdas/Yohalem Engineering, Inc.
2211 N.E. 54th St.,
Ft. Lauderdale, FL 33308

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of

this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 **Ownership of Documents**. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 **Audit and Inspection Rights and Retention of Records**. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If

any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit,

that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

Lakdas Nanayakkara, P.E.
Lakdas/Yohalem Engineering, Inc.
2211 N.E. 54th St.,
Ft. Lauderdale, FL 33308

7.8 **Assignment and Performance.** Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts.** Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees

to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 **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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 **Materiality and Waiver of Breach**. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 **Compliance with Laws**. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 **Severance**. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 **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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 **Applicable Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 **Amendments**. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 **Prior Agreements**. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 **Drug-Fee Workplace**. CONSULTANT shall maintain a drug-free workplace.

7.20 **Incorporation by Reference**. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 **Multiple Originals**. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 **Headings**. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 **Binding Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 **Public Records**. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida

Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 **Survival of Provisions**. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 **Truth-in-Negotiation Certificate**. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

18 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature
LaQuavian Crawford
Print Name

_____
Signature
Luan Nguyen
Print Name

By: _____
Signature
Lakdas Nanayakkara, P.E/President
Print Name and Title

18th Day of October, 2023

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

CARNAHAN, PROCTOR AND CROSS, INC

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 18 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and CARNAHAN, PROCTOR AND CROSS, INC., ("CONSULTANT") 814 South Military Trail, Deerfield Beach, FL 33442 for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: Dan Pinter, P.E.
Carnahan, Proctor, and Cross, Inc
814 South Military Trail,
Deerfield Beach, FL 33442

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of

this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 **Ownership of Documents**. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 **Audit and Inspection Rights and Retention of Records**. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit

findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the

amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

Dan Tintner, P.E.
Carnahan, Proctor and Cross, Inc.
814 S. Military Drive
Deerfield Beach, FL 33442

7.8 **Assignment and Performance**. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts**. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 **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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 **Materiality and Waiver of Breach**. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 **Compliance with Laws**. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 **Severance**. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 **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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 **Applicable Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights

hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 **Amendments**. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 **Prior Agreements**. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 **Drug-Fee Workplace**. CONSULTANT shall maintain a drug-free workplace.

7.20 **Incorporation by Reference**. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 **Multiple Originals**. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 **Headings**. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 **Binding Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 **Public Records**. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 **Survival of Provisions**. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination

of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 Truth-in-Negotiation Certificate. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

18 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature
Mariela Vasquez
Print Name

_____
Signature
Herb Tillman
Print Name

By: _____
Signature
Greg Proctor, President
Print Name and Title

12th Day of December, 2023

AGREEMENT
BETWEEN THE
CITY OF LAUDERHILL
AND
BEA ARCHITECTS, INC
FOR
MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 18 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and BEA ARCHITECTS, INC., ("CONSULTANT") 11575 N.W. 7th Avenue, Miami, FL 33168 for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: BEA Architects, Inc
11575 N.W. 7th Ave.,
Miami, FL 33168

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 **Ownership of Documents.** Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 **Audit and Inspection Rights and Retention of Records.** CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be

applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination.** CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act.** CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the

amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

BEA Architects, Inc.
11575 N.W. 7th Avenue
Miami, FL 33168

7.8 **Assignment and Performance.** Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts.** Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 **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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 **Materiality and Waiver of Breach**. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 **Compliance with Laws**. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 **Severance**. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 **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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 **Applicable Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 **Amendments.** No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 **Prior Agreements.** This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 **Drug-Fee Workplace.** CONSULTANT shall maintain a drug-free workplace.

7.20 **Incorporation by Reference.** The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 **Multiple Originals.** This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 **Headings.** Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 **Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 **Public Records.** CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 **Survival of Provisions.** Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the

terms of conditions are completed, and shall be fully enforceable by either party.

7.26 **Truth-in-Negotiation Certificate.** Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

18 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature
Maria Baronetto
Print Name

_____
Signature
Walter Carranza
Print Name

By: _____
Signature
Bruno E. Ramos, Principal
Print Name and Title

9 Day of January, ~~2023~~ 2024

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

BCC ENGINEERING, LLC

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 18 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and BCC ENGINEERING, LLC., ("CONSULTANT") 6401 S.W. 87th Avenue, Suite 200, Miami, FL 33173 for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: BCC ENGINEERING, LLC
6401 SW 87th Ave., Suite 200
Miami, FL 33173

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 **Ownership of Documents**. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 **Audit and Inspection Rights and Retention of Records**. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the

books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with

committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

Victor Herrera, PE, Principal-In-Charge
BCC ENGINEERING, LLC.
6401 SW 87th Avenue, Ste. 200
Miami, FL 33173

7.8 **Assignment and Performance**. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts**. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 **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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 **Materiality and Waiver of Breach**. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 **Compliance with Laws**. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 **Severance**. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 **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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 **Applicable Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights

hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 **Amendments**. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 **Prior Agreements**. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 **Drug-Fee Workplace**. CONSULTANT shall maintain a drug-free workplace.

7.20 **Incorporation by Reference**. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 **Multiple Originals**. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 **Headings**. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 **Binding Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 **Public Records**. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 **Survival of Provisions**. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination

of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 **Truth-in-Negotiation Certificate**. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

18 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature
Vanessa Aymerich
Print Name

_____
Signature
Sebastion Hernandez
Print Name

By: _____
Signature
Victor Herrera - Senior Vice President
Print Name and Title

14th Day of December, 2023

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

A.D.A. ENGINEERING, INC

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 18 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and A.D.A. ENGINEERING, INC. ("CONSULTANT") 8550 NW 33rd Street, Suite 202, Miami, FL 33122 for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: A.D.A. Engineering, Inc
8550 N.W. 33rd St., Suite 202
Miami, FL 33122

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 **Ownership of Documents**. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 **Audit and Inspection Rights and Retention of Records**. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be

applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the

amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

A.D.A. Engineering, Inc.
8550 N.W. 33rd St., Suite 202
Miami, FL 33122

7.8 **Assignment and Performance**. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts**. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 **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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 Materiality and Waiver of Breach. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 Compliance with Laws. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 Severance. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 Applicable Law and Venue. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 **Amendments**. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 **Prior Agreements**. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 **Drug-Fee Workplace**. CONSULTANT shall maintain a drug-free workplace.

7.20 **Incorporation by Reference**. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 **Multiple Originals**. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 **Headings**. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 **Binding Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 **Public Records**. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 **Survival of Provisions**. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the

terms of conditions are completed, and shall be fully enforceable by either party.

7.26 Truth-in-Negotiation Certificate. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

18 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature
Memuna Latif
Print Name

By: _____
Signature
Alberto D. Argudin, President
Print Name and Title

13th Day of December, 2023

_____
Signature
Ivette O. Argudin
Print Name

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

SYNALOVSKI ROMANIK SAYE, LLC

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 22 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and SYNALOVSKI ROMANIK SAYE, LLC. ("CONSULTANT") 1800 Eller Dr., Suite 500, Ft. Lauderdale, FL 33316, for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options.

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: Manuel Synalovski, AIA, LEED AP
Synalovski Romanik Saye, LLC.
1800 Eller Dr., Suite 500
Ft. Lauderdale, FL 33316

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of

this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 **Ownership of Documents**. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 **Audit and Inspection Rights and Retention of Records**. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If

any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination.** CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act.** CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit,

that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

Manuel Synalovski, AIA, LEED AP
Synalovski Romanik Saye, LLC.
1800 Eller Dr., Suite 500
Ft. Lauderdale, FL 33316

7.8 **Assignment and Performance.** Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts.** Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees

to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 Materiality and Waiver of Breach. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 Compliance with Laws. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 Severance. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 **Applicable Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 **Amendments.** No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 **Prior Agreements.** This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 **Drug-Fee Workplace.** CONSULTANT shall maintain a drug-free workplace.

7.20 **Incorporation by Reference.** The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 **Multiple Originals.** This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 **Headings.** Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 **Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 **Public Records.** CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida

Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 **Survival of Provisions.** Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 **Truth-in-Negotiation Certificate.** Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

22 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature

Pedro J. Giumbe
Print Name

_____
Signature

Allison Wolk
Print Name

By: _____
Signature

Manuel Svirtavstri, Manager
Print Name and Title

15 Day of December, 2023

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

AVIROM & ASSOCIATES, INC

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 22 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and Avirom & Associates, Inc., ("CONSULTANT") 50 S.W. 2nd Avenue, Suite 102, Boca Raton FL 33432 for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options.

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: John T. Doogan
Avirom & Associates, Inc.
50 S.W. 2nd Ave., Suite 102
Boca Raton, FL 33432

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of

this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 Ownership of Documents. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 Audit and Inspection Rights and Retention of Records. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the

books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with

committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

John T. Doogan
Avirom & Associates, Inc.
50 S.W. 2nd Ave, Suite 102,

7.8 Assignment and Performance. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 Conflicts. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 Materiality and Waiver of Breach. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 Compliance with Laws. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 Severance. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 Applicable Law and Venue. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights

hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 **Amendments**. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 **Prior Agreements**. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 **Drug-Fee Workplace**. CONSULTANT shall maintain a drug-free workplace.

7.20 **Incorporation by Reference**. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 **Multiple Originals**. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 **Headings**. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 **Binding Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 **Public Records**. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 **Survival of Provisions**. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination

of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 **Truth-in-Negotiation Certificate**. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

22 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature
John Doogan
Print Name

By: _____
Signature
Michael D. Avirom / President
Print Name and Title

25th Day of January, 2024

_____
Signature
Jennifer Simoneaux
Print Name

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

TERRACON CONSULTANTS, INC.

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 22 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and TERRACON CONSULTANTS INC. ("CONSULTANT") 10841 S. Ridgeview Rd., Olathe, KS 66061, for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options.

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: Steven A. Harrison, P.G.
Terracon Consultants, Inc.
5371 NW 33rd Ave., Suite 201
Ft. Lauderdale, FL 33309

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of

this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 Ownership of Documents. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 Audit and Inspection Rights and Retention of Records. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If

any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit,

that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

Steven A. Harrison, P.G.
Terracon Consultants, Inc.
5371 NW 33rd Ave., Suite 201
Ft. Lauderdale, FL 33309

7.8 Assignment and Performance. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 Conflicts. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees

to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 Materiality and Waiver of Breach. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 Compliance with Laws. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 Severance. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 **Applicable Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 **Amendments**. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 **Prior Agreements**. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 **Drug-Fee Workplace**. CONSULTANT shall maintain a drug-free workplace.

7.20 **Incorporation by Reference**. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 **Multiple Originals**. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 **Headings**. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 **Binding Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 **Public Records**. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida

Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 Survival of Provisions. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 Truth-in-Negotiation Certificate. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

22 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

Steven Harrison
_____
Signature
Steven Harrison
_____
Print Name

By: Rich Minichiello
_____
Signature
Richard Minichiello, Vice President
_____
Print Name and Title

19 Day of January, ~~2023~~ 2024

_____
Signature
Mark Kearns
_____
Print Name

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

SALTZ MICHELSON ARCHITECTS, INC

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 22 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and Saltz Michelson Architects, Inc., ("CONSULTANT") 3501 Griffin Rd., Ft. Lauderdale, FL 33312 for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options.

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: Charles A. Michelson
Saltz Michelson Architects, Inc
3501 Griffin Rd.,
Ft. Lauderdale, FL 33312

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of

this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 **Ownership of Documents**. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 **Audit and Inspection Rights and Retention of Records**. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the

books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with

committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

Saltz Michelson Architects, Inc.
3501 Griffin Rd.
Ft. Lauderdale, FL 33312

7.8 **Assignment and Performance**. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts**. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 **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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 **Materiality and Waiver of Breach**. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 **Compliance with Laws**. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 **Severance**. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 **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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 **Applicable Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights

hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 **Amendments**. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 **Prior Agreements**. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 **Drug-Fee Workplace**. CONSULTANT shall maintain a drug-free workplace.

7.20 **Incorporation by Reference**. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 **Multiple Originals**. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 **Headings**. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 **Binding Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 **Public Records**. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 **Survival of Provisions**. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination

of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 **Truth-in-Negotiation Certificate**. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

22 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature
Jessica Weatherspoon
Print Name

_____
Signature
Sandra MacDonald
Print Name

By: _____
Signature
Charles Michelson, AIA, President
Print Name and Title

18th Day of January, 2024

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

CRAIG A. SMITH & ASSOCIATES, LLC

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 22 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and CRAIG A. SMITH & ASSOCIATES, LLC ("CONSULTANT") 4152 W. Blue Heron Blvd, Suite 116, Riviera Beach, FL 33404 for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options.

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: Craig A. Smith & Associates, LLC.
1425 E. Newport Center Drive
Deerfield Beach, FL 33442

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 **Ownership of Documents**. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 **Audit and Inspection Rights and Retention of Records**. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the

books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with

committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:
Craig A. Smith & Associates, LLC
1425 E. Newport Center Drive
Deerfield Beach, FL 33442

7.8 **Assignment and Performance**. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts**. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 **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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 **Materiality and Waiver of Breach**. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 **Compliance with Laws**. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 **Severance**. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 **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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 **Applicable Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 **Amendments**. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 **Prior Agreements**. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 **Drug-Fee Workplace**. CONSULTANT shall maintain a drug-free workplace.

7.20 **Incorporation by Reference**. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 **Multiple Originals**. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 **Headings**. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 **Binding Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 **Public Records**. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 **Survival of Provisions**. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the

terms of conditions are completed, and shall be fully enforceable by either party.

7.26 **Truth-in-Negotiation Certificate**. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

22 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature
Andrea Cole
Print Name

_____
Signature
_____
Print Name

By: _____
Signature
_____
Print Name and Title

15TH Day of JANUARY, 2024

Page 12 of 12

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

EAC CONSULTING, INC.

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 22 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and EAC CONSULTING, INC. ("CONSULTANT") 5959 Blue Lagoon Drive, Suite 410, Miami FL 33126 for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options.

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: Huntley Higgins, PE, PMP
EAC Consulting, INC.
Fort Lauderdale Office
5100 NW 33rd Ave., Suite 243
Ft. Lauderdale, FL 33309

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of

this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 Ownership of Documents. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 Audit and Inspection Rights and Retention of Records. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If

any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit,

that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

Huntley Higgins, PE, PMP
EAC CONSULTING, INC.
Fort Lauderdale Office
5100 NW 33rd Ave., Suite 243
Ft. Lauderdale, FL 33309

7.8 Assignment and Performance. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 Conflicts. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees

to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 Materiality and Waiver of Breach. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 Compliance with Laws. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 Severance. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 Applicable Law and Venue. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 Amendments. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 Prior Agreements. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 Drug-Fee Workplace. CONSULTANT shall maintain a drug-free workplace.

7.20 Incorporation by Reference. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 Multiple Originals. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 Headings. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 Public Records. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida

Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 Survival of Provisions. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 Truth-in-Negotiation Certificate. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

22 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature
Nicole Mallard
Print Name

_____
Signature
Elias Guevara
Print Name

By: _____
Signature
Huntley Higgins, Senior Vice President
Print Name and Title

23rd Day of January, 2024 ~~2023~~

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

FLYNN ENGINEERING SERVICES, P.A.

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 22 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and FLYNN ENIGNEERING SERVICES, P.A. ("CONSULTANT") 241 Commercial Blvd., Lauderdale By The Sea, FL 33308 for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options.

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: Jay Flynn, PE, CFM
Flynn Engineering Services, P.A.
241 Commercial Blvd.,
Lauderdale By The Sea, FL 33308

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of

this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 **Ownership of Documents.** Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 **Audit and Inspection Rights and Retention of Records.** CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If

any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit,

that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

Jay Flynn, PE, CFM
Flynn Engineering Services, P.A.
241 Commercial Blvd.,
Lauderdale By The Sea, FL 33308

7.8 **Assignment and Performance**. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts**. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees

to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 **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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 **Materiality and Waiver of Breach**. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 **Compliance with Laws**. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 **Severance**. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 **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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 **Applicable Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 **Amendments**. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 **Prior Agreements**. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 **Drug-Fee Workplace**. CONSULTANT shall maintain a drug-free workplace.

7.20 **Incorporation by Reference**. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 **Multiple Originals**. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 **Headings**. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 **Binding Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 **Public Records**. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida

Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 **Survival of Provisions**. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 **Truth-in-Negotiation Certificate**. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

22 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature
SARAH O. DELNEGRO
Print Name

_____
Signature
Julia Gaffney
Print Name

By: Jay M Flynn
Signature
Jay M. Flynn
Print Name and Title

15 Day of January, 2024

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

MCMAHON & ASSOCIATES, INC.

A/K/A MCMAHON, A BOWMAN COMPANY,

D/B/A BOWMAN CONSULTING GROUP, LTD.

A/K/A BOWMAN

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 22nd day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and MCMAHON & ASSOCIATES, INC., a.k.a. MCMAHON, A BOWMAN COMPANY ("CONSULTANT") 3640 Investment Lane, #16, Riviera Beach, FL 33404, for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options.

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: R. Trent Ebersole, P.E., Regional Manager - Florida
Bowman
2090 Palm Beach Lakes Blvd., Suite 400,
West Palm Beach, FL 33409

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of

this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 Ownership of Documents. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 Audit and Inspection Rights and Retention of Records. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If

any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit,

that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

R. Trent Ebersole, P.E., Regional Manager - Florida
Bowman Consulting Group, Ltd
2090 Palm Beach Lakes Blvd., Suite 400,
West Palm Beach, FL 33409

7.8 **Assignment and Performance**. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts**. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees

to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 **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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 **Materiality and Waiver of Breach**. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 **Compliance with Laws**. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 **Severance**. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 **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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 Applicable Law and Venue. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 Amendments. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 Prior Agreements. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 Drug-Fee Workplace. CONSULTANT shall maintain a drug-free workplace.

7.20 Incorporation by Reference. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 Multiple Originals. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 Headings. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 Public Records. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida

Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 **Survival of Provisions**. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 **Truth-in-Negotiation Certificate**. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager
22 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature
GISELLE MARQUEZ
Print Name

_____
Signature
NATALIA LERCARI
Print Name

By: _____
Signature
R. TRENT EBERSOLE, VICE PRESIDENT
Print Name and Title
19th Day of JANUARY, 2024

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

CONEMCO ENGINEERING, INC.

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 22 day of January, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and CONEMCO ENGINEERING, INC., ("CONSULTANT") 782 N.W. 42nd Ave., Unit 635, Miami, FL 33126 for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: Conemco Engineering, Inc.
DBA Conemco Consultants
782 NW 42nd Ave., Unit 635
Miami, FL 33126

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of

this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 **Ownership of Documents**. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 **Audit and Inspection Rights and Retention of Records**. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If

any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit,

that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:
Conemco Engineering, INC.
DBA Conemco Consultants

7.8 **Assignment and Performance**. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts**. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 **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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 **Materiality and Waiver of Breach**. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 **Compliance with Laws**. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 **Severance**. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 **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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 **Applicable Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement

and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 **Amendments**. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 **Prior Agreements**. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 **Drug-Fee Workplace**. CONSULTANT shall maintain a drug-free workplace.

7.20 **Incorporation by Reference**. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 **Multiple Originals**. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 **Headings**. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 **Binding Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 **Public Records**. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 **Survival of Provisions**. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 **Truth-in-Negotiation Certificate**. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

22 day of January, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature
Annabel Rodriguez
Print Name

_____
Signature
Dayana Perez
Print Name

By: _____
Signature
Jose A. Compres
Print Name and Title

19 Day of January, 2024

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

DESIGN2FORM, LLC

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 11 day of March, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and Design2Form, LLC, ("CONSULTANT") 2001 Tyler Street Hollywood, FL 33020 for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options.

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: Zamarr Brown
Design2Form, LLC
2001 Tyler St., Suite 2
Hollywood, FL 33020

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of

this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 Ownership of Documents. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 Audit and Inspection Rights and Retention of Records. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the

books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with

committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

Zamarr Brown
Design2Form, LLC.
2001 Tyler St., Ste.2

7.8 Assignment and Performance. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care"). Except for the Standard of Care, CONSULTANT makes no warranties or guarantees, express or implied, under this Agreement or otherwise in connection with CONSULTANT's services.

7.9 Conflicts. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 Materiality and Waiver of Breach. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 Compliance with Laws. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 Severance. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 Applicable Law and Venue. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 Amendments. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 Prior Agreements. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 Drug-Fee Workplace. CONSULTANT shall maintain a drug-free workplace.

7.20 Incorporation by Reference. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 Multiple Originals. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 Headings. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 Public Records. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S

failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 **Survival of Provisions**. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 **Truth-in-Negotiation Certificate**. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

7.28 Parties agree to first attempt to amicably resolve any disputes arising out of this Agreement prior to initiating litigation.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager
11 day of March., 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature
BRENDA SHULER
Print Name

_____
Signature
Gretchen Atkins-Braun

By: _____
Signature
Zamar Brown
Print Name and Title

1 Day of March, 2024

Print Name

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

CALVIN, GIORDANO & ASSOCIATES, INC

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 16 day of April, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and CALVIN, GIORDANO & ASSOCIATES, INC., ("CONSULTANT") 1800 Eller Drive, Suite 600, Fort Lauderdale, FL 33316 for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary

to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: Calvin, Giordano & Associates, Inc
1800 Eller Drive, Suite 600
Fort Lauderdale, FL 33316

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience. CONSULTANT shall not be responsible or liable in any manner for CITY's use of unfinished work product or documents.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION AND LIMIT OF LIABILITY

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials, employees, agents, and representatives from any and all third-party 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 CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL OR OTHER INDIRECT DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSSES AND REGARDLESS OF WHETHER THE REMAINING REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE. THE TOTAL AGGREGATE LIABILITY OF COUNSULTANT UNDER THIS AGREEMENT SHALL NOT EXCEED THE MINIMUM LIMITS OF INSURANCE AS SET FORTH IN THE RFQ, EXHIBIT "A".

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 **Ownership of Documents**. Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.
Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

7.2 **Audit and Inspection Rights and Retention of Records**. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the

books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act**. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with

committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor**. CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries**. Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices**. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

Jenna Martinetti
Calvin, Giordano & Associates, Inc.
1800 Eller Drive, Suite 600

7.8 **Assignment and Performance**. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT without the expressed written consent of the CITY. Written consent shall not be unreasonably withheld or delayed. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts**. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 Materiality and Waiver of Breach. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 Compliance with Laws. CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 Severance. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 Applicable Law and Venue. This Agreement shall be interpreted and

construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any right hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 **Amendments**. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 **Prior Agreements**. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 **Drug-Fee Workplace**. CONSULTANT shall maintain a drug-free workplace.

7.20 **Incorporation by Reference**. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 **Multiple Originals**. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 **Headings**. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 **Binding Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 **Public Records**. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 Survival of Provisions. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 Truth-in-Negotiation Certificate. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Pursuant to Florida Statutes, Section 287.05, for all claims against CONSULTANT under any contract or purchase order, and regardless of the basis on which the claim is made, CONSULTANT's liability for direct damages under an Agreement or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by CONSULTANT under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of this Agreement or any section of the Agreement relating to Insurance for the provision of Professional Services as defined in 287.055 Florida Statutes, unless otherwise agreed to in writing between the parties to the contract. Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager
16th day of April, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

Jenna Martinetti
Digitally signed by Jenna Martinetti
Date: 2024.04.09 13:37:25 -04'00'
Signature
Jenna Martinetti
Print Name

Sara R Blumkin
Digitally signed by Sara R Blumkin
Date: 2024.04.09 13:53:42 -04'00'
Signature
Sara Blumkin
Print Name

By: David E Stambaugh
Digitally signed by David E Stambaugh
Date: 2024.04.08 16:09:53-04'00'
Signature
David Stambaugh, Vice President of Professional Services
Print Name and Title

08 Day of April, 2024

PROPOSED SERVICE CATEGORIES AND FEES

Name of Firm: CALVIN, GIORDANO, & ASSOCIATES

Categories for consideration:
Water Treatment and Water Distribution
Landscape Architecture

Maximum Hourly Rate

Engineering Services	Hourly Rate ($)	Name of Professional
Principal	$252.00	Chris Giordano, David Stambaugh
Engineer P.E.	$179.00	Nico Kanelidis, Jimmy Messick, Sebastian Soria
Engineer E.I.	$133.00	Moshiur Rahman, Pablo Munoz
Project Manager	$196.00	Jenna Martinetti
Drafting Technician	$135.00	Lee Rowbotham, Carlos Lemus
Scheduler/Estimator	$109.00	Lissette Valdes
Clerical	$86.00	Dawn Hopkins
Construction Inspector	$125.00	Richard Freeman
Environmental Consultation		
Principal		
Engineer P.E.		
Engineer E.I.		
Hydro geologist		
Senior Scientist		
Drafting Technician		
Scheduler/Estimator		
Clerical		
Construction Inspector		
Architectural Services Landscape Architecture		
Principal		
Architect R.A.	$150.00 Sophia	$225.00 Gianno Feoli / Landscape Architect
Architect A.I.		
Design Architect Landscape	$165.00	Dominic Mack
Project Manager	$179.00	Michael Conner
Drafting Technician	$135.00	Lee Rowbotham, Marcos Mendoza
Scheduler/Estimator		
Clerical	$86.00	Dawn Hopkins
Construction Inspector	$125.00	Drew Lindemann
Technical Service		
Engineer P.E.	$179.00	Nico Kanelidis, Jimmy Messick, Sebastian Soria
Professional Surveyor	$225.00	Steve Watts
Survey Crew	$164.00	TBD
Drafting Technician	$115.00	Kyle
Senior Inspector (C.E.I.)	$152.00	TBD
Field technician	$113.00	TBD
Clerical	$86.00	TBD
(list special equipment separately)		

AGREEMENT

BETWEEN THE

CITY OF LAUDERHILL

AND

LANGAN ENGINEERING AND ENVIRONMENTAL SERVICES, INC.

FOR

MISCELLANEOUS PROFESSIONAL SERVICES

This Agreement is made and entered into the 20 day of May, 2024 by and between the City of Lauderhill, a Florida municipal corporation, ("CITY"), 5581 West Oakland Park Boulevard, Lauderhill, Florida 33313 and LANGAN ENGINEERING AND ENVRIONEMENTAL SERVICES, LLC. ("CONSULTANT") 300 Kimball Dr., 4TH Floor, Parsippany, NJ 07054 for Miscellaneous Professional Services ("Services"). References in this Agreement to "City Manager" shall be meant to include his designee.

The parties agree that this Agreement may be made available to subsidiaries and affiliated companies of LANGAN. Each Purchase Order shall identify the legal name of the entity responsible for performing the Services described in the Purchase Order. For purposes of this Agreement, as it applies to each Purchase Order, the term "Consultant" shall mean either LANGAN (as signatory to this Agreement) or the subsidiary or affiliate of LANGAN identified in the Purchase Order. LANGAN shall remain liable to the CITY for any work performed by any subsidiary, affiliate or sub-consultant identified in a Purchase Order. LANGAN can seek recourse against any subsidiary, affiliate, or sub-consultant, however this Agreement is entered into with LANGAN to serve as the responsible party who shall ultimately be solely responsible to the CITY for the performance of the Services provided either by LANGAN or any subsidiary or affiliate of LANGAN as described therein and all rights, obligations and liabilities arising from or related to that Purchase Order shall belong solely to the identified Consultant.

WITNESSETH:

WHEREAS, the City of Lauderhill issued a Request for Qualification (RFQ 2023-045) for Miscellaneous Professional Services, in accordance with the Consultants' Competitive Negotiation Act ("CCNA") pursuant to Section 287.055, Florida Statutes, and established an Evaluation Committee for the purpose of recommending to the City Commission the approval of a list of various qualified consultants to perform Miscellaneous Professional Services attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on September 28, 2023, the City Commission adopted Resolution No. 23R-09-272, which approved the list of various qualified consultants as recommended by the Evaluation Committee and authorized the City officials to enter into negotiations for an agreement with each of those consultants; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the

duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT must meet the requirements and perform the services identified in the Request for Qualification for Miscellaneous Professional Services Plan Review and Inspection Services ("RFQ 2023-045"), attached hereto and made a part hereof, as Exhibit "B" and the CONSULTANT'S Proposal, attached hereto and made a part hereof, as Exhibit "C".

1.2 CONSULTANT agrees and acknowledges that CONSULTANT is prohibited from exempting provisions of the RFQ or in this Agreement in any of CONSULTANT'S services pursuant to this Agreement.

SECTION 2. TERM

2.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend for a three (3) year term with two (2) one (1) year renewal options.

2.2 This provision in no way limits the CITY's right to terminate this Agreement at any time during the initial term pursuant to Section 4 of the Agreement. The City shall also have the right to extend the agreement beyond the expiration date or any extension for a period not to exceed ninety (90) days.

SECTION 3. COMPENSATION

3.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the rates and schedules as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties., which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. CONSULTANT will prepare a scope and fee proposal for each requested task and CITY reserves the right to re-scope, and negotiate such proposal as needed. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for any additional work. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for additional work from another

source.

CONSULTANT can only proceed to do the work with the corresponding request of a Purchase Order (P.O.) issued by the City and the required authorization notice.

3.2 CITY shall pay CONSULTANT monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the City Manager, for failure of CONSULTANT to comply with a term, condition or requirement of this Agreement.

3.3 Notwithstanding any provision of this Agreement to the contrary, City Manager may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work of CONSULTANT which has not been remedied or resolved in a manner satisfactory to City Manager in accordance with the terms of this Agreement. The amount withheld shall not be subject to payment of interest by CITY.

3.4 Payment shall be made to CONSULTANT at:

Attention: Vincent Yarina, PG, CEM
Langan Engineering and Environmental Services, Inc.
110 E. Broward Blvd., Suite 1500
Ft. Lauderdale, FL 33301

or by Electronic Funds Transfer (EFT) as determined by the CITY.

3.5 CONSULTANT agrees to keep such records and accounts as may be necessary, for such time period as required by Florida Statutes, in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such books and records shall be available at all reasonable times for examination and audit by CITY.

3.6 If it should become necessary for CITY to request CONSULTANT to render any additional services to either supplement, the services described in the RFQ or to perform additional work, such as services provided in emergency situations as described in the RFQ, such additional work shall be performed, as authorized by the City Manager or his/her authorized designee. Any such additional work agreed to by both parties shall be performed at the rate for additional work as set forth in the schedule of fees included in the proposal and / or as agreed upon by the parties.

SECTION 4. TERMINATION

4.1 This Agreement may be terminated for cause by action of the City if the CONSULTANT is in breach and has not corrected the breach within thirty (30) days after written notice from the CITY identifying the breach, or for convenience by action of the City upon not less than thirty (30) days' written

notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event City Manager determines that termination is necessary to protect the public health, safety, or welfare.

This Agreement may be terminated for cause by the CONSULTANT if the CITY is in breach and has not corrected the breach within sixty (60) days after written notice from the CONSULTANT identifying the breach.

4.2 Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breach of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured. In the event the Agreement is terminated due to CONSULTANT's default, CONSULTANT shall be paid for all services properly performed and all expenses properly incurred as of the effective date of termination less actual damages incurred by CITY to the extent caused by the default.

4.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by City Manager which City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

4.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars ($10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY'S right to terminate this Agreement for convenience.

4.5 In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to Section 7.2 of this Agreement. In no event shall the CITY be liable to CONSULTANT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT hereby agrees to indemnify and hold harmless the CITY, and its officials and employees, agents, and representatives (provided that such agents and representatives are not engaged in design or construction of the project which is the subject of this agreement) from any and all 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 CONSULTANT and

other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 6. INSURANCE

In order to insure the indemnification obligation contained above, CONSULTANT shall, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's as set forth in the RFQ, Exhibit "A".

The CONSULTANT will be required, prior to execution of the contract by the CITY, to furnish certificate(s) of insurance and will cause to be issued by the insurance carrier, an endorsement naming the CITY as an Additional Insured under such contract of insurance.

SECTION 7. MISCELLANEOUS

7.1 **Ownership of Documents.** Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein provided that CITY shall not be entitled to use any documents until CONSULTANT is paid all amounts owed to it as of the time of any such use.

The original form of all documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and/or sub consultants, pursuant to this Agreement shall be owned by the CITY upon full payment of all fees due the Consultant.

Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. CONSULTANT takes no responsibility for the re-use of its documents by others or modifications made to such documents without its consent. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the

CITY and the CONSULTANT. This shall not limit the City's reuse of preliminary or developmental plans or ideas incorporated therein, should the project be suspended or terminated prior to completion.

Notwithstanding the foregoing or any other provision of this Agreement, CITY shall have no ownership of standard details, systems and specifications developed and used by CONSULTANT ("Standard Details) which shall remain the property of CONSULTANT and may be used with other projects. CITY shall have a license to use such Standard Details for the project which is the subject of this Agreement. CITY's rights in and CONSULTANT's obligations with respect to all documents and materials as provided in this Section 7 are conditioned on CONSULTANT's receipt of all undisputed amounts due to it under this Agreement.

7.2 **Audit and Inspection Rights and Retention of Records**. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONSULTANT is notified in writing by CITY of the need to extend the retention period. Such retention of such records and documents shall be at CONSULTANT'S expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.

In addition, CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANTS and allow successor CONSULTANTS to receive working papers relating to matters of continuing significance.

In addition, CONSULTANT shall provide a complete copy of all working papers to the CITY, prior to final payment by the CITY, in accordance with the L.O.I. for CONSULTANT services.

7.3 **Policy of Non Discrimination**. CONSULTANT shall not discriminate

against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery. CITY will not request documentation of CONSULTANT nor consider CONSULTANT's social, political, or ideological interests regarding this Agreement or the services being provided in accordance therewith.

7.4 **Public Entity Crime Act.** CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, sub-consultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

7.5 **Independent Contractor.** CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

7.6 **Third Party Beneficiaries.** Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement

and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.7 **Notices.** Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail postage prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY:

Desorae Giles-Smith, City Manager
City of Lauderhill
5581 W. Oakland Park Boulevard
Lauderhill, Florida 33313

With a copy to:

City Attorney
8850 W. Oakland Park Boulevard, Suite 101
Sunrise, FL 33351

CONSULTANT:

Vincent Yarina, PG, CEM
Langan Engineering
110 East Broward Blvd., Suite 1500
Ft. Lauderdale, FL 33301

7.8 **Assignment and Performance.** CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors should be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care").

7.9 **Conflicts.** Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONSULTANT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

7.10 **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 other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.11 **Materiality and Waiver of Breach.** CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

7.12 **Compliance with Laws.** CONSULTANT shall exercise the Standard of Care to comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.13 **Severance.** In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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

7.15 **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 Articles 1 through 7 of this Agreement shall prevail and be given effect.

7.16 **Applicable Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.

7.17 **Amendments.** No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

7.18 **Prior Agreements.** This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms

or conditions contained here shall be effective unless set forth in writing in accordance with Section 7.17 above.

7.19 **Drug-Fee Workplace**. CONSULTANT shall maintain a drug-free workplace.

7.20 **Incorporation by Reference**. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.

7.21 **Multiple Originals**. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

7.22 **Headings**. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

7.23 **Binding Authority**. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.24 **Public Records**. CONSULTANT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to CITY contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the CITY and the public to all documents subject to disclosures under applicable law. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the CITY.

7.25 **Survival of Provisions**. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

7.26 **Truth-in-Negotiation Certificate**. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

7.27 Unless otherwise specifically enumerated in the Agreement or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement or purchase order requires CONSULTANT to backup or retain or store data or records), even if the party has been advise that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The CITY may, in addition to other

remedies available to them at law or in equity and upon notice to CONSULTANT retain such monies from amounts due to CONSULTANT as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The CITY may set off any liability or other obligation of CONSULTANT or its affiliates to the CITY against any payments due CONSULTANT under any contract within the CITY.

7.28 PURSUANT TO FLA.STAT.ANN. § 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT OF CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.

7.29 **Site Access.** The CITY shall provide for safe right of entry in order for CONSULTANT to perform its services, including execution of any site access or license agreements required for completion of the services. CONSULTANT will not be required to execute any site access or license agreement(s).

7.30 **LIMITATION OF LIABILITY.** Notwithstanding any other provision to the contrary in this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of CONSULTANT and its officers, directors, partners, employees, agents, and sub-consultants, to CITY and anyone claiming through or under CITY, and to any third parties granted reliance, for any claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way relating to this Agreement or the Services performed pursuant to the applicable Purchase Order (PO), from any cause or causes, including but not limited to tort (including negligence and professional errors and omissions), strict liability, breach of contract, or breach of warranty, shall not exceed the amounts set forth below:

PO Value	Limit of Liability
Up to $100,000	Greater of $100,000 or 10 x PO Value
$100,001 to $250,000	Greater of $1,000,000 or 8 x PO Value
$250,001 to $1,000,000	Greater of $2,000,000 or 5 x PO Value
$1,000,000 and above	$5,000,000 (or such other amount as the parties mutually agree)

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE ONLY TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature by a duly authorized representative:

CITY OF LAUDERHILL, as approved by its City Commission and as executed by its City Manager.

By: _____
Desorae Giles-Smith
City Manager

20 day of May, 2024

Approved as to Form:

_____
City Attorney

CONSULTANT:

As executed by a duly authorized legal representative of the entity.

WITNESSES:

_____
Signature
LUTECIA FLORENCIO
Print Name

_____
Signature
Dionisio Jimenez
Print Name

By: _____
Signature
Vincent D. Yarina Principal/VP
Print Name and Title

13 Day of May, 2024

December 23rd, 2024

Mr. Herb Johnson
Utilities Director
City of Lauderhill
5581 W Oakland Park Blvd
Lauderhill, FL 33313

Reference: **CITY OF LAUDERHILL WATER TREATMENT PLANT CHLORINE CONVERSION**

CONSTRUCTION MANAGEMENT SERVICES

Mr. Johnson:

Thank you for the opportunity to present this Service Order proposal for construction administration services associated with the construction phase for RFP 2024-022.

This Service Order will be an integral part of the Miscellaneous Professional Services (RFQ 2023-045) between the City and BCC Engineering, LLC (BCC). The following sections outline the required scope of work, schedule of work, compensation, support from the City, and scope of work exclusions for this project's professional engineering services.

I. SCOPE OF WORK

The Scope of Work is comprised of the following essential tasks:

Task 1 – Construction Management Services
Task 2 – Construction Inspections & Close Out Services

Task 1 – Construction Management

1.1 Representation of the City.

The Consultant shall represent the City during the design and construction phase which shall commence with the issuance of the Notice to Proceed for the selected

Contractor. Instructions and other appropriate communications from the City to the Contractor shall be communicated through the Consultant unless the City directs otherwise. The Consultant shall act on behalf of the City only to the extent provided in this proposal for Construction Management Services. The Consultant shall have and perform the duties, obligations, and responsibilities of the Consultant as set forth in this proposal.

1.2 Pre-Construction Support.

The Consultant shall schedule and attend a Pre-Construction meeting and a Project Kickoff Meeting which shall include, but shall not be limited to, the Consultant, the City, and the Contractor. The pre-construction meeting shall review and discuss any applicable procedures for contract administration as well as any other items deemed appropriate by the Consultant or the City.

1.3 Project Progress Meetings.

During the construction phase, the Consultant shall schedule biweekly meetings with the City, the Contractor, and others, to review the progress of the Project and final close-out documents or as otherwise necessary. The Consultant shall prepare, distribute, and maintain detailed minutes of the Project Kickoff Meeting, the pre-construction meeting, and all other meetings under this task.

1.4 Interpretations and Clarifications.

At any time during the construction phase, the Consultant shall notify the City in writing within five (5) working days of any necessary interpretations and clarifications of the Contract Documents. The written notification shall include any impacts to quality, operations, schedule, or cost. The Consultant shall prepare and issue any necessary interpretations and clarifications of the Contract Documents. The Consultant will obtain approval from the City if the interpretation or clarification of the Contract Documents will impact quality, operations, schedule, or cost.

1.5 Review Requests for Information (RFIs).

The Consultant will review requests for information (RFIs) as provided by the Contractor and answered by the Engineer through Substantial Completion. The Consultant will maintain the official log of RFIs received from the Contractor, which will be made available to the City for informational purposes monthly.

1.6 Shop Drawings and Submittals.

The Consultant will review, study, and approve, or take other necessary action upon, the Engineer's Drawings, Contractor's Shop Drawings, product data, samples, and

other submittals. Approval by the Consultant of the Engineer or Contractor submittals shall constitute the Consultant's representation to the City that such submittal is in conformance with the Contract for Construction. Such action shall be taken with reasonable promptness.

*1.7 **Change Orders.***

The Consultant shall review the proposals and request for Change Orders from the Engineer, Contractor or City. The Consultant shall provide Change Orders backup documentation and recommendation for the City's evaluation, approval and execution in accordance with the Contract for Construction and shall have authority to order, by Field Order, minor changes in the Work not involving an adjustment in the Contract Price or quality or an extension of the Contract Time.

*1.8 **Examination of Project Schedules.***

The Consultant shall examine and review all construction schedules, and updates thereof submitted by any Engineer, Contractor or supplier in connection with the construction of the Project. The Consultant shall advise the City in writing with respect to the adequacy and accuracy of any such schedules or updates.

Task 2 – Construction Inspections & Close Out

*2.1 **Observation of the Work.***

The Consultant will regularly inspect the Contractor's work to assess quality, quantity, and progress per the Contract Documents. The Consultant will document and submit all inspection reports, including periodic photographs and test results. A part-time inspector, working no more than an 8-hour week, will monitor key activities, and part-time construction administration services will be provided as needed. The Consultant will maintain detailed records, ensure all shop drawings and submittals are reviewed, and notify the City of any issues or required clarifications. The Consultant will not exceed their authority or assume the Contractor's responsibilities.

*2.2 **Approval of Request for Payment.***

The Consultant shall review each Contractor's pay requests and shall, with each pay request, recommend amounts due to the Contractor under the Contract for Construction predicated upon: observation of the Work as required in Paragraph 2.1 above, evaluation of the Contractor's rate of progress in relation to the remaining Contract time, the Schedule of Values, review of partial and final releases of liens from the Contractor's subcontractors and material suppliers and upon evaluation of the Contractor's Request for Payment, shall issue recommended Approvals for Payment to the City of such amounts. The issuance of a recommended Approval for

Payment shall constitute a representation by the Consultant to the City that the Consultant has made an inspection of the Work as required in Paragraph 2.1 above, and that the Work has progressed to the level indicated, that the quality of the Work meets the requirements of the Contract for Construction, and that, to the best of the knowledge, information and informed belief of the Consultant, the Contractor is entitled to payment to the amount recommended for approval. The City shall be the final interpreter of the amount of payment.

2.3 Contract Interpretations.

The Consultant shall be the initial interpreter of the requirements of the drawings and specifications and the initial interpreter of the performance there under by the Contractor. The Consultant shall render written or graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on the request of the Contractor or the City. Unless otherwise directed by the City, the Consultant shall determine all matters relating to the aesthetic effect, and such determination shall conform to the intent of the Contract.

2.4 Project Administration & Closeout.

The Consultant will provide administrative and project closeout services, including assisting with the closure of financial transactions and project-related permits, such as those from Broward County and/or the City of Lauderhill. Additionally, the Consultant will help in receiving and reviewing all closeout documents from the Contractor.

2.5 Substantial Completion and Final Completion.

The Consultant based on a substantial completion walk-through and a subsequent follow-up inspection of the Project shall determine and recommend in writing to the City the date of Substantial Completion and the date of Final Completion of the Project. The Consultant shall witness and verify all tests required by the Contract Documents as well as the installation and operation of equipment and systems by the Contractor.

2.6 Review of Contractor Provided As-builts and O&M manuals.

The Consultant will review and provide comments on the contractor provided as-builts. Up to three (3) reviews are budgeted under this task. The Consultant will monitor the Contractor's performance in maintaining up-to-date set of "As Built" drawings if required to be provided by the contract documents. The Consultant will provide record drawings to the City, using the contractor's as-builts as the basis for preparation of the record drawings. The Consultant will review and approve the O&M Manuals prepared by the contractor for the Project. Up to three (3) reviews are budgeted for this effort.

2.7 Termination for Convenience

At any time, the City may terminate this agreement without cause upon thirty (30) days notice to Consultant. Upon termination, the City shall only be responsible to pay for services rendered.

II. SCHEDULE

The Consultant shall submit the deliverables and perform the work outlined in the Scope of Work in accordance with the schedule depicted in the table below. Tasks 1 through 2 will be completed within 365 days after receiving notice to proceed (NTP) and obtaining all the required documentation from the City. BCC will prepare a detailed schedule after receiving NTP.

Schedule	
Project Activity Description and Deliverable	**Days from NTP**
Task 1 –Construction Management	200
Task 2 – Construction Inspections & Close Out	96

III. COMPENSATION

BCC will be compensated for the scope of work outlined in Task 1 through Task 2, $94,218.14, ~~on a lump sum basis~~. The table below outlines the estimated fee schedule for the required deliverables. Exhibit A includes a detailed breakdown of the man-hour estimate per task.

Summary of Compensation	
Project Activity Description and Deliverable	**Amount**
Task 1 – Construction Management	$43,290.62
Task 2 – Construction Inspections & Close Out	$50,927.52
TOTAL	**$94,218.14**

Services not included in the Scope of Services will require additional compensation and a new Fee proposal for the additional work required.

Reimbursable Expenses and Additional Services will be billed monthly as they are incurred.

Administrative time related to the project may be billed hourly.

BCC will submit monthly invoices to the City for the percentage of work completed during each month for the lump sum tasks.

WORK AUTHORIZATION

Print:	Mr. Kennie Hobbs	**Print:**	Jenna Martinetti
Title:	City Manager	**Title:**	Director of Engineering
Date:		**Date:**	

Print:	Hans Ottinot
Title:	City Attorney
Date:	1/28/25

We look forward to assisting the City on this important project assignment. If you have any questions or need additional information, please do not hesitate to contact me at (305) 670-2350

Sincerely,
BCC ENGINEERING, LLC.

Victor Herrera, PE
Senior Vice President

Attachment: Exhibit "A" – Fee Estimate

Exhibit A – Fee Estimate

PROPOSAL FEES SCHEDULE

Project Name:	City of Lauderhill WTP Chlorine Conversion CMS	BCC Staff by Category					TOTAL HOURS	TOTAL FEE
Proposal Date:	12/23/2024							
Task No.	Description	Principal	Project Manager	Project Engineer, PE	Engineer, EI	Inspector		
		$248.22	$228.79	$202.39	$136.00	$136.00		
1.0	Construction Management			58	232		290	$43,290.62
2.0	Inspections + Close Out	16	32	48	108	112	316	$50,927.52
Total Hours		16	32	106	340	112	606	
TOTAL FEE		$3,971.52	$7,321.28	$21,453.34	$46,240.00	$15,232.00		$94,218.14