

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT is made as of this ____ day of _____, 2018, between the City of Coral Gables (hereinafter called the "City"), and Park One of Florida, LLC., (hereinafter called the "Professional").

RECITALS

WHEREAS, the City desires to enter into an agreement with the Professional to provide Centralized Valet Services; and

WHEREAS, the City having investigated the qualifications of the Professional to perform the services herein contemplated and found those qualifications satisfactory; and

WHEREAS, the Professional having examined the scope of the services required hereunder and having expressed desire and willingness to provide such services and having presented qualifications to the City in support of those expressed desires; and

WHEREAS, the Professional agrees to accept this Agreement upon the terms and conditions hereinafter set forth; and

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, the City agrees to retain the Professional for a three (3) year period to provide Centralized valet Services to the City. However, this period may be extended at the sole discretion of the City (through the City Manager) for two (2) additional two (2) year periods, subject to negotiations of rates for each renewal term of the contract, pursuant to Procurement Code Section 2-687(h)(3) entitled "Competitive Sealed Proposals; Award".

I. GENERAL PROVISIONS

This Agreement incorporates and supersedes all previous agreements, written and oral, and all prior and contemporaneous communications between the parties, regarding this subject. The City reserves the right to initiate change to any provision of this Agreement. All such changes shall be accomplished only by mutually signed Amendments.

The Professional shall perform the services as specifically stated in the Scope of Services, which is attached hereto and incorporated herein as Exhibit A, and as may be specifically designated and authorized by the City.

1.1 **Engagement.** The City agrees to engage the Professional for a period specified in paragraph 1.2, and the Professional agrees to accept such engagement and to perform such services for the City upon the terms, and subject to the conditions set forth herein.

1.2 **Agreement Period.** The terms of the Agreement (the "Professional Period") shall commence within ten (10) days of the execution date of the agreement and shall continue thereafter for a three (3) year period. This period may be extended upon mutual

agreement between the City (through the City Manager) and the Professional for two (2) additional two (2) year periods, subject to negotiations of rates for each renewal term of the contract, pursuant to Procurement Code Section 2-687(h)(3) entitled "Competitive Sealed Proposals; Award" or until terminated by the City upon 30 days written notice to the Professional, in accordance with the notice requirements contained in Section XIII.

1.3 Duties and Responsibilities/Priority of Interpretation. The Code and any City resolutions take precedence over this agreement and its exhibits. The Professional agrees to comply with all regulations, code provisions, ordinances and statutes that apply to services provided under this Agreement. This document without exhibits is referred to as the "Base Agreement." In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, service, or other work, or otherwise, between the Base Agreement and the exhibits, or between exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the body of this Base Agreement, and then to the exhibits according to the following priority:

- a) Scope of Services – Exhibit A
- b) Compensation – Exhibit B
- c) City Resolution and applicable Code provisions - Exhibit C
- d) City Request for Proposal ("RFP") 2018-011 – Exhibit D
- e) Professional 's Response to RFP – Exhibit E
- f) Insurance Certificates – Exhibit F

1.4 Background Investigation. The Professional agrees that all employees including the Professional may be subject to an annual background investigation.

1.5 Polygraph Examination. The Professional agrees to submit to polygraph examinations at the request of the Director or designee.

1.6 Medical, Drug Screening and Check-ups. All Professionals, their employees, agents and sub consultants must satisfactorily complete the City's pre-placement medical and drug screening examinations and be certified as drug free as well as abide by the City's Drug Free Work Place Policy at Professional 's expense. The City may require that the Professional and/or their employees, agents and sub consultants performing services for the City submit to a yearly medical and drug screen examination, at Professional's expense.

1.7 Drug Testing. The Professional agrees to submit to unannounced drug testing at the request of the Director or designee.

1.8 Driver's License. At City's option, the Professional shall provide a valid Florida Driver's License or appropriate commercial driver's license for each employee, agent or sub consultant and be willing and able to operate any required vehicles as authorized by the City. Evidence of compliance with the Defensive Driving Course must be submitted to the City prior to operating a City vehicle or any vehicle where patrons or children are passengers. Individuals must be approved by the Risk Management Division of the City prior to the operation of a City owned vehicle and/or privately owned vehicles while conducting City business. The City reserves the right to request the employee/agent's driving record from the State of Florida, at Professional's expense.

1.9 Confidential Information. The Professional agrees that any information received by the Professional for the City and in providing services in accordance with this Agreement which is not publicly available, shall not be revealed to any other persons, firm or organizations.

1.10 Most Favored Public Entity. The Professional represents that the prices charged to City in this Agreement do not exceed existing prices to other customers for the same or substantially similar items or services for comparable quantities under similar terms and conditions. If Professional's prices decline, or should Professional, at any time during the term of this Agreement, provide the same goods or services to any other customer at prices below those set forth herein, then such lower prices shall be immediately extended to the City.

II. PROFESSIONAL SERVICES

2.1 Basic Services. The duties and responsibilities are outlined in Section 1.3 of the Agreement.

2.2 Reporting. The Professional shall comply with the necessary reporting requirements as outlined by the Director or designee for review. In addition, the Professional shall submit a monthly report to the Director or designee, which shall include detailed information regarding the activities of the Professional during the previous month.

2.3 Availability of Professional. The Professional shall make all documents available 24 hours a day, 7 days a week, 365 days a year, in order to satisfy the City's emergency demands for continued, non-interrupted service.

III. COMPENSATION

3.1 Basic Compensation. In full consideration of the services of the Professional; hereunder, the Professional shall be paid by the vehicle owner and/or operator an amount not to exceed the fees provided herein and made a part of the Contract, and shall be the maximum fees charged to the vehicle owner.

Valet parking per vehicle fee:

Rate of \$ 8.00 per vehicle, with a rate of \$ 10.00 per vehicle for special events.

3.2 Expenses. As part of, and in addition to the basic compensation described in this Agreement, the City shall provide the Professional with no additional compensation for any services performed in fulfilling the requirements of this Agreement. All additional requested expenses must be pre-approved through the Director or designee.

3.3 Payments to the Professional. In addition to a Valet App that allows customers to pay for valet and request their car through their smart phones, the Professional shall accept cash and credit card in payment of valet parking charges.

3.4 Payment to the City. As part of the valet service, the Professional will compensate the City a fee of \$ 1.50 per vehicle and \$ 15.00 per ramping space per day.

IV. INDEPENDENT CONTRACTOR AND PROFESSIONAL HOLD HARMLESS PROVISIONS

4.1 Independent Contractor and Professional. The Professional acknowledges entering into this Agreement as an independent Contractor and Professional, and that the Professional shall therefore be responsible for the deposit and payment of any Federal Income Taxes, FICA, Unemployment Taxes or any similar fees or taxes that become due, and shall be responsible for the collection and payment of all withholdings, contributions and payroll taxes relating to Professional's services, or those of employees of the Professional. The City shall not withhold from sums payable to the Professional , any amount whatsoever for Federal Income Taxes, FICA, Unemployment Insurance Taxes or any similar fees or taxes. The Professional, their employees or agents, will not be considered an employee of the City or entitled to participate in plans, distributions, arrangements or other benefits extended to City employees.

4.2 Agency. Nothing herein shall imply or shall be deemed to imply an agency relationship between the City and Professional.

4.3 Professional warrants that it fully complies with all Federal statutes and regulations regarding the employment of undocumented workers and others and that all employees performing work under this Agreement meet the citizenship or immigration status requirements set forth in Federal statutes and regulations. Professional shall indemnify, defend, and hold harmless City, its officers and employees from and against any sanctions and any other liability which may be assessed against Professional or City in connection with any alleged violation of any Federal statutes or regulations pertaining to the eligibility for employment of any persons performing work hereunder.

4.4 The employees and agents of each party, shall while on the premises of the other party, comply with all rules and regulations of the premises, including, but not limited to, security requirements.

4.5 Indemnification and Hold Harmless. To the fullest extent permitted by laws and regulations, the Professional shall defend, indemnify, and hold harmless the City, its elected and appointed officials, attorneys, administrators, consultants, agents, and employees from and against all claims, damages, losses, and expenses direct, indirect, or consequential (including but not limited to fees and charges of attorneys and other Professional's and court and arbitration costs) arising out of or resulting from the performance of the work and caused in whole or in part by either (i) any willful, intentional, reckless, or negligent act or omission of Professional , any sub consultant, or any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder and regardless of the negligence of any such indemnified party, or (ii) any willful, intentional, reckless, or negligent act or omission of any individual or entity not a party to this agreement, or (iii) any negligent act or omission of the City or the City's officers, agents, or employees. The parties expressly agree that this provision shall be construed broadly, and Professional's obligations to pay for the City's legal defense hereunder shall arise and be fully enforceable when Professional (or any sub consultant or any person or organization directly or indirectly employed by Professional) is alleged to have acted willfully, intentionally, recklessly, or negligently in the performance of the work required under this Agreement. Any failure of

Professional to comply with the terms of this provision shall be deemed a material breach of this Agreement and may subject Professional to debarment from consideration for future award of city contracts pursuant to Section 2-952(4) of the City of Coral Gables Code of Ordinances. This provision shall survive termination of the Agreement.

4.5.1 In any and all claims against the City or any of its elected and appointed officials, consultants, agents, or employees by any employee of Professional, any sub consultant, any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, the indemnification obligation under the above paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Professional or any such sub consultant or other person or organization under workers' or workman's compensation acts, disability benefit acts, or other employee benefit acts. Moreover, nothing in this Indemnification and Hold Harmless provision shall be considered to increase or otherwise waive any limits of liability, or to waive any immunity, established by Florida Statutes, case law, or any other source of law.

V. INSURANCE

5.1 Without limiting Professional's indemnification of the City, and during the term of this Agreement, Professional shall provide and maintain at its own expense the below described programs of insurance. Such programs and evidence of insurance shall be satisfactory to the City and shall be primary to and not contributing with any other insurance or self-insurance program maintained by the City. Certificates or other evidence of coverage shall be delivered to:

City of Coral Gables
Insurance Compliance
P.O. Box 100085 – CE
Duluth, GA 30096

Such certificates or other evidence of coverage shall be delivered prior to commencing performance under this Agreement, and shall specifically identify this Agreement, and shall contain the express condition that the City is to be given advance written notice by receipted delivery at least thirty (30) days in advance of any cancellation, non-renewal or material change of the insurance policy.

5.2 The Professional shall maintain during the terms, except as noted, of this Agreement the following insurance:

a. **Garage Liability Insurance** covering all owned, non-owned and hired vehicles used in connection with the performance of work under this Contract, with a combined single limit of liability for bodily injury and property damage of not less than Combined Single Limit (Each Accident) - \$1,000,000. AND

Garage Keepers Liability covering all owned, non-owned and hired vehicles used in connection with the performance of work under this Contract, with a minimum limits of \$100,000 each auto, \$500,000 per each location.

b. **Comprehensive general liability insurance** with broad form endorsement or equivalent, including automobile liability, completed operations and

products liability, contractual liability, severability of interests with cross liability provision, and personal injury and property damage liability with limits no less than \$1,000,000 per occurrence for bodily injury and property damage, and \$2,000,000 in the aggregate. Said policy or policies shall name City as additional insured on a primary and non-contributory basis and shall reflect the hold harmless provision contained herein.

c. **Worker's Compensation Insurance** for all employees of Professional as required by Florida Statutes Section 440, and employer's liability insurance with limits not less than, \$1,000,000

d. **Automobile Liability insurance** covering all owned, non-owned and hired vehicles used in connection with the performance of the work in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

e. Other (or increased amounts of) insurance which City shall from time to time deem advisable or appropriate. Such new or additional insurance to be effective as of the sooner of ninety (90) days after notice thereof or the next annual renewal of any policy being increased (as applicable).

f. All policies shall contain waiver of subrogation, against City where applicable, and shall expressly provide that such policy or policies are primary over any other collective insurance the City may have.

g. All of the above insurance is to be placed with insurance companies with an A.M. Best or equivalent rating of "A-", "VI" or better, qualified to do business under laws of the State of Florida.

h. Except for Worker's Compensation, the City shall be named as an additional insured on a primary and non-contributory basis under such policies. Said policies shall contain a "severability of interest or "cross liability" clause without obligation for premium payment of the City. The City reserves the right to request a copy of required policies for review.

i. All insurance policies shall provide for thirty (30) days [ten (10) days for non-payment of premium] advance written notice to City prior to cancellation, non-renewal or material change.

j. The Professional shall furnish Certificates of Insurance to the Risk Management Division of the Office of Labor Relations and Risk Management prior to the commencement of operations or policy termination, which certificates shall clearly indicate that the City is named as and additional insured on a primary and non-contributory basis and that the Professional has obtained insurance in the type, amount and classification required for strict compliance with this Section and that no material change, cancellation or non-renewal of this insurance shall be effective without thirty (30) days advance written notice to the City.

5.3 Failure on the part of the Professional to obtain and maintain all required insurance coverage is a material breach upon which the City may, in its sole discretion, immediately suspend Professional's performance or terminate this Agreement.

VI. SOVEREIGN IMMUNITY

6. The Professional acknowledges that the Florida Doctrine of Sovereign Immunity bars all claims by Professional against the City other than claims arising out of this Agreement. Specifically, the Professional acknowledges that it cannot and will not assert any claims against the City, unless the claim is based upon a breach by the City of this Agreement. The Professional acknowledges that this Agreement in no way estops or affects the CITY's exercise of its regulatory authority. In addition, the CITY retains the full extent of its sovereign immunity in relation to the exercise of its regulatory authority. The PROFESSIONAL acknowledges that it has no right and will not make claim based upon any of the following:

- a. Claims based upon any alleged breach by the CITY of implied warranties or representations not specifically set forth in this Agreement, as the parties stipulate that there are no such implied warranties or representations of the CITY. All obligations of the CITY are only as set forth in this Agreement;
- b. Claims based upon negligence or any tort arising out of this Agreement;
- c. Claims upon alleged acts or inaction by the City, its commissioners, attorneys, administrators, consultants, agents, or any CITY employee;
- d. Claims based upon an alleged waiver of any of the terms of this Agreement unless such waiver is in writing and signed by an authorized representative for the CITY and PROFESSIONAL.

VII. STANDARD OF CARE

7.1 The Professional shall exercise the same degree of care, skill, and diligence in the performance of the services as is ordinarily provided by a comparable Professional under similar circumstances and the Professional shall, at no additional cost to the City, re-perform services which fail to satisfy the foregoing standard of care.

7.2 The Professional warrants that all services shall be performed by skilled and competent personnel to the highest Professional standards in the field.

7.2 The parties acknowledge that PROFESSIONAL was selected by the City, in part, on the basis of the qualifications of particular staff identified in the PROFESSIONAL's response to the City's solicitation. The PROFESSIONAL shall ensure that this staff is available for work hereunder as long as the staff is employed by the PROFESSIONAL. Throughout the term of the agreement, the City reserves the right to approve/reject the re-designation of any of the PROFESSIONAL's staff assigned to the City.

VIII. NON-DISCRIMINATION

8.1 EEO and ADA: The Professional must be and remain in compliance with all local, state and federal Equal Employment Opportunity (EEO) and American Disabilities Act (ADA) requirements.

8.2 It is understood that the Professional shall not discriminate against any employee in the performance of the contract with respect to hire, tenure, terms, conditions or privileges of employment, or any other matter directly or indirectly related to

employment because of age, marital status, race, color, religion, national origin, sex, or disability.

8.3 City Policy Regarding Conduct. All Professionals, their employees, agents and sub consultants must abide by the City's policies regarding conduct. Discrimination, harassment, and/or violations of City policies will not be tolerated and are grounds for termination of the Agreement without harm to the City or its employees.

IX. CONFLICT OF INTEREST

9.1 The Professional represents that it has provided a list of all current clients subject to the jurisdiction of the City. Any potential or actual conflict between private interests and responsibilities under this Agreement shall be immediately disclosed to the City. The Professional agrees that it will not enter into any agreements during the term of this Agreement to provide services for any person or corporation who applies for a permit or other development approval from the City. Upon request of the Professional, and full disclosure of the nature and extent of the proposed representation, the City Manager or his designee shall have the authority to authorize such representation during the term of this Agreement.

X. CONFIDENTIALITY

10.1 Subject to the requirements of Chapter 119 of the Florida Statutes, no reports, information, computer programs, documentation, and/or data given to or prepared or assembled by the Professional under this Agreement shall be made available to any individual or organization by the Professional without prior written approval of the City.

XI. OWNERSHIP OF DOCUMENTS

11.1 Any and all documents, records, disks, or other information shall become the property of the City for its use and/or distribution as may be deemed appropriate by the City.

XII. TRUTH-IN-NEGOTIATION CERTIFICATE

12.1 Execution of this Agreement by the Professional shall act as the execution of a truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Agreement are accurate, complete, and current as of the date of the Agreement.

12.2 The said rates and costs shall be adjusted to exclude any significant sums should the City determine that the rates and costs were increased due to inaccurate, incomplete, or noncurrent wage rates or due to inaccurate representations of fees paid to outside consultants. The City shall exercise its rights under this "Certificate" within one (1) year following payment.

XIII. NOTICE

13.1 Any notice, request, instruction or other document required or permitted to be given hereunder by either party hereto to the other shall be in writing, and delivered personally, or sent by certified or registered mail, postage prepaid, return receipt

requested, to the address set forth for such party at the bottom of this Agreement. Any notice so given shall be deemed received when personally delivered or three (3) business days after mailing. Any party may change the address to which notices are to be sent by giving notice of such change of address to the other party in the manner herein provided for giving notice. Notice as to the City of Coral Gables shall be to:

City Manager
City of Coral Gables
405 Biltmore Way
Coral Gables, FL 33134

cc: City Attorney

Notice as to the Professional shall be to:

Fred Bredemeyer, President
Park One of Florida, LLC.
12000 Biscayne Blvd., Suite 707
Miami, FL 33181
Tel: 305-891-0060
fred@park1.com

XIV. DEFAULT AND TERMINATION

14.1 The City may terminate this Agreement for convenience at any time by providing thirty (30) days written notice to the Professional. In the event of a termination for cause, due to the Professional's failure to perform in accordance with the terms of this Agreement or the Professional's repudiation of this Agreement by word or conduct, The City may immediately terminate the Agreement and the Professional shall be paid any sums otherwise due and owing under this Agreement only after City has completed the work called for by this Agreement with other forces, and has deducted the cost of such work, and any other damages payable to City, from any contract balance otherwise due and owing to the Professional under this Agreement. In the event of a termination for convenience, the Professional shall be paid for all services performed through the date of termination, based on the percentage of services completed (subject to applicable setoff rights) and the Professional shall not be entitled to any other compensation or damages from the City. If, after notice of termination for cause, it is determined for any reason that Professional was not in default, the rights and obligations of the City and the Professional shall be the same as though the termination had been a termination for convenience. In no event shall the City be liable to Professional for lost profits on any work not performed, overhead, or any other type of consequential, special or indirect damages, and Professional hereby waives the same. Professional may terminate this Agreement due to the City's failure to comply with the material terms of this Agreement after giving City thirty (30) days written notice of its purported default and a reasonable opportunity to cure. Upon termination of this Agreement, all schematics, designs, plans, specifications, documents, records, disks, or other information (including electronic copies) produced or developed by Professional or sub consultants, whether finished or not, shall become City property. Failure to timely deliver the documentation shall be cause to withhold any payments due,

without recourse by the Professional, until all documentation is delivered to the City.

XV. UNCONTROLLABLE FORCES

15.1 Neither the City nor Professional shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the nonperforming party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to, fire, flood, earthquake, storm, lighting, epidemic, war, riot, civil disturbance, sabotage, and governmental action.

15.2 Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

XVI. MODIFICATION

16.1 This Agreement may not be amended or modified unless in writing and signed by both parties.

XVII. ASSIGNMENT AND SUBCONTRACTING

17.1 This Agreement and the rights of the Professional and obligations hereunder may not be assigned, delegated or subcontracted by the Professional without the express prior written consent of the City. Any assignment, delegation or subcontract without such express prior written consent shall be null and void and shall constitute a material breach of this Agreement, upon which the City may immediately terminate the Agreement in accordance with the provisions of paragraph 13.1 (Termination by Default). The City may assign its rights, together with its obligations hereunder.

XVIII. AUDITS

18.1 The Professional shall maintain accurate and complete financial records of its activities and operations relating to this Agreement in accordance with generally accepted accounting principles. Professional shall maintain adequate records to justify all charges and costs incurred in performing the services for at least three (3) years after completion of this Agreement. Professional shall also maintain accurate and complete employment and other records relating to its performance of this Agreement. Professional agrees that City, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, or records relating to this Agreement. All financial records, timecards and other employment records,

and proprietary data and information shall be kept and maintained by Professional and made available to the City during the terms of this Agreement and for a period of three (3) years thereafter unless City's written permission is given to dispose of any such material prior to such time. All such materials shall be maintained by Professional at a location in Miami-Dade County, Florida, provided that if any such material is located outside Miami-Dade County, then, at City's option Professional shall pay City for travel, per diem, and other costs incurred by City to examine, audit, excerpt, copy or transcribe such material at such other location. The City shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal working business hours at the Professional's place of business.

In the event that an audit is conducted by Professional specifically regarding this Agreement by any Federal or State auditor, or by any auditor or accountant employed by Professional, then Professional shall file a copy of the audit report with the City's Auditor within thirty (30) days of Professional's receipt thereof, unless otherwise provided by applicable Federal or State law. City shall make a reasonable effort to maintain the confidentiality of such audit report(s).

Failure on the part of Professional to comply with the provisions of this Paragraph shall constitute a material breach upon which the City may terminate or suspend this Agreement.

18.2 City Audit Settlements. If, at any time during or after the term of this Agreement, representatives of the City conduct an audit of Professional regarding the work performed under this Agreement, and if such audit finds that City's dollar liability for any such work is less than payments made by City to Professional, then the difference shall be either repaid by Professional to City by cash payment upon demand or, at the sole option of City, deducted from any amounts due to Professional from City. If such audit finds that City's dollar liability for such work is more than the payments made by City to Professional, then the difference shall be paid to Professional by cash payment.

XIX. AVAILABILITY OF FUNDS

19.1 The obligations of the City under this Agreement are subject to the availability of funds lawfully appropriated for its purpose by the City Commission.

XX. COMPLIANCE WITH LAWS

20.1 In performance of the services, the Professional will comply with applicable regulatory requirements, including federal, state, special district, and local laws, rules, regulations, orders, codes, criteria, and standards. It shall be the responsibility of the Professional to obtain and maintain, at no cost to the City, any and all license and permits required to complete the services provided pursuant to this Agreement.

20.2 Conflict of Interest. Professional covenants that no person employed by the Professional which exercises any functions or responsibilities in connection with this Agreement has any personal financial interests direct or indirect with the City. Professional further covenants that, in the performance of this Agreement, no person

having a conflicting interest shall be employed. Any such interests on the part of Professional or its employees must be disclosed in writing to City.

20.3 Professional is aware of the conflict of interest code of the City of Coral Gables, the Conflict of Interest and Code of Ethics of Miami-Dade County, Florida, Section 2-11.1 et seq., and the Ethics Laws of the State of Florida, and agrees that it shall fully comply in all respects with the terms of said laws.

XXI. FEDERAL AND STATE TAXES

21.1 The City is exempt from Federal Tax and State Sales and Use Taxes. Upon request, the City will provide an exemption certificate to the Professional. The Professional shall not be exempted from paying sales tax to its suppliers for materials to fulfill the contractual obligations with the City, nor shall the Professional be authorized to use the City's Tax Exemption Number in securing such materials.

XXII. SUCCESSORS AND ASSIGNS

22.1 The City and the Professional each binds itself and its partners, successors, assigns, and legal representatives to the other party to this Agreement and to its partners, successors, executors, administrators, assigns, and legal representatives. The Professional shall not assign this Agreement without the express written approval of the City via executed amendment.

XXIII. CONTINGENT FEES

23.1 The Professional warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Professional, 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 the Professional, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

XXIV. ENTIRETY OF AGREEMENT

24.1 The City and the Professional agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. This Agreement supersedes all prior agreements, contracts, proposals, representations, negotiations, letters, or other communications between the City and the Professional pertaining to the services, whether written or oral. None of the provisions, terms, and conditions contained in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the parties hereto.

XXV. COUNTERPARTS

25.1 This Agreement may be executed simultaneously in several counterparts, each of which will be an original, but all of which together will constitute one and the same instrument.

XXVI. WAIVER

26.1 A waiver by either the City or the Professional of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

XXVII. SEVERABILITY, SURVIVAL

27.1 If any provision of this Agreement is found to be void and unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall nevertheless be binding upon the parties with the same effect as though the void or unenforceable provision had been severed and deleted.

XXVIII. GOVERNING LAW AND VENUE

28.1 The laws of the State of Florida shall govern this Agreement. Any and all legal action necessary to enforce the Agreement will be held in Miami-Dade County, and the Agreement will be interpreted according to the laws of Florida.

28.2 The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way effect the validity or enforceability of any other portion or provision of the Agreement. Any void provision shall be deemed severed from the Agreement, and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

28.3 The provisions of this section shall not prevent the entire Agreement from being void should a provision, which is of the essence of the Agreement, be determined to be void.

XXIX. TIME IS OF THE ESSENCE

29.1 Time is of the Essence. If any anticipated or actual delays arise, Professional shall immediately so notify the City. Regardless of notice if services or deliveries are not made at the time agreed upon, the City may, at its sole discretion, terminate this Agreement and proceed pursuant to Paragraph 14.1 (Termination by Default).

XXX. WAIVER OF TRIAL BY JURY

30.1 THE PARTIES TO THIS AGREEMENT HEREBY AGREE TO EXHAUST ALL ADMINISTRATIVE REMEDIES BEFORE FILING A LAWSUIT IN CIVIL COURT TO RESOLVE THE DISPUTE. CITY AND PROFESSIONAL HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT EITHER

MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, PROCEEDING OR COUNTERCLAIM BASED UPON THE AGREEMENT, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THE SERVICES TO BE PROVIDED, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OF ANY PARTY.

**XXXI. FLORIDA PUBLIC RECORDS LAW
FLORIDA STATUTES CHAPTER 119, *et seq.***

31.1 Records subject to the provisions of Public Record Law, Florida Statutes Chapter 119, shall be kept and maintained in accordance with such Statute. Professional acknowledges that records and books, not subject to exemption under Chapter 119, may be disclosed and/or produced to third parties by the City in accordance with requests submitted under Chapter 119 or court orders without penalty or reprisal to the City for such disclosure and/or production. Professional also agrees to assert, in good faith, any relevant exemptions provided for under Chapter 119 for records in its possession on behalf of the City. Furthermore, Professional agrees to comply with the provisions outlined in Section 119.0701 of the Florida Statutes, the requirements of which are incorporated herein.

IF THE PROFESSIONAL HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROFESSIONAL'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-460-5210, cityclerk@coralgables.com, 405 Biltmore Way, First Floor, Coral Gables, FL 33134.

XXXII. WAIVER OF CONSEQUENTIAL DAMAGES

32.1 Professional waives claims against the CITY for consequential damages arising out of or related to this Agreement or its performance including, but not limited to, damages for lost income, profit, lost bonding capacity, financing, business and reputation, or for loss of management or labor productivity, damages incurred for principal office expenses, including the compensation of personnel stationed there, and for anticipated profit on any work not performed by Professional.

XXXIII. HEADINGS

33.1 The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of the Agreement.

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

Approved as to Insurance:

AS TO CITY:

David J. Ruiz
Risk Management Division

Peter J. Iglesias
City Manager

Approved by Department Head
or head of negotiations team as to
the negotiated business terms

Kevin Kinney
Parking Director

ATTEST:

Approved as to compliance with
Applicable Procurement Requirements:

Walter J. Foeman
City Clerk

Celeste S. Walker
Assistant Finance Director for Procurement

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Approved as to Funds Appropriation:

Miriam Soler Ramos
City Attorney

Diana Gomez,
Finance Director

ATTEST:

AS TO PROFESSIONAL

Corporate Secretary

President

Print Name: _____

Print Name: _____

(SEAL)

(OR)
WITNESSES (2):

Print Name: _____

Print Name: _____