

**INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF FORT LAUDERDALE AND THE DOWNTOWN  
DEVELOPMENT AUTHORITY OF THE CITY OF FORT LAUDERDALE**

THIS INTERLOCAL AGREEMENT, ("Agreement"), made and entered into this 24th day of January, 2023, is by and between the City of Fort Lauderdale, a Florida municipality, ("City"), whose principal place of business is 100 North Andrews Avenue, Fort Lauderdale, Florida, 33301, and the Downtown Development Authority of the City of Fort Lauderdale, a Florida body corporate and politic, ("DDA"), whose principal address is 201 East Las Olas Blvd., Suite 1150, Fort Lauderdale, FL 33301.

WHEREAS, the DDA is a special taxing district created by special act as re-enacted pursuant to Chapter 2005-346, Laws of Florida ("DDA Charter"); and

WHEREAS, the DDA Charter authorizes the DDA "to install, construct, and reconstruct streets, utilities, parks, playgrounds, and other public improvements," *inter alia*; and

WHEREAS, the DDA constructed the improvements known as Huizenga Plaza (the "Plaza" or "Huizenga Park" or "Park") in the City of Fort Lauderdale, Florida, in 1996 on land owned by the DDA, and operated and maintained the Plaza until entering into a lease with the City on September 1, 2016, (the "Lease"); and

WHEREAS, in 2019, the DDA took proactive steps to ensure the Plaza could accommodate the diverse and growing Downtown Fort Lauderdale population now and into the future by soliciting guidance from national experts at the Urban Land Institute and by researching best practices for park reinvestment and operations and management; and

WHEREAS, this resulted in a series of recommendations that the DDA Board of Directors adopted in February 2021, including a new vision for the Plaza centered around inclusion, wellness, arts and culture, and resilience; and

WHEREAS, the vision for a new Huizenga Plaza encompasses the Plaza together with a portion of Riverwalk Linear Park and Bubier Park and adjacent public rights-of-way ("project site"), as more fully described in Exhibit 1; and

WHEREAS, DDA proposes making improvements to the project site as depicted in Exhibit 1A ("project"), financed in part by the State of Florida, DDA bond proceeds, a capital loan secured by annual revenue lease payments, private funding, and as set forth in this Agreement, (collectively, "Huizenga Park Capital Project" or "Huizenga Project" or "Huizenga Park Project"); and

WHEREAS, in September 2021, the DDA initiated a competitive solicitation process, pursuant to the Consultants' Competitive Negotiation Act (CCNA) to engage a world-renowned design firm to redesign the Park, and executed a contract with the selected firm in December 2021; and

WHEREAS, in October 2021, the DDA initiated a competitive solicitation process, pursuant to CCNA, to engage a construction manager at risk to provide review during the design phase and to bid on the construction phase, and executed a contract with the selected firm in January 2022; and

WHEREAS, a contribution of City funds to the DDA will serve a municipal and public purpose by facilitating physical upgrades to the Huizenga Plaza, Riverwalk, and adjacent rights-of-way to improve access, connectivity, visibility, safety, and overall usability; and

WHEREAS, the City and DDA acknowledge that high-performing urban parks are essential public infrastructure for downtowns and are interested in continuing the long-standing partnership to successfully redesign, reconstruct, and operate, maintain, and program these public spaces for the benefit of the public; and

WHEREAS, roles and responsibilities should be defined for each agency concerning funding for capital improvements to Huizenga Park and City-owned property and also operations, maintenance, and programming of these spaces; and

WHEREAS, the City and DDA are desirous of terminating the existing Huizenga Lease and replacing it with this Agreement to have all terms and provisions related to the Huizenga Park and adjacent City-owned property to be contained in a single document;

NOW, THEREFORE, the City and the DDA agree as follows:

## **I. GENERAL ROLES AND RESPONSIBILITIES**

### **A. CITY**

Capital Project. The City shall provide funds to be utilized for capital expenses toward construction of the Huizenga Park Project as outlined in Section II below. The City shall work in good faith to ensure the capital project advances as expeditiously as possible. This includes providing input and assistance, as requested, towards project design, construction, permitting, and communications to neighbors. To the extent consistent with applicable law and ordinances, the project, which shall exclude the associated restaurant, shall be reviewed and permitted in like manner to City capital projects.

Operations, Maintenance, and Programming. City shall provide annual funding to the DDA for operations, maintenance, and programming of the Huizenga project including adjacent City-owned property, as outlined in Section III below. The City will assist the DDA with decisions regarding City-owned property, as maintenance and operational needs may arise.

### **B. DDA**

Capital Project. The DDA shall lead and manage the design, construction, and overall implementation of the Huizenga Park Capital Project. This includes the development of necessary permitting documents, procurement, bidding, contracting, construction activities, funding the project, and communications to adjacent property owners, businesses, residents, and the community at large.

Operations, Maintenance, and Programming. The DDA shall be responsible for the operations, maintenance, and programming (events and activations) of Huizenga Park and adjacent City-owned property (a portion of Riverwalk Linear Park, Bubier Park, and SE 1<sup>st</sup> Avenue), including repair and maintenance of the ornamental interactive fountain. This includes regular upkeep, routine maintenance activities, security, and programming activities that have been previously managed by City.

## **II. CAPITAL FUNDS**

### **A. Amount**

The City shall contribute toward the capital funding of the project as set forth in Exhibit 2, except that such funding shall not exceed one third of the overall project cost excluding costs associated with the restaurant. Accordingly, notwithstanding the Payment Schedule set forth in Exhibit 2, when the cumulative amount of the City's contributions pursuant to this Agreement reaches one third of the DDA's eligible out-of-pocket costs for completion of the project less project costs associated with the restaurant the City's contributions shall cease. Such reconciliation shall commence on or before September 30, 2024, and shall be conducted annually thereafter. For example, if prior to the City's third installment of \$714,285 the DDA will have expended less than \$6,428,565 in cumulative eligible out-of-pocket costs for completion of the project less project costs associated with the restaurant as supported by detailed receipts, then the City's third installment of \$714,285 would be abated until such time as the DDA will have expended at least \$6,428,565 in out-of-pocket costs for completion of the project less project costs associated with the restaurant. The City's monetary obligations set forth in this Agreement are subject to and conditioned on the City's annual budget appropriation and the availability of funds to fund this Agreement.

### **B. Activities**

The DDA shall use funds received pursuant to this Agreement to fund capital construction expenses in accordance with the final approved design plans and permits for the project.

### **C. Deliverables**

The DDA, through its hired construction contractor, will make physical improvements per the final approved design plans and permits based on Huizenga Park conceptual plans as depicted in Exhibit 1A.

### **D. Payment of Funds**

The funds will be distributed in equal annual payments by CITY to DDA by October 15<sup>th</sup> of each year as set forth in Exhibit 2, subject to the City's review of detailed receipts provided by the DDA. The DDA shall maintain all records created during the ordinary course of business pertaining to the funds. All such records shall be made available as requested under Chapter 119, Florida Statutes.

The DDA shall not use funds provided by the City for:

- Profit
- Alcoholic beverages
- Staff bonuses
- Lobbying services
- Legal services
- Land acquisition
- Membership fees
- Travel
- Recreational activities
- Receptions
- Fundraising
- Gift certificates or monetary awards
- Administration
- Luxury items as determined by the City in the City's sole discretion

- Costs due to negligence
- Taxes
- Food and drink
- Unemployment compensation
- Any activity that would violate any applicable law, ordinance, or regulation
- Audit Services
- Costs associated with the design or construction of a restaurant

### **III. OPERATIONS, MAINTENANCE, AND PROGRAMMING FUNDS**

#### **A. Amount.**

The City shall contribute the sum of One Hundred Thousand Dollars (\$100,000) to the DDA on an annual basis for purposes of operations, maintenance, and programming purposes subject to and conditioned on the City's annual budget appropriation and the availability of funds to fund this Agreement.

#### **B. Activities.**

The DDA will use the funds received pursuant to this Paragraph III towards the annual operations, maintenance, and programming of Huizenga Park including adjacent City-owned property (Riverwalk Linear Park, Bubier Park, and SE 1<sup>st</sup> Avenue). DDA programming in adjacent City-owned property shall not conflict with events scheduled by Riverwalk Fort Lauderdale, Inc., and approved by the City.

#### **C. Deliverables.**

The DDA will provide the City with the annual operations, maintenance, and programming work program for Huizenga and adjacent City-owned property at the beginning of each fiscal year.

#### **D. Payment of Funds.**

The funds will be distributed in by CITY to DDA on or before November 1 of each year of this Agreement, commencing on November 1, 2023, provided the DDA has taken possession of the project site pursuant to Section III.E. below. However, in the event the DDA has not taken possession of the project site pursuant to Section III.E. below by November 1, 2023, the City's disbursement of the funds shall commence within thirty days following the DDA's taking possession of the project site, and the City's disbursement of funds in subsequent years shall be on the anniversary of such date. The DDA shall maintain all records created during the ordinary course of business pertaining to the funds. All such records shall be made available as requested under Chapter 119, Florida Statutes.

#### **E. Transfer of Possession of Park and Adjacent City Property.**

DDA shall retake possession from City of Huizenga Park and shall take temporary possession of adjacent City-owned property to the extent necessary to fulfill the purposes of this Agreement at the start of construction of the Capital Improvement Project. At such time the Lease shall terminate. The DDA shall provide to City no less than 30-days' advance written notice of intent to take control of these spaces for construction and



subsequent operations, maintenance, and programming to the extent necessary to fulfill the purposes of this Agreement. City will continue regular maintenance of Huizenga Park and adjacent City-owned property for 90 days from the date DDA retakes possession of Huizenga Park. Notwithstanding, the DDA shall not enter into a lease with any third parties having an effective date occurring prior to termination of the Lease with the City.

#### **IV. FINANCIAL REPORTING/ AUDITS**

- A. Within 120 days of the close of the DDA's 2022/2023, 2023/2024, 2024/2025, 2025/2026, 2026/2027, 2027/2028, 2028/2029, and 2029/2030 fiscal years, the DDA shall submit to the City a financial statement, prepared in accordance with Generally Accepted Government Auditing Standards (GAGAS), accounting for the funds provided pursuant to this Agreement and reporting upon the manner in which they were expended, directed as follows:

##### **CITY OF FORT LAUDERDALE**

Office of Management and Budget  
Budget/CIP and Grants Division  
101 NE 3<sup>rd</sup> Avenue, Suite 1400  
Fort Lauderdale, FL 33301

This section shall survive the expiration or early termination of this Agreement.

- B. On or before November 30, 2029, the DDA shall submit to the City copies of receipts for all expenditures of capital funds provided pursuant to this Agreement, directed to the Budget/ CIP and Grants Division as set forth in Section IV.A. above.
- C. The City reserves the right to examine records of the DDA. Any funds not expended during the term or for the activities identified above, under Sections II.B. Activities, and III.B. Activities, above, respectively, shall be automatically returned by the DDA to the City. The City reserves the right to conduct audits of the DDA, which shall be in accordance with Generally Accepted Government Auditing Standards ("GAGAS"). The City may audit the books, records, and accounts of the DDA that are related to this Agreement. The DDA shall keep such books, records, and accounts as may be necessary to record complete and correct entries related to this Agreement. The DDA shall preserve and make available, at reasonable times for examination and audit by the City in Broward County, Florida, 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 law (Chapter 119, Florida Statutes) and corresponding retention schedules, or for a minimum of three (3) years after expiration or termination of this Agreement, whichever is longer. 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 DDA shall retain the books, records, and accounts until resolution of the audit findings.

#### **V. PAYMENT**

Payment under this Agreement shall be based on the Capital Payment Schedule outlined in Exhibit 2 and the Operations, Maintenance, and Programming payment schedule set forth in Article III. The obligations of City funding are subject to and conditioned on annual appropriations pursuant to law.

## **VI. NOTICES**

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery, or sent by electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by written notice.

Communication and details concerning this Agreement shall be directed to the following Agreement representatives:

### **CITY**

Greg Chavarria

City Manager

City of Fort Lauderdale

100 North Andrews Avenue

Fort Lauderdale, FL 33301

via email to [gchavarria@fortlauderdale.gov](mailto:gchavarria@fortlauderdale.gov)

### **DDA**

Jenni Morejon

President & CEO

Fort Lauderdale DDA

201 E Las Olas Boulevard, Suite 1150

Fort Lauderdale, FL 33301

via email to [dda@ddaftl.org](mailto:dda@ddaftl.org)

## **VII. SPECIAL PROVISIONS**

### **A. Sponsorship of Physical Assets**

The parties acknowledges that DDA will pursue sponsorship opportunities to help fund costs associated with capital, operations, maintenance, and programming of the Huizenga Park Project. Such expenditures shall be reported per Section IV of this Agreement.

### **B. Term**

The term of this Agreement shall be from January 24, 2023, through December 31, 2030.

### **C. City Technical Reviews**

Consistent with prior City and DDA capital projects, the parties shall work expeditiously through the review and permitting processes to ensure the project schedule is maintained, to the extent reasonably feasible.

### **D. Termination of Huizenga Park Lease**

The parties hereby acknowledge and agree to the termination of the existing lease between the City and DDA for Huizenga Park, effective as provided in Section III.E. above, and thenceforth all promises, covenants, and obligations between the parties relating to Huizenga Plaza are set forth in this Agreement. Any unpaid rent shall be

pro-rated, and rent already paid shall be pro-rated, the unearned portion being credited against any amount payable by the City pursuant to this Agreement.

E. Covenant for Park Use

The DDA hereby agrees and covenants in perpetuity to maintain Huizenga Park (less and excepting the Restaurant use) as a publicly accessible park, in accordance with the plans in Exhibit 1A. This covenant shall be equivalent to, and City shall have the same rights and title as a restrictive covenant on real property. Notwithstanding the Payment Schedule, no payments will be made by the City until after the Restrictive Covenant, in form and substance acceptable to the City, has been recorded, at DDA expense, on the portion of the Park unencumbered by the leasehold interest of the restaurant. In the event a separate Restrictive Covenant is not recorded, this Agreement shall be deemed a Restrictive Covenant and the City shall have the right to exercise all legal and equitable remedies available, including the right of specific performance. The parties acknowledge that a Park is unique and damages are not an adequate remedy for a violation of the covenant. This Agreement shall be recorded in the Official Records of Broward, County, Florida, and shall be deemed a covenant running with the land.

**VIII. GENERAL CONDITIONS**

A. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The DDA shall, at all times, remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, inasmuch as the DDA is an independent contractor.

B. Hold Harmless

To the extent provided in and up to the limits set forth in Section 768.28, Florida Statutes (2022), as may be amended or revised, the DDA shall protect and defend, counsel being subject to the City's approval, and indemnify and hold harmless the City, and the City's officers, employees, and agents from and against any and all lawsuits, penalties, claims, damages, judgments, decrees, settlements, costs, charges, and other expenses or liabilities of every kind, sort, or description, including, but not limited to, any award of attorney fees and any award or costs at both the trial and appellate levels, in connection with or arising, directly or indirectly, out of or resulting from the DDA's acts or omissions in the DDA's performance or non-performance of its obligations or services under this Agreement. Without limiting the foregoing, any and all such claims, relating to personal injury, death, damage to property, defects in material or workmanship, actual or alleged infringement of any patent, trademark, copyright or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court, are included in the indemnity. This Section shall survive the expiration or early termination of this Agreement.

### C. Amendments

No modification, amendment, or alteration of the terms or conditions contained in this Agreement shall be effective unless contained in a written document executed by the parties hereto with the same formality and of equal dignity herewith, except that the City may, in the City's sole discretion, amend this Agreement to conform with federal, state, or local governmental guidelines or policies, the availability of funds, or for other reasons.

### D. Public Records

DDA shall provide the public with access to public records on the same terms and conditions that the City would provide the records at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2022), as may be amended or revised, or as otherwise provided by law.

### E. Default

Any of the following events shall constitute an "event of default" pursuant to this Agreement:

- a. The DDA fails to perform any covenant or term or condition of this Agreement; or any representation or warranty of the DDA herein or in any other grant documents executed concurrently herewith or made subsequent hereto, shall be found to be inaccurate, untrue or breached.
- b. If the DDA files a voluntary petition in bankruptcy or shall be adjudicated as bankrupt or insolvent, or shall file any petition or answer seeking reorganization, arrangement, composition, readjustment, liquidation, wage earner's plan, assignment for the benefit of creditors, receivership, dissolution or similar relief under any present or future federal bankruptcy law or any other present or future applicable federal, state or other local law, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the DDA for all or any part of the properties of the DDA; or if within ten (10) days after commencement of any proceeding against the DDA, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, debtor relief or similar relief under any present or future federal bankruptcy law or any other present or future federal, state or other local law, such proceeding shall not have been dismissed or stayed on appeal; or if, within ten (10) days after the appointment, without the consent or acquiescence of the DDA, of any trustee, receiver, or liquidator of the DDA, such appointment shall not have been vacated or stayed on appeal or otherwise; or if within ten days after the expiration of any such stay, such appointment shall not have been vacated.
- c. The DDA's breach, violation, or failure to perform any of the obligations or any of the covenants or conditions set forth in this Agreement.

Upon the occurrence of any event of default, the City shall issue written notice in accordance with Section VI of this Agreement and the DDA shall have thirty (30) days within which to cure such default. If the DDA fails to cure the default within the thirty (30) days, the City may terminate this Agreement immediately, whereupon the DDA shall refund to the City all unspent funds pursuant to this Agreement within fourteen (14) days following the City's notice to the DDA of the City's termination of this Agreement.

F. Severability

If any provision of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement not having been held invalid by a court of competent jurisdiction shall remain in full force and effect.

G. Insurance

As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the DDA, at its sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the DDA. The DDA shall provide the City a certificate of insurance evidencing such coverage. The DDA's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the DDA shall not be interpreted as limiting the DDA's liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in the State of Florida and possess an A.M. Best rating of A-, VII or better, subject to approval by the City's Risk Manager.

The coverages, limits, and/or endorsements required herein protect the interests of the City, and these coverages, limits, and/or endorsements shall in no way be relied upon by the DDA for assessing the extent or determining appropriate types and limits of coverage to protect the DDA against any loss exposures, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the City's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the DDA under this Agreement.

The following insurance policies and coverages are required:

Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- \$1,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- \$1,000,000 each occurrence and \$2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for contractual liability and independent contractors.

The City, a Florida municipal corporation, its officials, employees, and volunteers are to be included as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the DDA. The coverage shall contain no special limitation on the scope of protection afforded to the City, its officials, employees, and volunteers.

#### Insurance Certificate Requirements

- a. The DDA shall provide the City with valid Certificates of Insurance (binders are unacceptable) no later than ten (10) days prior to the start of work contemplated in this Agreement.
- b. The DDA shall provide to the City a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
- c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the DDA to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
- d. In the event the Agreement term or any surviving obligation of the DDA following expiration or early termination of the Agreement goes beyond the expiration date of the insurance policy, the DDA shall provide the City with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The City reserves the right to suspend the Agreement until this requirement is met.
- e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.
- f. The City shall be included as an Additional Insured on the general liability policy.
- g. The title of the Agreement or other identifying reference must be listed on the Certificate of Insurance.

The Certificate Holder should read as follows:

City of Fort Lauderdale  
100 N. Andrews Avenue  
Fort Lauderdale, FL 33301

The DDA has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the City as an Additional Insured shall be at the DDA's expense.

If the DDA's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the DDA may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The DDA's insurance coverage shall be primary insurance as respects to the City, a Florida municipal corporation, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, a Florida municipal corporation, its officials, employees, or volunteers shall be non-contributory.

Any exclusion or provision in any insurance policy maintained by the DDA that excludes coverage required in this Agreement shall be deemed unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the City, or until this Agreement is terminated, whichever is later. Any lapse in coverage may be considered breach of contract. In addition, DDA must provide to the City confirmation of coverage renewal via an updated certificate of insurance should any policies expire prior to the expiration of this Agreement. The City reserves the right to review, at any time, coverage forms and limits of DDA's insurance policies.

The DDA shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement to the DDA's insurance company or companies and the City's Risk Management office, as soon as practical.

It is the DDA's responsibility to ensure that any and all of the DDA's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the DDA. The City reserves the right to adjust insurance limits from time to time at its discretion with notice to DDA.

#### H. Non-Discrimination

The DDA shall not discriminate against its employees based on the employee's race, color, religion, gender, gender identity, gender expression, marital status, sexual orientation, national origin, age, disability, or any other protected classification as defined by applicable law.

1. The DDA certifies and represents that the DDA offers the same health benefits to the domestic partners of its employees as are offered its employees' spouses or offers its employees the cash equivalent of such health benefits because it is unable to provide health benefits to its employees' domestic partners, and that the DDA will comply with Section 2-187, Code of Ordinances of the City of Fort Lauderdale, Florida, (2022), as may be amended or revised, ("Section 2-187"), during the entire term of this Agreement.
2. The failure of the DDA to comply with Section 2-187 shall be deemed to be a

material breach of this Agreement, entitling the City to pursue any remedy stated below or any remedy provided under applicable law.

3. The City may terminate this Agreement if the DDA fails to comply with Section 2- 187.
4. The City may retain all monies due or to become due until the DDA complies with Section 2-187.
5. The DDA may be subject to debarment or suspension proceedings. Such proceedings will be consistent with the procedures in section 2-183 of the Code of Ordinances of the City of Fort Lauderdale, Florida.

#### I. E-Verify

As a condition precedent to the effectiveness of this Agreement, pursuant to Section 448.095, Florida Statutes (2022), as may be amended or revised, the DDA and its subcontractors shall register with and use the E-Verify system to electronically verify the employment eligibility of newly hired employees.

1. The DDA shall require each of its subcontractors, if any, to provide the DDA with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The DDA shall maintain a copy of the subcontractor's affidavit for the duration of this Agreement and in accordance with the public records requirements of this Agreement.
2. The City, the DDA, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Subsection 448.09(1), Florida Statutes (2022), as may be amended or revised, shall terminate the contract with the person or entity.
3. The City, upon good faith belief that a subcontractor knowingly violated the provisions of Subsection 448.095(2), Florida Statutes (2022), as may be amended or revised, but that the DDA otherwise complied with Subsection 448.095(2), as may be amended or revised, shall promptly notify DDA and order the DDA to immediately terminate the contract with the subcontractor, and the DDA shall comply with such order.
4. A contract terminated under Subparagraph 448.095(2)(c)1. or 2., Florida Statutes (2022), as may be amended or revised, is not a breach of contract and may not be considered as such. If the City terminates this contract under Paragraph 448.095(2)(c), Florida Statutes (2022), as may be amended or revised, the DDA may not be awarded a public contract for at least one year after the date on which the contract was terminated. The DDA is liable for any additional costs incurred by the City as a result of termination of this Agreement.
5. The DDA shall include in each of its subcontracts, if any, the requirements set forth in this Section VIII.I., including this subparagraph, requiring any and all subcontractors, as defined in Subsection 448.095(1)(j), Florida Statutes (2022), as may be amended or revised, to include all of the requirements of this Section



VIII.I. in their subcontracts. The DDA shall be responsible for compliance by any and all subcontractors, as defined in Subsection 448.095(1)(j), Florida Statutes (2022), as may be amended or revised, with the requirements of Section 448.095, Florida Statutes (2022), as may be amended or revised.

#### **IX. SECTION HEADINGS AND SUBHEADINGS**

The section headings and subheadings in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

#### **X. WAIVER**

The City's failure to act with respect to breach by the DDA does not waive its right to act with respect to subsequent or similar breaches. Failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision. Nothing contained in this Agreement is intended nor shall anything in the Agreement be construed to waive the City's or the DDA's rights and immunities under the law or the City's or the DDA's sovereign immunity or the limitations contained in Section 768.28, Florida Statutes, as may be amended from time to time.

#### **XI. ENTIRE AGREEMENT**

This Agreement shall constitute the entire agreement between City and the DDA for the use of funds received pursuant to this Agreement, and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the DDA with respect to this Agreement. No prior written or contemporaneous oral promises or representations shall be binding. Neither this Agreement nor any interest in this Agreement may be assigned, transferred, or encumbered by the DDA without written consent of the City. All representations and warranties made herein regarding the DDA's indemnification obligations and obligations to maintain and allow inspection of records shall survive the termination of this Agreement.

#### **XII. THIRD-PARTY BENEFICIARIES**

There are no third-party beneficiaries to this Agreement.

#### **XIII. GOVERNING LAW; VENUE**

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any lawsuit by either party against the other party or otherwise arising out of this Agreement, and for any other legal proceeding, shall be in the courts in and for Broward County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida.

#### **XIV SECTION 163.01, FLORIDA STATUTES (2022)**

The effectiveness of this Interlocal Agreement is conditioned on the DDA's filing this Agreement, at the DDA's expense, with the Clerk of Circuit Court of Broward County, Florida, in accordance with Subsection 163.01(11), Florida Statutes (2022).

IN WITNESS WHEREOF, the City and the DDA execute this Agreement as follows:

ATTEST:

City of Fort Lauderdale

\_\_\_\_\_  
David Soloman, City Clerk

By: \_\_\_\_\_  
Dean J. Trantalis, Mayor

By: \_\_\_\_\_  
Greg Chavarria  
City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney

DDA through its BOARD OF DIRECTORS, signing by and through its President and CEO, authorized to execute same by Board action on \_\_\_\_\_.

Downtown Development Authority of  
the City of Fort Lauderdale, through  
its Board of Directors

By \_\_\_\_\_

Jenni Morejon, President & CEO

STATE OF FLORIDA:  
COUNTY OF BROWARD:

\_\_\_ day of \_\_\_\_\_, 2023

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_ day of \_\_\_\_\_, 2023, by Jenni Morejon as President & CEO for the Downtown Development Authority of the City of Fort Lauderdale, a Florida body corporate and politic.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
(Signature of Notary Public)

\_\_\_\_\_  
(Print, Type, or Stamp  
Commissioned Name of Notary  
Public)

Personally Known \_\_\_ or Produced Identification \_\_\_

Type of Identification Produced: \_\_\_\_\_

# **EXHIBIT 1**

## **LEGAL DESCRIPTIONS**

Huizenga Plaza:

## LEGAL DESCRIPTION

A PORTION OF AN AMENDED PLAT OF AN UN-NUMBERED BLOCK, COMMONLY DESIGNATED 31, FORT LAUDERDALE, FLORIDA, AS RECORDED IN PLAT BOOK 2, PAGE 16, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, TOGETHER WITH A PORTION OF BLOCK 27, TOWN OF FORT LAUDERDALE, AS RECORDED IN PLAT BOOK B, PAGE 40, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, TOGETHER WITH THAT PORTION OF NORTH SECOND STREET (EAST LAS OLAS BOULEVARD, LYING BETWEEN THE ABOVE SAID BLOCKS, LESS AND EXCEPT ANY PROPERTY IN USE AS A RESTAURANT, AND BEING ALL MORE FULLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF LOT 6, OF SAID BLOCK 31; THENCE NORTH 89°53'00" WEST, ALONG THE NORTH LINE OF LOT 6, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING; THENCE DUE NORTH, ALONG THE LINE 10.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID BLOCK 31, A DISTANCE OF 160.19 FEET; THENCE NORTH 39°35'14" WEST, A DISTANCE OF 31.86 FEET TO A POINT ON A CURVE; THENCE NORTHWESTERLY, ALONG A CURVE TO THE RIGHT, WHOSE TANGENT BEARS NORTH 79°10'28" WEST, WITH A RADIUS OF 270.16 FEET, AND A CENTRAL ANGLE OF 37°34'46", AN ARC DISTANCE OF 177.19 FEET TO A POINT OF REVERSE CURVE; THENCE NORTHWESTERLY, ALONG A CURVE TO THE LEFT, WITH A RADIUS OF 190.16 FEET AND A CENTRAL ANGLE OF 17°13'17", AN ARC DISTANCE OF 57.16 FEET; THENCE SOUTH 60° 34' 36" WEST, A DISTANCE OF 52.28 FEET; THENCE SOUTH 00° 01' 49" EAST, A DISTANCE OF 291.44 FEET; THENCE SOUTH 70° 48' 00" EAST, A DISTANCE OF 130.34 FEET; THENCE SOUTH 64° 46' 00" EAST, A DISTANCE OF 83.86 FEET THENCE SOUTH 62° 56' 30" EAST, A DISTANCE OF 69.38 FEET; THENCE DUE NORTH ALONG A LINE 10.00 FEET WEST OF AND PARALLEL WITH THE SAID EAST LINE OF BLOCK 31, A DISTANCE OF 119.80 FEET TO THE POINT OF BEGINNING. SAID LAND SITUATE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, AND CONTAINING 77,975 SQUARE FEET OR 1.7901 ACRES MORE OR LESS.

A Portion of Riverwalk Linear Park and Bubier Park and Adjacent Public Rights-Of-Way:  
(Placeholder; to be added later)

# **EXHIBIT 1A**

## **HUIZENGA PARK PROJECT PLANS**







# EXHIBIT 2

## CAPITAL PAYMENT SCHEDULE

(Subject to Section II.A. of this Agreement)

<u>Payment No.</u>	<u>Amount</u>	<u>Due</u>
1	\$714,285	April 1, 2023
2	\$714,285	October 15, 2023
3	\$714,285	October 15, 2024
4	\$714,285	October 15, 2025
5	\$714,285	October 15, 2026
6	\$714,285	October 15, 2027
7	\$714,290	October 15, 2028