

AGREEMENT
FOR
HISTORIC PRESERVATION CONSULTING SERVICES

This is an agreement, dated this ____ day of _____ 2012, between:

THE CITY OF FORT LAUDERDALE, FLORIDA, a
municipal corporation organized and existing under the
laws of the State of Florida, hereinafter referred to as
"CITY,"

And

FORT LAUDERDALE HISTORICAL SOCIETY, INC., a
Florida not-for-profit corporation, hereinafter referred to as
"CONSULTANT,"

WITNESSETH:

In consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and CONSULTANT agree as follows:

ARTICLE 1
PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and to generally express the objectives and intentions of the respective parties herein, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included with the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

- 1.1 On February 7, 1997, September 20, 2001, February 12, 2007, the City Commission renewed contracts with the CONSULTANT for professional services.
- 1.2 The most recent contract expired on September 31, 2011.
- 1.3 The CONSULTANT and the CITY, by and through its city manager, wish to enter into a new Agreement for the provision of professional services.

ARTICLE 2
BENEFITS OF HISTORIC PRESERVATION TO THE CITY AND REGION AND THE
ROLE OF THE FORT LAUDERDALE HISTORICAL SOCIETY IN FORT
LAUDERDALE'S HISTORIC PRESERVATION PROGRAM

The Fort Lauderdale Historical Society (FLHS) was established in 1962 and is deemed to be a comprehensive benefit to the City of Fort Lauderdale, its residents and visitors. The Historical Society complex is part of the Downtown (H1) Historic District and it

occupies an integral position in the educational, cultural and historical life of the city. It is a pivotal resource as a heritage tourist destination within the Riverwalk Arts and Entertainment District. Amenities available to the public include a museum, archive library, educational programming, and event venue space all against a backdrop of authentic historic buildings providing a host of established programs and activities.

The benefits provided by the FLHS extend far beyond the geographical location in which the activities occur. Communities with successful historic preservation programming provide enhancements to the quality of life by providing residents and visitors with a sense of place and recognizable community identity. It is in this regard that the benefits listed below provide a foundation for recognizing the critical role the FLHS plays Fort Lauderdale's historic preservation program.

- 2.1 In 2007, heritage tourism accounted for \$4.13 billion of the state's \$65.5 billion annual taxable expenditures for tourism. 46.7% of all U.S. visitors to Florida reported visiting a historical site during their stay. (Source: *Contributions of Historic Preservation to the Quality of Life of Floridians*, 2010.)
- 2.2 *CreativeBROWARD 2020, A Plan for Cultural and Economic Development in Broward County*, identifies historical and cultural museums and attractions as a vehicle for economic development and cultural heritage tourism.
- 2.3 The FLHS has organized free public programs and events that have been coordinated to compliment events within the Riverwalk District.
- 2.4 The FLHS has actively preserved and maintained four major historic buildings, an older archive building and a reproduction schoolhouse. This work is supported entirely by the Historical Society.
- 2.5 The FLHS provides free public access to one of the largest collection of old books, photos and archives in south Florida.
- 2.6 The FLHS provides approximately 15-20 free lecture series per year about Fort Lauderdale history and minimal cost educational programs for 3,000 area school children yearly.
- 2.7 The FLHS provides permanent and revolving museum exhibits on the history of life in Fort Lauderdale as well as a trained volunteer docent staff.
- 2.8 The FLHS seeks to move toward a zero-cost entry fee for the museum in order to make it more accessible as a popular heritage tourism site within the Downtown Riverwalk Arts and Entertainment District.

ARTICLE 3
SERVICES AND DELIVERABLES OF HISTORIC
PRESERVATION CONSULTANT

- 3.1 Consultant Representative. CONSULTANT shall identify a person or persons with expertise in historic preservation with the qualifications necessary to perform

the basic services described in this Agreement and who will represent the CONSULTANT in the performance of such services. The names of the representatives shall be submitted to the CITY and is subject to the prior written approval of the City Manager.

- 3.2 Deliverables. Scope and quantity of work will vary through the contract term. For each assignment or submitted request, the CONSULTANT shall provide to the City a written report in electronic format (file in original program utilized and PDF), including but not limited to appendices, reports, reference material, and graphics. Completion of deliverables shall be subject to review by the City of Fort Lauderdale's designated historic planner or staff member acting in that capacity.
- 3.3 General Services. General services shall mean the performance of the following deliverables by the CONSULTANT as it relates to general historic preservation efforts:
- 3.3.1 Assist City staff with the annual historic preservation commendation awards.
- a) Review applications for historical accuracy and provide recommendations to the Historic Preservation Board (HPB) for awarding.
 - b) Promote the annual awards and winning applicants at the FLHS venue and on the FLHS website.
- 3.3.2 Assist City staff in performing tasks and research responsibilities associated with the City's Certified Local Government status:
- c) Maintain a detailed electronic inventory of designated districts, sites, and structures within the jurisdiction of the HPB.
 - d) Review of CLG grant proposals and participation in resulting special projects such as historic design guidelines.
 - e) Provide review and comment on any nominations of local properties to the National Register of Historic Places following the regulations of the State Historic Preservation Office and the standards of the Federal Department of the Interior.
 - a) Attend pertinent informational or educational meetings, workshops, and conferences offered by the Certified Local Government program.
 - f) Produce an annual report by November 1st of each calendar year outlining planned CLG activities, programs, and performance measurements of the previous year and of the upcoming year (October 1st through September 30th).
- 3.3.3 Assist City staff as a co-author on the City's Historic Resources Surveys:
- a) Provide detailed research and a high level of original and creative writing for historic resources and architecture reports.
 - b) Collaborate with preservation staff to collate and compile final survey reports including a detailed photo inventory.
 - b) Ensure that the survey and inventory of historic materials are updated periodically and are open and available for public inspection.

- c) Promote survey results within the community to promote preservation and economic development in the city.
- 3.3.4 Promote cultural heritage awareness and participation in Fort Lauderdale, including but not limited to:
 - a) Providing no less than eight (8) public programs or exhibitions per year that address issues germane to local historical preservation. These events should be consistently promoted via the City's HPB and City staff.
 - b) Providing web links on the FLHS website to related City departments, complementary cultural and historic preservation organizations, historic preservation databases, and other relative websites. These web links will be updated periodically.
 - c) Provide resource information for events in collaboration with the historical society and the Riverwalk Arts and Entertainment programs.
- 3.4 Basic Services. Basic services shall mean the performance of the following deliverables by the CONSULTANT as it relates specifically to the regulatory review and approval process for properties seeking Certificates of Appropriateness (COA) or other regulatory reviews and/or approvals by agencies other than the City of Fort Lauderdale:
 - 3.4.1 Assist owners of properties located within the geographic bounds of the City of Fort Lauderdale with their application for Federal Tax Credits, Ad Valorem Tax Credits, Florida Master Site File applications, National Register nomination and Preliminary Site Information Questionnaires.
 - 3.4.2 Review and comment on nominations of properties located within the geographic bounds of the City of Fort Lauderdale to the National Register of Historic Places following the regulations of the state historic preservation office.
 - 3.4.3 Attend and participate in Federal Department of the Interior's Section 106 Reviews, for affected properties in Fort Lauderdale.
 - 3.4.4 Research and assemble information regarding historic issues and applicable criteria as provided in the City's Unified Land Development Regulations (ULDR) related to applications for Certificates of Appropriateness (COA).
 - 3.4.5 Provide a memorandum and documentary photographs or illustrations for each item on the monthly Historic Preservation Board (HPB) meeting agenda. Summarize the facts regarding the items, identify the criteria in the ULDR applicable to the item, and describe how the application meets or does not meet the ULDR requirements and how the facts relate to the requirements.
 - 3.4.6 Attend meetings with City staff, City Attorney and HPB Chair, as requested; attend and provide the information described herein at all

meetings of the City's Historic Preservation Board; and attend City Commission meetings, as requested, to serve as expert witness.

- 3.4.7 Evaluate and propose mitigation actions and programs for the preservation of identified historic and archaeological resources.
- 3.4.8 Conduct field studies and evaluations of identified historic and archaeological resources.
- 3.4.9 Research and provide information addressing any requests by the City Commission, Historic Preservation Board or City staff regarding administration or proposed enforcement and any other matters related to historic preservation.
- 3.4.10 Review and make recommendations regarding the review process and regulatory criteria for development permits by City staff and the Historic Preservation Board.

ARTICLE 4
TIME FOR PERFORMANCE

- 4.1 This Agreement shall commence on October 1, 2011, nunc pro tunc, and the terms of this Agreement shall be given the legal effect as if the contract was entered into on this date. The Agreement shall terminate on September 30, 2016. CONSULTANT services, when requested, must be responded to promptly and as needed to meet agenda deadlines for public meetings. Time frames for deliverables will be developed for specific assignments and determined upon contract finalization.

ARTICLE 5
TERM OF AGREEMENT, COMPENSATION AND METHOD OF PAYMENT

- 5.1 Term and Compensation. The initial term of this Agreement shall be for one (1) year from the date of this Agreement. The CITY shall have the option to renew this Agreement for four (4) successive one (1) year terms under the same terms and conditions as set forth herein. CONSULTANT shall notify the City in writing at least ninety (90) days prior to the contract anniversary date, indicating that they wish to renew the agreement for the following year. No cost increases shall be accepted in this contract term.
- 5.2 CITY agrees to pay to the CONSULTANT an hourly fee of \$85.00 as compensation for the Basic Services, as described in Article 2, not to exceed a total amount of \$85,000 annually. CONSULTANT will provide up to 1,000 hours of work per year to perform the Basic Services described in Article 3 of this Agreement. Such fees as provided herein for the services to be performed by CONSULTANT shall include all costs, expenses and fees.

For purposes of this Agreement the Contract Administrator for the City shall be the City Manager, or his or her designee. In the administration of this

Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator to the extent not in conflict with the terms of this Agreement.

- 5.3 Method of Billing and Payment. The CONSULTANT shall invoice the CITY no more frequently than monthly. A monthly time report recapping the actual time spent by each person on behalf of the CONSULTANT for each service listed in Article 3 shall be maintained by the CONSULTANT and sent to the CITY with each monthly invoice. The invoice and time report should identify services as numerically outlined in Article 3. The total amount of the monthly invoice shall be in accordance with the hourly rate as provided in Article 5.1 and correspond with the actual time spent on services.
- 5.4 Payment. Payment shall be made in accordance with the Florida Local Government Prompt Payment Act to the CONSULTANT at:

Fort Lauderdale Historical Society, Inc.
219 Southwest Second Avenue
Fort Lauderdale, FL 33301

ARTICLE 6 MISCELLANEOUS

- 6.1 Records. CONSULTANT shall keep such records and accounts and require any and all consultants and subconsultants to keep records and accounts as may be necessary. Such books and records will be available at all reasonable times for examination and audit by CONSULTANT or CITY and shall be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Agreement or for the period of time required by Florida law and applicable public records retention schedules, whichever is longer.
- 6.2 Ownership of Documents. Drawings, designs, models, photographs, reports, and other data produced by CONSULTANT in connection with this Agreement shall be the property of the CITY. CONSULTANT, however, may retain a copy of any such materials.
- 6.3 Termination.
This Agreement may be terminated by either party for cause, or by the CITY for convenience, upon thirty (30) days written notice by the terminating party to the other party of such termination, in which event the CONSULTANT shall be paid its compensation for services performed to termination date. The termination cause shall include a workload imposed upon CONSULTANT greater than that specified in this Agreement. In the event that the CONSULTANT abandons this Agreement or terminates it without cause, CONSULTANT shall indemnify the CITY against any loss pertaining to this termination up to the full contracted fee amount.

- 6.4 Subconsultants. Subconsultants, if needed, shall be subject to the prior written approval of the CITY. The CONSULTANT's use of subconsultants in connection with CONSULTANT'S performance of the Basic Scope of Services shall not result in any additional costs to the CITY.
- 6.5 Indemnification.
- 6.5.1 CONSULTANT shall indemnify and save harmless and defend the CITY, and the CITY's elected and appointed officials, agents, servants, and employees, (collectively, "Indemnitees"), from and against any claim, demand or cause of action of whatsoever kind or nature arising out of error, omission, or negligent act of the CONSULTANT, or of the CONSULTANT's agents, servants, or employees in the performance of services under this Agreement, for all costs, losses and expenses, including but not limited to, damages to persons or property, judgments, settlements, and any award of attorneys' fees and any award of costs, arising out of or in connection with the services agreed to or performed by the CONSULTANT pursuant to this Agreement; if called on by the CITY, CONSULTANT shall assume and defend not only itself, but also any and all of the Indemnitees in connection with any suit or cause of action, and such defense shall be of no cost or expense whatsoever to any of the Indemnitees.
- 6.5.2 The covenants and representations relating to this indemnification provision shall survive the term of this Agreement and continue in full force and effect as to the CONSULTANT's responsibility to indemnify.
- 6.5.3 The execution of this Agreement by the CONSULTANT shall obligate the CONSULTANT to comply with the foregoing indemnification provision.
- 6.5.4 The parties recognize that various provisions of this Agreement, including but not necessarily limited to Section 6.5.1, provide for indemnification by the CONSULTANT and Florida Statutes 725.06 requires a specific consideration be given therefore. The parties therefore agree that the sum of Ten and 00/100 Dollars (\$10.00), receipt of which is hereby acknowledged, is the specific consideration for such indemnities is deemed to be part of the specifications with respect to the Services and Deliverables described herein.
- 6.6 Independent Contractor. The CONSULTANT is an independent contractor under this Agreement. Personal services provided by the CONSULTANT shall be by employees of the CONSULTANT and subject to supervision by the CONSULTANT, and not 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 pursuant to this Agreement shall be those of the CONSULTANT.

6.7 Assignments or Amendments.

6.7.1 This Agreement, or any interest herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by CONSULTANT, without the prior written consent of CITY.

6.7.2 It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

6.8 No Contingent Fees. CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the 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 the breach or violation of this provision, the CITY shall have the right to terminate the Agreement without liability at its discretion, and to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

6.9 Notice. Whenever any party desires to give notice unto another party, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, the parties designate the following as the respective persons and places for giving of notice:

CITY: Lee R. Feldman, City Manager
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, Florida 33301

CONSULTANT: Bonnie M. Flynn, Executive Director
Fort Lauderdale Historical Society, Inc.
800 E. Broward Blvd.
Fort Lauderdale, FL 33301

6.10 Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has 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.

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

6.12 Severability. If any provision of this Agreement or the application thereof to any person or situation shall to any extent, be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be effected thereby, and shall continue in full force and effect, and be enforced to the fullest extent provided by law.

6.13 Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida with venue lying in Broward County, Florida.

6.14 Extent of Agreement. This Agreement represents the entire and integrated agreement between the CITY and the CONSULTANT and supersedes all prior negotiations, representations or agreements, either written or oral.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

Witnesses:

CITY OF FORT LAUDERDALE,
by and through its city manager:

By _____
City Manager

(CORPORATE SEAL)

ATTEST:

City Clerk

Approved as to form:

City Attorney

WITNESSES:

FORT LAUDERDALE HISTORICAL
SOCIETY, INC., a Florida-not-for-profit
corporation:

By _____
President

ATTEST:

(CORPORATE SEAL)

By _____
Secretary

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ETC: