

**NOT FOR PROFIT SERVICE AGREEMENT
FOR RIVERWALK**

THIS SERVICE AGREEMENT (“Agreement”), with an effective date of October 1, 2024 (“Effective Date”), is entered into by and between the **CITY OF FORT LAUDERDALE**, a Florida municipal corporation (“City”) with its principal address located at 101 NE 3rd Avenue, Suite 2100, Fort Lauderdale, Florida, 33301, and **RIVERWALK FORT LAUDERDALE, INC.**, a Florida not for-profit corporation, (“Contractor” or “Riverwalk”), with its principal address located at 888 East Las Olas Boulevard, Suite 210, Fort Lauderdale, FL 33301 (collectively, “Parties”).

WHEREAS, City is a municipality duly incorporated pursuant to the laws of the State of Florida with the authority to contract for services; and

WHEREAS, Contractor is a recognized not for-profit corporation duly authorized to transact business in the State of Florida and engaged in the planning, programming, beautification, and promotion of the Riverwalk District in the City of Fort Lauderdale, Florida; and

WHEREAS, the City of Fort Lauderdale has determined the beautification and promotion of the Riverwalk District will serve a legitimate municipal and public purpose and the City desires to secure certain services for the Riverwalk District including, but is not limited to, conducting periodic pre and post event assessment reports, coordinating event planning, permitting and site inspections between the City and event organizers, coordinators and/or promoters, providing beautification and lighting enhancement services, conducting periodic maintenance inspection and assessment of the Riverwalk District, and preparing recommendation reports for the City’s review and consideration (collectively, the “Services”); and

WHEREAS, Contractor desires to enter into this Agreement with the City and has the necessary professional expertise, competence, skills and capabilities to provide the Services; and

WHEREAS, pursuant to Section 2-176(e)(19) of the Code of Ordinances for the City of Fort Lauderdale, Florida, this service agreement is exempt from the mandatory commission threshold amount and competitive solicitation and selection process, given that Contractor is a not-for-profit corporation.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and between the City and Contractor as follows:

I. RECITALS

The parties hereto acknowledge and agree that the above recitals are true and correct and are hereby incorporated by this reference.

II. SCOPE OF SERVICES

The term "Services" shall mean the professional services as set forth in this Agreement, which shall consist of the planning, programming, beautification and promotion of the Riverwalk District in the City of Fort Lauderdale, Florida, as described with more particularity in **Exhibits "A" and "B"**, respectively, which is attached hereto and incorporated herein by this reference. The Contractor shall perform the work under the general direction of the City as set forth in this Agreement.

Unless otherwise specified herein, the Contractor shall perform all work identified in this Agreement. The Parties agree that the Scope of Services is a description of Contractor's obligations and responsibilities, and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks which are such an inseparable part of the work described that exclusion would render performance by Contractor impractical, illogical, or unconscionable.

Contractor acknowledges and agrees that any change orders to the Scope of Services or amendments to this Agreement or related documents must be authorized by the City Manager, or his or her designee, and approved by the City Commission whenever required in compliance with the Charter and Code of Ordinances for the City of Fort Lauderdale.

By signing this Agreement, the Contractor represents that it has thoroughly reviewed the documents incorporated into this Agreement by reference and that it accepts the description of the services required and the conditions under which the services are to be performed.

III. TERM OF AGREEMENT

The initial contract period shall commence on **October 1, 2024, and shall terminate on September 30, 2025**. The City reserves the right to extend the contract for one (1) additional one (1) year terms, provided all terms, conditions and specifications remain the same and the extension is mutually agreed to in writing and signed by both Parties. In the event the term of this Agreement extends beyond the end of any fiscal year of City, to wit, September 30th, the continuation of this Agreement beyond the end of such fiscal year shall be subject to both the appropriation and the availability of funds.

IV. COMPENSATION

The Contractor agrees to provide the services and/or materials as specified in this Agreement at the cost specified in Exhibit B. It is acknowledged and agreed by Contractor that this amount is the maximum payable **Exhibits "A" and "B"**, respectively, and constitutes City's obligation to compensate Contractor for Contractor's services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort upon Contractor's obligation to perform all items of work required by or which can be

reasonably inferred from the Scope of Services. Parties may mutually agree to update or modify the specified cost(s) outlined in **Exhibits “A” and “B”**, respectively. Changes which are mutually agreed upon by and between City and Contractor shall be incorporated in written amendments to this Agreement and executed by both parties.

V. METHOD OF BILLING AND PAYMENT

Contractor may submit invoices for compensation no more often than monthly, but only after the services for which are supported by proper invoices with detailed receipts that tie expenses to deliverables that have been completed. An original invoice plus one copy are due within fifteen (15) days of the end of the month except the final invoice which must be received no later than sixty (60) days after this Agreement expires. Proper invoices shall designate the nature of the services performed and/or the goods provided and comply with the Florida Prompt Payment Act, Section 218.73, Florida Statutes (2024), as amended.

City may withhold payment for Contractor’s failure to comply with a term, condition, or requirement of this Agreement.

Notwithstanding any provision of this Agreement to the contrary, City may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work that has not been remedied or resolved in a manner satisfactory to the City Manager or his or her designee or failure to comply with this Agreement. The amount withheld shall not be subject to the payment of interest by City.

VI. GENERAL CONDITIONS

A. Indemnification

Contractor shall protect and defend at Contractor’s expense, counsel being subject to the City’s approval, and indemnify and hold harmless the City and the City’s officers, employees, volunteers, and agents from and against any and all losses, penalties, fines, damages, settlements, judgments, claims, costs, charges, expenses, or liabilities, including any award of attorney fees and any award of costs, in connection with or arising directly or indirectly out of any act or omission by the Contractor or by any officer, employee, agent, invitee, subcontractor, or sublicensee of the Contractor. The provisions and obligations of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager, any sums due Contractor under this Agreement may be retained by City until all of City’s claims for indemnification pursuant to this Agreement have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by City.

B. Intellectual Property

Contractor shall protect and defend at Contractor’s expense, counsel being subject to the City’s approval, and indemnify and hold harmless the City from and against any and all losses, penalties, fines, damages, settlements, judgments, claims,

costs, charges, royalties, expenses, or liabilities, including any award of attorney fees and any award of costs, in connection with or arising directly or indirectly out of any infringement or allegation of infringement of any patent, copyright, or other intellectual property right in connection with the Contractor's or the City's use of any copyrighted, patented or un-patented invention, process, article, material, or device that is manufactured, provided, or used pursuant to this Agreement. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that Contractor shall be solely liable for the costs arising from the use of such design, device, or materials in any way involved in the Scope of Services.

C. Termination for Cause

The aggrieved party may terminate this Agreement for cause if the party in breach has not corrected the breach within ten (10) days after written notice from the aggrieved party identifying the breach. The City Manager or his or her designee may also terminate this Agreement upon such notice as the City Manager or his or her designee deems appropriate under the circumstances in the event the City Manager determines that termination is necessary to protect the public health or safety. The Parties agree that if the City erroneously, improperly or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

This Agreement may be terminated for cause for reasons including, but not limited to, Contractor's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to perform the Services to the City's satisfaction; or failure to continuously perform the Services in a manner calculated to meet or accomplish the objectives as set forth in this Agreement.

D. Termination for Convenience

The City reserves the right, in its best interest as determined by the City, to cancel this Agreement for convenience by giving written notice to the Contractor at least thirty (30) days prior to the effective date of such cancellation. In the event this Agreement is terminated for convenience, Contractor shall be paid for any services performed to the City's satisfaction pursuant to the Agreement through the termination date specified in the written notice of termination. Contractor acknowledges and agrees that it has received good, valuable and sufficient consideration from City, the receipt and adequacy of which are hereby acknowledged by Contractor, for City's right to terminate this Agreement for convenience.

E. Cancellation for Unappropriated Funds

The City reserves the right, in its best interest as determined by the City, to cancel this Agreement for unappropriated funds or unavailability of funds by giving written

notice to the Contractor at least thirty (30) days prior to the effective date of such cancellation. The obligation of the City for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, unless otherwise provided by law.

F. 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 Contractor, 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 Contractor. The Contractor shall provide the City a certificate of insurance evidencing such coverage. The Contractor's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor'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 Contractor for assessing the extent or determining appropriate types and limits of coverage to protect the Contractor 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 Contractor 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 covered 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 Contractor. The coverage shall contain no special limitation on the scope of protection afforded to the City, its officials, employees, and volunteers.

Business Automobile Liability – Not applicable.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes (2024). Any person or entity performing work for or on behalf of the City must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the City's Risk Manager, if they are in accordance with Florida Statute.

The Contractor waives, and the Contractor shall ensure that the Contractor's insurance carrier waives, all subrogation rights against the City, its officials, employees, and volunteers for all losses or damages. The City requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

The Contractor must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

Insurance Certificate Requirements

- a. The Contractor 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 Contractor 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 Contractor 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 Contractor following expiration or early termination of the Agreement goes beyond the expiration date of the insurance policy, the Contractor 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 named as an Additional Insured on all liability policies, with the exception of Workers' Compensation.

- g. The City shall be granted a Waiver of Subrogation on the Contractor's Workers' Compensation insurance policy.
- h. The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

The Certificate Holder should read as follows:

City of Fort Lauderdale
401 SE 21st Street
Fort Lauderdale, FL 33316

The Contractor 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 Contractor's expense.

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

The Contractor'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 Contractor 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 shall be considered breach of contract. In addition, Contractor must provide to the City confirmation of coverage renewal via an updated certificate 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 Contractor's insurance policies.

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

It is the Contractor's responsibility to ensure that any and all of the Contractor'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 Contractor.

G. Environmental, Health and Safety

Contractor shall place the highest priority on health and safety and shall maintain a safe working environment during performance of the Services. Contractor shall comply, and shall secure compliance by its employees, agents, and subcontractors, with all applicable environmental, health, safety and security laws and regulations, and performance conditions in this Agreement. Compliance with such requirements shall represent the minimum standard required of Contractor. Contractor shall be responsible for examining all requirements and determine whether additional or more stringent environmental, health, safety and security provisions are required for the work. Contractor agrees to utilize protective devices as required by applicable laws, regulations, and any industry or Contractor's health and safety plans and regulations, and to pay the costs and expenses thereof, and warrants that all such persons shall be fit and qualified to carry out the Services.

H. Standard of Care

Contractor represents that it is qualified to perform the Services, that Contractor and his/her/its subcontractors possess current, valid state and/or local licenses to perform the Services, and that their services shall be performed in a manner consistent with that level of care and skill ordinarily exercised by other qualified contractors under similar circumstances.

I. Rights in Documents

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of City; and Contractor disclaims any copyright in such materials. In the event of and upon termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by Contractor, whether finished or unfinished, shall become the property of City and shall be delivered by Contractor to the City Manager or his or her designee within seven (7) days of termination of this Agreement by either Party. Any compensation due to Contractor shall be withheld until Contractor delivers all documents to the City as provided herein.

J. Audit Rights and Retention of Records

City shall have the right to audit the books, records, and accounts of Contractor and Contractor's subcontractors that are related to this Agreement. Contractor shall keep, and Contractor shall cause Contractor's subcontractors to keep, such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. All books, records, and accounts of Contractor and Contractor's subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request

to do so, Contractor or Contractor's subcontractor, as applicable, shall make same available at no cost to City in written form.

Contractor and Contractor's subcontractors shall preserve and make available, at reasonable times for examination and audit by the City Manager or his or her designee 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 (2024), as may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, 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 books, records, and accounts shall be retained until resolution of the audit findings. If the Florida public records law is determined by City to be applicable to Contractor and Contractor's subcontractors' records, Contractor and Contractor's subcontractor shall comply with all requirements of the Florida public records law; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by the Participant. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for the City's disallowance of funding and recovery of any payment upon such incomplete or incorrect entry.

Contractor shall, by written contract, require Contractor's subcontractors to agree to the requirements and obligations of this Section.

The Contractor shall maintain during the term of this Agreement all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this Agreement.

K. Independent Contractor

Contractor is an independent contractor under this Agreement. Services provided by sub-contractor pursuant to this Agreement shall be subject to the supervision of the Contractor. In providing such services, neither Contractor nor Contractor's agents shall act as officers, employees, or agents of City. No partnership, joint venture, or other joint relationship is created hereby. City does not extend to Contractor or Contractor's agents any authority of any kind to bind City in any respect whatsoever.

L. Inspection and Non-Waiver

Contractor shall permit the representatives of City to inspect and observe the Services at all times. The failure of the City to insist upon strict performance of any other terms of this Agreement or to exercise any rights conferred by this Agreement shall not be construed by Contractor as a waiver of the City's right to assert or rely on any such terms or rights on any future occasion or as a waiver of any other terms or rights.

M. Assignment and Performance

Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of the other party. In addition, Contractor shall not subcontract any portion of the work required by this Agreement, except as provided in the Schedule of Subcontractor Participation. City may terminate this Agreement, effective immediately, if there is any assignment, or attempted assignment, transfer, or encumbrance, by Contractor of this Agreement or any right or interest herein without City's prior written consent.

Contractor represents that each person who will render services pursuant to this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and that each such person is reasonably experienced and skilled in the area(s) for which he or she will render his or her services.

Contractor shall perform Contractor's duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of Contractor's performance and all interim and final product(s) provided to or on behalf of City shall be comparable to the best local and national standards.

In the event Contractor engages any subcontractor in the performance of this Agreement, Contractor shall ensure that all of Contractor's subcontractors perform in accordance with the terms and conditions of this Agreement. Contractor shall be fully responsible for all of Contractor's subcontractors' performance, and liable for any of Contractor's subcontractors' non-performance and all of Contractor's subcontractors' acts and omissions. Contractor shall defend at Contractor's expense, counsel being subject to City's approval, and indemnify and hold City and City's officers, employees, and agents harmless from and against any claim, lawsuit, third party action, fine, penalty, settlement, or judgment, including any award of attorney fees and any award of costs, by or in favor of any of Contractor's subcontractors for payment for work performed for City by any of such subcontractors, and from and against any claim, lawsuit, third party action, fine, penalty, settlement, or judgment, including any award of attorney fees and any award of costs, occasioned by or arising out of any act or omission by any of Contractor's subcontractors or by any of Contractor's subcontractors' officers, agents, or employees. Contractor's use of subcontractors in connection with this Agreement shall be subject to City's prior written approval, which approval City may revoke at any time.

N. Conflicts

Neither Contractor nor any of Contractor's employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment and care related to Contractor's performance under this Agreement.

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

In the event Contractor is permitted pursuant to this Agreement to utilize subcontractors to perform any services required by this Agreement, Contractor agrees to require such subcontractors, by written contract, to comply with the provisions of this section to the same extent as Contractor.

O. Materiality and Waiver of Breach

City and Contractor agree that each requirement, duty, and obligation set forth herein was bargained for at arm's-length and is agreed to by the Parties in exchange for *quid pro quo*, that each is substantial and important to the formation of this Agreement and that each is, therefore, a material term hereof.

City's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

P. Compliance With Laws

Contractor shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing Contractor's duties, responsibilities, and obligations pursuant to this Agreement.

Q. Severance

In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, the provisions not having been found by a court of competent jurisdiction to be invalid or unenforceable shall continue to be effective.

R. Limitation of Liability

The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach

never exceeds the sum of \$1,000. Contractor hereby expresses its willingness to enter into this Agreement with Contractor's recovery from the City for any damage action for breach of contract or for any action or claim arising from this Agreement to be limited to a maximum amount of \$1,000 less the amount of all funds actually paid by the City to Contractor pursuant to this Agreement.

Accordingly, and notwithstanding any other term or condition of this Agreement, Contractor hereby agrees that the City shall not be liable to Contractor for damages in an amount in excess of \$1,000 which amount shall be reduced by the amount actually paid by the City to Contractor pursuant to this Agreement, for any action for breach of contract or for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon City's liability as set forth in Section 768.28, Florida Statutes (2024).

S. Jurisdiction, Venue, Waiver, Waiver of Jury Trial

This Agreement shall be interpreted and construed in accordance with and governed by 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 Broward County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida, Fort Lauderdale Division. **THE PARTIES EXPRESSLY AGREE TO WAIVE ALL RIGHTS TO A TRIAL BY JURY OF ANY AND ALL ISSUES SO TRIABLE UNDER THIS AGREEMENT.**

T. Amendments

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

U. Prior Agreements

This document represents the final and complete understanding of the Parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The Parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

V. Payable Interest

City shall not be liable for interest for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Contractor waives, rejects, disclaims and surrenders any and all entitlement it has or may have to

receive interest in connection with a dispute or claim based on or related to this Agreement.

W. Representation of Authority

Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

X. Force Majeure

The City and Contractor will be excused from the performance of their respective obligations under this Agreement when and to the extent that their performance is delayed or prevented by a Force Majeure or any circumstances beyond their control including, fire, flood, explosion, strikes or other labor disputes, act of God or public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from a public utility needed for their performance, provided that:

1. The non-performing party gives the other party prompt written notice describing the particulars of the Force Majeure including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the Force Majeure;
2. The excuse of performance is of no greater scope and of no longer duration than is required by the Force Majeure;
3. No obligations of either party that arose before the Force Majeure causing the excuse of performance are excused as a result of the Force Majeure; and
4. The non-performing party uses its best efforts to remedy its inability to perform. Notwithstanding the above, performance shall not be excused under this Section for a period in excess of two (2) months, provided that in extenuating circumstances, the City may excuse performance for a longer term. Economic hardship of the Contractor will not constitute Force Majeure. The term of the Agreement shall be extended by a period equal to that during which either party's performance is suspended under this Section.

Y. Public Records

This agreement and any other documents pertinent to this Agreement is subject to the public records disclosure as prescribed in Chapter 119, Florida Statutes (2024), and as may be amended or revised, or as otherwise provided by law. **IF THE APPLICANT HAS QUESTIONS REGARDING THE**

APPLICATION OF CHAPTER 119, FLORIDA STATUTES (2024), TO APPLICANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY CLERK'S OFFICE, ONE EAST BROWARD BLVD., SUITE 444, FORT LAUDERDALE, FLORIDA 33301, PHONE: 954-828-5002, EMAIL: PRRCONTRACT@FORTLAUDERDALE.GOV.

Contractor shall comply with public records laws, and Contractor shall:

1. Keep and maintain public records required by the City to perform the service.
2. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2024), as may be amended or revised, or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City.
4. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

Z. Default

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

1. The Participant fails to perform any covenant or term or condition of this Agreement; or any representation or warranty of the Participant herein or in any other grant documents executed concurrently herewith or made subsequent hereto, shall be found to be inaccurate, untrue or breached.
2. If the Participant or any endorser of the Agreement 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 Act 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 Participant for all or any part of the properties of Participant; or if within ten (10) days after commencement of any proceeding against the Participant, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, debtor relief or similar relief under any present or future Federal Bankruptcy Act 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 Participant or of any endorser of the Agreement, of any trustee, receiver, or liquidator of the Participant or any endorser of the Note, or of all or any portion of the Property, 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.

3. Participant's breach, violation or failure to perform any of the obligations or any of the covenants and conditions set forth in this Agreement.

4. Upon the occurrence of any event of default, the City shall issue written notice in accordance with Article V and the Participant shall have thirty (30) days within which to cure such default. If Participant fails to cure the default within the thirty (30) days, the City may terminate this Agreement immediately.

5. 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.

6. The Contractor 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.

- a. The Contractor certifies and represents that the Contractor 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 Contractor will comply with Section 2-187, Code of Ordinances of the City of Fort Lauderdale, Florida, (2024), as may be amended or revised, ("Section 2-187"), during the entire term of this Agreement.

- b. The failure of the Contractor 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.
- c. The City may terminate this Agreement if the Contractor fails to comply with Section 2-187.
- d. The City may retain all monies due or to become due until the Contractor complies with Section 2-187.
- e. The Contractor 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.

7. Subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), affirmed, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the “Cuba Amendment,” the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2024), as may be amended or revised, and that it is not engaged in a boycott of Israel, and that it does not have business operations in Cuba or Syria, as provided in section 287.135, Florida Statutes (2024), as may be amended or revised. The City may terminate this Agreement at the City’s option if the Contractor is found to have submitted a false certification as provided under subsection (5) of Section 287.135, Florida Statutes (2024), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2024), as may be amended or revised, or is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2024), as may be amended or revised.

8. The Participant shall at all times conduct its affairs in accordance with and be in compliance with all applicable laws, ordinances, and regulations.

9. In no event will the Participant be compensated for any work which has not been described in this Agreement or in a separate amendment to this Agreement executed by the parties hereto.

AA. E-Verify

1. As a condition precedent to the effectiveness of this Agreement, pursuant to Section 448.095, Florida Statutes (2024), as may be amended or revised, the Contractor and its subcontractors shall register with and use the E-Verify system to electronically verify the employment eligibility of newly hired employees.

2. The Contractor shall require each of its subcontractors, if any, to provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The Contractor 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.

3. The City, the Contractor, 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 (2024), as may be amended or revised, shall terminate the contract with the person or entity.

4. The City, upon good faith belief that a subcontractor knowingly violated the provisions of Subsection 448.095(2), Florida Statutes (2024), as may be amended or revised, but that the Contractor otherwise complied with Subsection 448.095(2), as may be amended or revised, shall promptly notify Contractor and order the Contractor to immediately terminate the contract with the subcontractor, and the Contractor shall comply with such order.

5. A contract terminated under Subparagraph 448.095(2)(c)1. or 2., Florida Statutes (2024), 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 (2024), as may be amended or revised, the Contractor may not be awarded a public contract for at least one year after the date on which the contract was terminated. The Contractor is liable for any additional costs incurred by the City as a result of termination of this Agreement.

6. Contractor shall include in each of its subcontracts, if any, the requirements set forth in this Section including this subparagraph, requiring any and all subcontractors, as defined in Subsection 448.095(1)(j), Florida Statutes (2024), as may be amended or revised, to include all of the requirements of this Section. in their subcontracts. Contractor shall be responsible for compliance by any and all subcontractors, as defined in Subsection 448.095(1)(j), Florida Statutes (2024), as may be amended or revised, with the requirements of Section 448.095, Florida Statutes (2024), as may be amended or revised.

BB. Anti-Human Trafficking.

As a condition precedent to the effectiveness of this Agreement, the Applicant shall provide the City with an affidavit on a form approved by the City and signed by an officer or a representative of the Applicant under penalty or perjury attesting that the Applicant does not use coercion for labor or services as defined in Section 787.06, Florida Statutes (2024), as may be amended or revised.

CC. Notices

Whenever it is provided herein that notice of default, demand, request or other communication shall or may be given to, or served upon, either of the parties by the other, or either of the parties shall desire to give or serve upon the other any notice of default, demand, request or other communication with respect hereto or with respect to any matter set forth in this Agreement, each such notice of default, demand, request or other communication shall be in writing and any law or statute to the contrary notwithstanding shall not be effective for any purpose unless the same shall be given by hand delivery, or by a nationally recognized overnight courier, or by mailing the same by registered or certified mail, postage prepaid, return receipt requested, addressed to the party at the address set forth below, or at such other address or addresses and to such other person or firm as each party may from time to time designate by notice as herein provided.

AS TO CITY: City Manager
City Fort Lauderdale
101 NE 3rd Avenue, Suite 2100
Fort Lauderdale, Florida 33301

With a copy to: City Attorney
City of Fort Lauderdale
1 East Broward Blvd., Suite 1320
Fort Lauderdale, Florida 33301

AS TO CONTRACTOR: Riverwalk Fort Lauderdale, Inc.
ATTN: Eugenia Duncan Ellis, President
888 East Las Olas Boulevard, Suite 210
Fort Lauderdale, FL 33301

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the City and the Contractor execute this Contract as follows:

ATTEST:

CITY OF FORT LAUDERDALE, a Florida
municipal corporation

David R. Soloman, City Clerk

By: _____
Susan Grant
Acting City Manager

Approved as to form and correctness:
Thomas J. Ansbro, City Attorney

By: _____
Patricia SaintVil-Joseph
Assistant City Attorney

WITNESSES:

RIVERWALK FORT LAUDERDALE, INC.,
a Florida not for-profit corporation

Signature

By: _____
Eugenia Duncan Ellis, President

Print Name

Signature

(CORPORATE SEAL)

Print Name

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me by means of ____ physical presence or ____ online notarization, this ____ day of _____, 2024, by **Eugenia Duncan Ellis**, as President for **RIVERWALK FORT LAUDERDALE, INC.**, a Florida not for-profit corporation.

(NOTARY SEAL)

(Signature of Notary Public – State of Florida)

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

Personally Known ____ OR Produced Identification ____
Type of Identification Produced _____

Exhibit A

Scope of Services

In its performance of Services under the terms of this Agreement, Riverwalk Fort Lauderdale, Inc. shall perform and be responsible for the following:

A. Activities

1) Special Events Operating Costs: Riverwalk Fort Lauderdale, Inc., will receive from the City reimbursement for actual expenditures up to the corresponding amount to coordinate and oversee the following special events that are intended to activate and promote the Riverwalk District in the City of Fort Lauderdale, Florida, subject to and conditioned on Riverwalk's obtaining all required permits and approvals. Prior to the start of each event listed below, Contractor shall verify the organizer, coordinator and/or promoter for each event scheduled at the Riverwalk District secures all applicable and required permits from the City of Fort Lauderdale and provide City officials with documentary proof of each event permit and certificate of compliance with all applicable local, state and federal rules and guidelines, which said documentation shall not be unreasonably withheld or delayed by Contractor:

- **Light Up Lauderdale** – An event to light up the Riverwalk District during the holiday season. Costs to include items related to this event, such as lights, banners, and promotional materials **(\$20,000)**.
- **Day of the Dead** – Celebration to enhance community engagement and positive neighborly activity across demographics through the arts. Costs include actual expenses, such as promotional materials and operating costs associated with puppets/performers **(\$30,000)**.
- **Beautification and Lighting Enhancements** – Install and maintain safety and pedestrian tree lighting, provide an inviting visual presentation at all entrances, create a well-lighted streetscape to encourage pedestrian traffic, and maintain all lights **(\$48,180)**.
- **Gospel Explosion** - This gospel concert will be free to the public and will include music by major recording artists, free turkey and toy giveaways, and will host community resource providers. The organizer has requested a \$20,235 sponsorship to partially offset the cost of the event, which includes a \$6,000 refundable security deposit payable to the City. The District III Commissioner has proposed utilizing discretionary funds from the District III Budget to support this event. The sponsorship activities will be managed by the Parks and Recreation Department and will be paid to Riverwalk Fort Lauderdale for the event production **(\$20,235)**.

2) Service Provision: Riverwalk Fort Lauderdale, Inc., will receive a monthly contribution from the City in the amount of one twelfth of the corresponding

annual amounts for the following services that are performed throughout the year:

- **Informational Program (\$25,000):** An informational kiosk program highlighting activities and events along the Riverwalk District. The City will provide a contribution for costs associated with operating the kiosk and promotional materials distributed at the kiosk.
- **Special Event Coordination (\$75,000):** Revitalization of the Riverwalk by assisting in coordinating events within the Riverwalk District boundaries with partner organizations; and provide any additional duties and services as may be needed to assure compliance and delivery of Services outlined in this agreement. Additional duties include:
 - Solicitation of unique opportunities for activation including, but not limited to, fitness, dog training, boot camps, yoga, Mommy & Me meet ups, or similar activities.
 - Riverwalk Maintenance Coordination: Routinely inspect and assess both sides of the Riverwalk and the Riverwalk District for any cleanliness, cosmetic needs and hazardous conditions including, but not limited to, broken pavers or uneven pavement, document any deficiencies and provide City staff with a findings and recommendations report for improvements to the Riverwalk District, as necessary to accommodate the public's needs and safety, including coordinating with responsible City agencies.
 - Coordinate landscape changes, additions and removals to ensure compliance with the Riverwalk District Master Plan.
 - Identify hardscape deficiencies and provide assessment report and recommendations for additions and sustainable improvements to the City for review and consideration.
 - Event Calendar Coordination: Coordinate the Riverwalk District event calendar, including public, charity, and private events along the Riverwalk, including coordinating press releases and road closure notices.
- **Special Event Liaison Support (\$75,000):** To provide a consistent and reliable presence in the Riverwalk District on a routine basis, Riverwalk staff will meet with event organizers, coordinators and/or promoters, work as a special event liaison with the City and provide adequate staff to coordinate any and all City permit review and site inspection, for pre and post event.
 - **Permit Review:** Meet with event organizers, coordinators, and/or promoters for initial event permit review before meeting with City staff to ensure all scheduled events are in compliance with all City of Fort Lauderdale's special event permitting rules and regulations.
 - Coordinate with all event organizers, coordinators and/or promoters regarding event scheduling at the Riverwalk

District to avoid duplicate or conflicting uses and road closures, and to ensure availability of sufficient commonalities (dumpsters, toilets).

- **Onsite Event Support:** Provide staff to be onsite for a period during the each event's set-up and/or prior to the start of an event to assure compliance with approved site plan and City requirements.
- **Post Event Support:** Provide adequate staff to inspect site within 8 hours after the conclusion of each event at the Riverwalk District and verify each event site is free of debris and cleaned in accordance with City guidelines and permit requirements. Contractor's staff shall ensure all toilets/dumpsters/barricades or other additions to the park are removed after each event. Assess the Riverwalk District for cleanliness, cosmetic needs and hazardous conditions, document any deficiencies and report to the City any damage or instances of non-compliance by event organizers or promoters with each event's permitted use, and coordinate with any City approved resolution(s) to any issues of non-compliance or failure to perform.
- **Tunnel Top Park (\$2,600):** Oversee the Park including assisting in coordinating events with partner organizations; and provide any additional duties and services as may be needed to assure compliance and delivery of Services outlined in this agreement under Special Event Liaison support.
- ~~**Expanded District (\$25,000):** Beginning with FY2025, the Riverwalk District will be expanded North to Sunrise Blvd, between US1 and Avenue of the Arts, to include Flagler Village, and east along Las Olas Blvd, to SE 12th Ave, to include additional areas along Las Olas Blvd.~~

B. Deliverables

The Participant will coordinate, organize, and administer the activities listed in Section I.A. of this Agreement in the Riverwalk District of the City of Fort Lauderdale. For activities described in Subsection I.A.(1), the Participant shall submit to the City a request for reimbursement on a form approved by the City, together with detailed receipts, invoices, and reports, describing the items purchased and services performed in accordance with the terms of this Agreement. For activities described in Subsection I.A.(2), the City will pay each monthly installment in arrears, after the City's receipt of a corresponding proper invoice in a form and in substance acceptable to the City, detailing the activities and services performed in accordance with the terms of this Agreement in the preceding calendar month, in compliance with the Florida Prompt Payment Act, Section 218.73, Florida Statutes (2024), as amended.

Exhibit B

Specified Cost Allocation - Compensation

Parties agree to the following specified allocation of cost(s) for Services under this Agreement. City agrees to compensate Contractor as follows, subject to Contractor's compliance with the terms and conditions contained in paragraphs VI and V of this Agreement:

Special Events Operating Costs: Riverwalk Fort Lauderdale, Inc., will receive from the City reimbursement for actual expenditures up to the corresponding amount to organize the following special events that are intended to activate and promote the Riverwalk District in the City of Fort Lauderdale, Florida, subject to and conditioned on Riverwalk's obtaining all required permits and approvals:

- **Light Up Lauderdale** – An event to light up the Riverwalk District during the holiday season. Costs may include items such as lights, banners, and promotional materials **(\$20,000)**.
- **Day of the Dead** – Celebration to enhance community engagement and positive neighborly activity across demographics through the arts. The cost covers promotional materials and operating costs associated with puppets/performers **(\$30,000)**.
- **Beautification and Lighting Enhancements** – Install and maintain safety and pedestrian tree lighting, provide an inviting visual presentation at all entrances, create a well-lighted streetscape to encourage pedestrian traffic, and maintain all lights **(\$48,180)**.
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Service Provision: Riverwalk Fort Lauderdale, Inc., will receive a monthly contribution from the City in the amount of one twelfth of the corresponding annual amounts for the following services that are performed throughout the year:

- **Informational Program (\$25,000):** An informational kiosk program highlighting activities and events along the Riverwalk. The City will provide a contribution for costs associated with operating the kiosk and promotional materials distributed at the kiosk.

- **Special Event Coordination (\$75,000):** Revitalization of the Riverwalk by assisting in coordinating events within the Riverwalk District boundaries with partner organizations; and provide any additional duties and services as may be needed to assure compliance and delivery of Services outlined in this agreement. Additional duties include:
 - Solicitation of unique opportunities for activation including, but not limited to, fitness, dog training, boot camps, yoga, Mommy & Me meet ups, or similar activities.
 - **Riverwalk Maintenance Coordination:** Routinely inspect and assess both sides of the Riverwalk and the Riverwalk District for any cleanliness, cosmetic needs and hazardous conditions including, but not limited to, broken pavers or uneven pavement, document any deficiencies and provide City staff with a findings and recommendations report for improvements to the Riverwalk District, as necessary to accommodate the public's needs and safety, including coordinating with responsible City agencies.
 - Coordinate landscape changes, additions and removals to ensure compliance with the Riverwalk District Master Plan.
 - Identify hardscape deficiencies and provide assessment report and recommendations for additions and sustainable improvements to the City for review and consideration.
 - **Event Calendar Coordination:** Coordinate the Riverwalk District event calendar, including public, charity, and private events along the Riverwalk, including coordinating press releases and road closure notices.

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 - **Permit Review:** Meet with event organizers, coordinators, and/or promoters for initial event permit review before meeting with City staff to ensure all scheduled events are in compliance with all City of Fort Lauderdale's special event permitting rules and regulations.
 - Coordinate with all event organizers, coordinators and/or promoters regarding event scheduling at the Riverwalk District to avoid duplicate or conflicting uses and road closures, and to ensure availability of sufficient commonalities (dumpsters, toilets).
 - **Onsite Event Support:** Provide staff to be onsite for a period during the each event's set-up and/or prior to the start of an event to assure compliance with approved site plan and City requirements.

- **Post Event Support:** Provide adequate staff to inspect site within 8 hours after the conclusion of each event at the Riverwalk District and verify each event site is free of debris and cleaned in accordance with City guidelines and permit requirements. Contractor's staff shall ensure all toilets/dumpsters/barricades or other additions to the park are removed after each event. Assess the Riverwalk District for cleanliness, cosmetic needs and hazardous conditions, document any deficiencies and report to the City any damage or instances of non-compliance by event organizers or promoters with each event's permitted use, and coordinate with any City approved resolution(s) to any issues of non-compliance or failure to perform.
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