

## **CONTRACT FOR CONSULTING/PROFESSIONAL SERVICES**

This Contract is made as of the \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the City of Hollywood, a municipal corporation of the State of Florida (hereinafter the "City"), and RMGA, Inc., d/b/a Richard Mandell Golf Architecture, a corporation authorized to do business in the State of Florida, whose principal office is located at 2208 Midland Road Pinehurst, NC 28374, whose Federal I.D. number is 56-2203599 (hereinafter referred to as "CONSULTANT").

WHEREAS, the Hollywood Beach Golf Course & Club House Project was part of the General Obligation Bond Projects approved by the voters of the City; and

WHEREAS, as part of the Hollywood Beach Golf Course & Club House Project, golf course design plans are necessary; and

WHEREAS, the CONSULTANT specializes in golf course renovation services and provides such design services; and

WHEREAS, the Department of Design, Construction and Management requires the expertise of CONSULTANT to provide golf course architecture, irrigation design, and landscape architecture services for the renovation of the Hollywood Beach Golf Course & Club House Project.

NOW, THEREFORE, in consideration of the mutual promises herein, the CITY and the CONSULTANT hereby agree as follows:

### **ARTICLE 1 - SERVICES/CONSULTANT AND CITY REPRESENTATIVES**

The CONSULTANT'S responsibility under this Contract is to provide professional/consultation services for the golf course architecture associated with the golf course portion of the property that include adjustments to the drainage profile of the golf course to raise the east side of the golf property (to be coordinated with a consultant under separate agreement), renovation of the tees, fairways, bunkers, rough, and greens for all eighteen holes, and professional guidance regarding landscaping, irrigation and all required site work. The CONSULTANT is also expected to coordinate said drawings with Bermello Ajamil & Partners, Inc. in the overall scope of work to be permitted as one set of construction documents as more specifically set forth in the attached Exhibit "A".

The CONSULTANT'S Representative shall be: Richard Mandell.

The City's Representative shall be: Elisa A Iglesias  
Telephone No.: (954) 921-3410

### **ARTICLE 2 – SCHEDULE/TERM**

The CONSULTANT shall commence services upon receipt of the executed contract and shall complete all services by January 2025.

### ARTICLE 3 - PAYMENTS TO CONSULTANT

- A. The total amount to be paid by the City under this Contract for all services, materials, out-of-pocket expenses and also including any approved subcontracts shall not exceed a total contract amount of \$356,205.00. For purposes of this Contract, out-of-pocket expenses are for such items as travel, copying, postage, and express mail. The CONSULTANT shall notify the City's Representative in writing when 90% of the "not to exceed amount" has been reached. The CONSULTANT will bill the City on as otherwise provided, at the amounts set forth in Exhibit "A" for services rendered toward the completion of the Scope of Services and as outlined in Exhibit "A". All invoices submitted to the City must be itemized to indicate the number of hours incurred by each category of personnel as set forth in the rate schedule included in Exhibit "A". Where incremental billings for partially completed items is permitted, the total billings shall not exceed the estimated percentage of completion as of the billing date. It is acknowledged and agreed to by the CONSULTANT that the dollar limitation set forth in this section is a limitation upon, and describes the maximum extent of, CITY'S obligation to pay CONSULTANT but does not include a limitation upon CONSULTANT'S duty to perform all services set forth in Exhibit "A" for the total compensation in the amount or less than the guaranteed maximum stated above.
- B. Invoices received by the City from the CONSULTANT pursuant to this Contract will be reviewed and approved in writing by the City's Representative, indicating that services have been rendered in conformity with the Contract, and then will be sent to the City's Financial Services Department for payment. All invoices shall contain a detailed breakdown of the services provided for which payment is being requested. Invoices shall be paid within 30 days following the City Representative's approval. In addition to detailed invoices, upon request of the City's Representative, CONSULTANT will provide City with detailed periodic Status Reports on the project.
- C. Final Invoice: In order for both parties herein to close their books and records, the CONSULTANT will clearly state "final invoice" on the CONSULTANT'S final/last billing to the City. This final invoice shall also certify that all services provided by CONSULTANT have been properly performed and all charges and costs have been invoiced to the City. Because this account will thereupon be closed, any and other further charges not properly included on this final invoice are waived by the CONSULTANT.

### ARTICLE 4 - TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Contract by the CONSULTANT shall also act as the execution of a truth in negotiation certificate certifying that the wage rates, overhead charges, and other costs used to determine the compensation provided for this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the CONSULTANT'S most favored customer for the same or substantially similar service based on CONSULTANT'S 2021 rate schedule. Should the CITY determine that said rates and costs were significantly increased due to incomplete, noncurrent or inaccurate representation, then said rates shall be adjusted accordingly.

## **ARTICLE 5 - TERMINATION**

This Contract may be cancelled by the CONSULTANT upon 30 days prior written notice to the City's Representative in the event of substantial failure by the City to perform in accordance with the terms of this Contract through no fault of the CONSULTANT. It may also be terminated, in whole or in part, by the City, with or without cause, immediately upon written notice from the City's Representative to the CONSULTANT. Unless the CONSULTANT is in breach of its Contract, the CONSULTANT shall be paid for services rendered to the City's satisfaction through the date of termination. Ten Dollars paid to the CONSULTANT, the adequacy of which is acknowledged, is given as specific and independent consideration of the City's right to terminate this Contract for convenience. Termination for cause by the City shall include, but not be limited to, failure to suitably perform the work, failure to continuously perform the work in a manner calculated to meet or accomplish the objectives of the City as set forth herein, or multiple breach of the provisions of this Contract notwithstanding whether any such breach was previously waived or cured. After receipt of a Termination Notice and except as otherwise directed by the City the CONSULTANT shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work documents in process, completed work, and other materials related to the terminated work to the City.
- D. Continue and complete all parts of the work that have not been terminated.

## **ARTICLE 6 - PERSONNEL**

The CONSULTANT is, and shall be, in the performance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the CONSULTANT'S sole direction, supervision, and control. The CONSULTANT shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONSULTANT'S relationship and the relationship of its employees to the City shall be that of an Independent Contractor and not as employees or agents of the City. This contract does not create a partnership or joint venture between the parties.

The CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City, nor shall such personnel be entitled to any benefits of the City including, but not limited to, pension, health and workers' compensation benefits.

All of the services required hereunder shall be performed by the CONSULTANT or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

Any changes or substitutions in the CONSULTANT'S key personnel, as may be listed in Article 1, must be made known to the City's Representative and written approval must be granted by the City's Representative before said change or substitution can become effective.

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

#### **ARTICLE 7 - SUBCONTRACTING**

CONSULTANT shall not subcontract any services or work to be provided to City without the prior written approval of the City's Representative. The City reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make determination as to the capability of the subcontractor to perform properly under this Contract. The City's acceptance of a subcontractor shall not be unreasonably withheld. The CONSULTANT is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities.

#### **ARTICLE 8 - FEDERAL AND STATE TAX**

The City is exempt from payment of Florida State Sales and Use Taxes. The City will sign an exemption certificate submitted by the CONSULTANT. The CONSULTANT shall **not** be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the City, nor is the CONSULTANT authorized to use the City's Tax Exemption Number in securing such materials.

The CONSULTANT shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Contract.

#### **ARTICLE 9 - AVAILABILITY OF FUNDS**

The CITY'S performance and obligation to pay under this Contract is contingent upon an annual appropriation for its purpose by the City Commission. The City Commission has appropriated sufficient funds in the FY 2021 Operating Budget for this Contract.

#### **ARTICLE 10 - INSURANCE REQUIREMENTS**

The CONSULTANT shall not commence work under this Contract until it has obtained all insurance required under this paragraph and such insurance has been approved by the Risk Manager of the City, nor shall the CONSULTANT allow any Subcontractor to commence work on its sub-contract until all similar such insurance required of the Subcontractor has been obtained and approved.

CERTIFICATES OF INSURANCE, reflecting evidence of the required insurance, shall be filed with the Risk Manager prior to the commencement of the work. These Certificates shall contain a provision that coverage afforded under these policies will not be cancelled, will not expire and will not be materially modified until at least 30 days prior written notice has been given to the City. Policies shall be issued by companies authorized to do business under the laws of the State of Florida and shall have adequate Policyholders and Financial ratings with a minimum A.M. Best rating of A-X.

Insurance shall be in force until all work required to be performed under the terms of the Contract is satisfactorily completed as evidenced by the formal acceptance by the City. In the event the Insurance Certificate provided indicates that the insurance shall terminate and lapse during the period of this Contract, the CONSULTANT shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed Certificate of Insurance as proof that equal and like coverage for the balance of the period of the Contract and extension thereunder is in effect. The CONSULTANT shall not continue to work pursuant to this Contract unless all required insurance remains in full force and effect.

## **REQUIRED INSURANCE**

### **1. Commercial General Liability**

Commercial General Liability Insurance to cover liability for bodily injury and property damage. Exposures to be covered are: premises, operations, products/completed operations, and contractual. Coverage must be written on an occurrence basis, with no less than the following limits of liability:

#### **A. Single Limit Bodily Injury & Property Damage**

1. General Aggregate	\$ 2,000,000.00
2. Products-Comp/Op Aggregate	\$ 1,000,000.00
3. Each Occurrence	\$ 1,000,000.00
4. Personal & Adv. Injury	\$ 1,000,000.00
5. Fire Damage	\$ 50,000

The City, its employees and officials shall be named as Additional Insureds on all policies issued to satisfy the above requirements.

#### **Automobile Liability Insurance:**

Recognizing that the work governed by this contract requires the use of vehicles, the Consultant, prior to the commencement of work, shall obtain Vehicle Liability Insurance. Coverage shall be maintained throughout the life of the contract and include, as a minimum, liability coverage for:

#### **Owned, Non-Owned, and Hired Vehicles**

The minimum limits acceptable shall be:

**\$ 300,000 Combined Single Limit (CSL)**

If split limits are provided, the minimum limits acceptable shall be:

**\$ 100,000 per Person**  
**\$ 300,000 per Occurrence**  
**\$ 50,000 property damage**

The City of Hollywood shall be named as Additional Insured

2. Professional Liability

Professional Liability with minimum limits of \$1,000,000 for each claim/\$2,000,000.00 aggregate. If coverage is provided on a claims made basis an "extended reporting period" of (5) years will be required.

CONSULTANT shall notify the CITY Risk Manager in writing within thirty days of any claims filed or made against the Professional Liability Insurance Policy.

.3. Worker's Compensation Insurance

Workers' Compensation Insurance shall be maintained during the life of this Contract to comply with statutory limits for all employees, and in the case any work is sublet, the CONSULTANT shall require any Subcontractors similarly to provide Workers' Compensation Insurance for all the latter's employees unless such employees are covered by the protection afforded by the CONSULTANT. The CONSULTANT and his Subcontractors shall maintain during the life of this Contract Employer's Liability Insurance. The following must be maintained.

A.	Workers' Compensation	\$500,000
B.	Employer's Liability	\$500,000

The CITY reserves the right to require any other insurance coverage it deems necessary depending upon the exposures.

## **ARTICLE 11 - INDEMNIFICATION**

The CONSULTANT shall indemnify, defend and hold harmless the CITY, its officials, appointed officers, agents and employee, from and against any and all liability, suits, actions, damages, costs, losses and expenses, including, but not limited to attorneys' fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of the services under this Contract. These provisions shall survive the expiration or earlier termination of this Contract. Such obligation to indemnify and hold harmless shall continue notwithstanding any negligence or comparative negligence on the part of the CITY relating to such loss or damage and shall include all costs, expenses and liabilities incurred by the CITY in connection with any such claim, suit, action or cause of action, including the investigation thereof and the defense of any action or proceeding brought thereon and any order, judgment or decree which may be entered in any such action or proceeding or as a result thereof. CONSULTANT acknowledges and agrees that CITY would not enter into this contract without this indemnification of CITY by CONSULTANT, and that CITY'S entering into this contract shall constitute good and sufficient consideration for this indemnification. These provisions shall survive the expiration or earlier termination of this Contract. Nothing in this contract shall be construed to affect, in any way, the CITY's rights, privileges, and immunities under the doctrine of "sovereign immunity" and as set forth in Florida Statutes §768.28.

## **ARTICLE 12 - SUCCESSORS AND ASSIGNS**

The City and the CONSULTANT each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the City nor the CONSULTANT shall assign, sublet, encumber, convey or transfer its interest in this Contract without the prior written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the City which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the City and the CONSULTANT.

## **ARTICLE 13 - REMEDIES**

This Contract shall be governed by the laws of the State of Florida. Any and all legal action between the parties arising out of the Contract will be brought in Broward County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

## **ARTICLE 14 - CONFLICT OF INTEREST**

The CONSULTANT represents that it has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in the Code of Ethics for Public Officers and Employees (Chapter 112, Part III, Florida Statutes). The CONSULTANT further represents that no person having any interest shall be employed for said performance.

The CONSULTANT shall promptly notify the City's representative, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONSULTANT'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the CONSULTANT. The City agrees to notify the CONSULTANT of its opinion by certified mail within 30 days of receipt of notice by the CONSULTANT. If, in the opinion of the CITY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONSULTANT, the CITY shall so state in the notice and the CONSULTANT shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the City by the CONSULTANT under the terms of this Contract.

## **ARTICLE 15 - EXCUSABLE DELAYS**

The CONSULTANT shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the CONSULTANT or its subcontractors and without their fault or negligence. Such causes

include, but are not limited to: acts of God; natural or public health emergencies; freight embargoes; and abnormally severe and unusual weather conditions.

Upon the CONSULTANT'S request, the City shall consider the facts and extent of any failure to perform the work and, if the CONSULTANT'S failure to perform was without it or its subcontractors fault or negligence, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly; subject to the City's rights to change, terminate, or stop any or all of the work at any time.

## **ARTICLE 16 - DEBT**

The CONSULTANT shall not pledge the City's credit or attempt to make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness. The CONSULTANT further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

## **ARTICLE 17 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS**

The CONSULTANT shall deliver to the City's Representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the City under this Contract.

All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the City or at its expense will be kept confidential by the CONSULTANT and will not be disclosed to any other party, directly or indirectly, without the City's prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the City's expense shall be and remain the City's property and may be reproduced and reused at the discretion of the City.

The City and the CONSULTANT shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law). Pursuant to Section 119.0701, Florida Statutes, any party contracting with CITY is required to (a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (b) provide the public with access to public records on the same terms and conditions that the City would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (d) meet all requirements for retaining public records and transfer, at no cost, to City all public records in that party's possession upon termination of its contract with City and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to City in a format that is compatible with the City's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.



**IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT (954) 921-3211, [PCERNY@HOLLYWOODFL.ORG](mailto:PCERNY@HOLLYWOODFL.ORG), 2600 HOLLYWOOD BOULEVARD, HOLLYWOOD, FLORIDA 33020.**

#### **ARTICLE 18 - CONTINGENT FEES**

The 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 Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. Violation of this Article shall constitute a forfeiture of this Contract by CONSULTANT.

#### **ARTICLE 19 - ACCESS AND AUDITS**

The CONSULTANT shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion of this Contract or until completion of any audit, whichever is later. The City shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the CONSULTANT'S place of business.

#### **ARTICLE 20 - NONDISCRIMINATION**

The CONSULTANT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

#### **ARTICLE 21 - INTERPRETATION**

The language of this Contract has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied to either party hereto. The headings are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular, the plural, and vice versa, unless the context otherwise requires.

#### **ARTICLE 22 - AUTHORITY TO PRACTICE**

The CONSULTANT hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the City's representative upon request.

#### **ARTICLE 23 - SEVERABILITY**

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this

Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

#### **ARTICLE 24 - ENTIRETY OF CONTRACTUAL AGREEMENT**

The City and the CONSULTANT agree that this Contract together with the Exhibits hereto, sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. 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. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 25 - Modification of Work. In the event of any conflict or inconsistency between this Contract and the provisions in the incorporated Exhibits, the terms of this Contract shall supersede and prevail over the terms in the Exhibits.

#### **ARTICLE 25 - MODIFICATION OF SCOPE OF WORK**

The City reserves the right to make changes in the Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the CONSULTANT of the City's notification of a contemplated change, the CONSULTANT shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the City of any estimated change in the completion date, and (3) advise the CITY if the contemplated change shall effect the CONSULTANT'S ability to meet the completion dates or schedules of this Contract.

If the City so instructs in writing, the CONSULTANT shall suspend work on that portion of the Scope of Work affected by a contemplated change, pending the City's decision to proceed with the change.

If the City elects to make the change, the CITY shall initiate a Contract Amendment and the CONSULTANT shall not commence work on any such change until such written amendment is signed by the CONSULTANT and the CITY, and if such amendment is in excess of \$50,000 it must also first be approved by the CITY Commission and signed by the appropriate City Official authorized by the City Commission.

The City shall not be liable for payment of any additional or modified work which is not authorized in the manner provided for by this Article.

#### **ARTICLE 26 - NOTICE**

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the City shall be mailed to:

City of Hollywood, Dept. of Design, Construction and Management  
Attn: Jose Cortes  
P.O. Box 229045  
Hollywood, FL. 33022

and if sent to the CONSULTANT shall be mailed to:

Richard Mandell Golf Architecture  
2208 Midland Road  
Pinehurst, NC 28374

#### **ARTICLE 27 – E-VERIFY**

The Consultant shall be responsible for complying with the E-Verify requirements set forth in Section 448.095(2), Florida Statutes as it pertains to this Contract and shall use the U.S. Department of Homeland Security's E-Verify system to verify the employment of all new employees hired by the Consultant during the Contract term who will be working on this Project. The Consultant is also responsible for e-verifying its subcontractors, if any, as well as retaining the affidavits required by Section 448.095 Florida Statutes and reporting to the City any required information. The Consultant acknowledges that the terms of this paragraph are material terms and pursuant to Section 448.095, Florida Statutes the City has the right to terminate this Contract and avail itself of any and all remedies.

#### **ARTICLE 28 – OWNERSHIP OF DOCUMENTS**

All finished or unfinished documents, data, reports, studies, surveys, drawings, maps, models and photographs prepared or provided by CONSULTANT in connection with this Contract shall become property of the City, whether the project for which they are made is completed or not, and shall be delivered by CONSULTANT to City within ten days of notice of termination. If applicable, City may withhold any payments then due to CONSULTANT until CONSULTANT complies with the provisions of this section.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and official seals the day and year first above written.

ATTEST:

City of Hollywood, a municipal  
Corporation of the State of Florida

\_\_\_\_\_  
Patricia A. Cerny, MMC, City Clerk

By: \_\_\_\_\_  
Wazir Ishmael, Ph.D., City Manager

Approved as to form & legal sufficiency  
for the use and reliance of the City  
of Hollywood, Florida, only.

Approved by: \_\_\_\_\_  
Melissa Cruz  
Director of Financial  
Services

\_\_\_\_\_  
Douglas R. Gonzales, City Attorney

**CONTRACT FOR CONSULTING/PROFESSIONAL SERVICES**

AS TO CONSULTANT

ATTEST:

\_\_\_\_\_  
Corporate Secretary

CONSULTANT

By: \_\_\_\_\_  
Signature  
Title: \_\_\_\_\_

## **EXHIBIT “A” SCOPE OF SERVICES**

The Basic Services that are to be performed are as set forth below.

On projects for which the City has contracted with a Construction Manager, the Consultant shall work in conjunction with the CM to establish goals and produce Construction Documents which meet the City's objectives and budget, noting that the CM shall provide and update the cost estimate and construction schedule as required.

### **3.2.1A – Programming, Master Plan, Site Plan and Schematic Design (Phase1):**

- 1) The Consultant shall confer with representatives of the Director of the Department of Design and Construction Management and with other project consultants as necessary to review and re-establish the Program, consisting of a detailed listing of all functions, scope of work, inventory of existing conditions, project vision, requirements and goals, project limits and uses together with each assignable space, image, theme and design vocabulary.
- 2) The Consultant shall prepare and present, for approval by the City, a Site Plan, Design Concept and Schematics Report, comprising the Schematic Design Studies, including an identification of any special requirement affecting the Project, a Project Development Schedule and Statement of Probable Construction Cost (the estimate will be prepared by the CM if part of the project team) as defined below:
  - a) The Schematic Design Plan shall depict locations of the Clubhouse and Maintenance areas, parking lot and entry road, pump station and other related facilities, but the Golf Course Architect is not responsible for design programming, site planning or final design of these features.
    - i. Golf Course Architect shall assist the A/E with space planning and programming for the Clubhouse (inclusive of a community meeting space), to produce proximity configuration of a space layout that is in accordance with the project's requirements.
  - b) The Feature Design Study illustrating proposed feature designs for Golf Course and any practice areas, including the locations and configurations of centerlines, tees, greens, fairways, lakes, hazards and other features the Golf Course Architect deems necessary.
  - c) A Preliminary Cost Estimate for golf course construction costs, based on information contained in the preliminary documents, and utilizing area, and/or volume estimates, unit pricing, or similar conceptual estimating techniques.

- i. As the design process progresses through the end of the Construction Documents Phase, the Golf Course Architect shall update and refine the Preliminary Cost Estimate, advising the City of Hollywood of any changes to previous estimates anticipated by changes in Project requirements or market conditions.
  - ii. The preliminary evaluation of the City's budget for the Project, the preliminary cost estimate and all updated and refined estimates shall be based on the Golf Course Architect's best judgment as a golf course design professional familiar with the golf course construction industry. However, neither the Golf Course Architect nor the City has control over the cost of labor, materials, or over the Contractor's methods of determining bid prices or over competitive bidding, market or negotiating conditions. Accordingly, the Golf Course Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the City Project budget or from any cost estimate or evaluation it prepares.
- 3) The Consultant shall submit three copies of all documents required under this Phase, without additional charge, for approval by the City, and the Consultant shall not proceed with the next step in this Phase until the documents have been approved by the City and an Authorization to Proceed with the next steps in the phase has been issued.
- 4.) The Consultant shall assist the A/E by providing schematic golf course [drawings](#) as required to obtain plat approval if required, Site Plan approval from the Planning and Zoning Board, and or City Commission if required. The consultant shall make presentations of the project to the General Obligation Bond Advisory Board, Pre-Application Conceptual Oversight Committee, Technical Advisory Committee, Planning and Zoning Board, City Commission and other Public meetings as needed. A minimum of 5 and maximum of 7 such public meetings are anticipated, rendered site plans, elevations, 3D elevations, and color presentations will be required for this phase. The consultant shall make revisions as needed to obtain Site Plan approval and a change of use.
- 5.) Consultant to review and comment on the A/E drawings, provide suggestions and written responses to all of the City's comments, including information about why the comment/suggestion was or was not incorporated into the design. These responses will be included in the 60% plans presentation.
- 6.) Attendance at bi-weekly design progress meetings will be required. These meetings will be held via conference call unless the City determines that an in-person meeting is required to address a particular concern. No additional compensation will be provided if any meetings are held in person.

### 3.21B – Design Development (Phase 2):

- 1) From the approved Schematic Design documents, the Consultant shall prepare and present, for approval by City, an updated golf course project design, Design Development Documents, comprising the drawings, 3-dimensional renderings, contextual perspective renderings, drainage studies, outline specifications and other documents to delineate and describe the size and character of the entire golf course, construction and materials and details and other items incidental thereto, assist with feedback and resubmittal to the governing agencies, written responses to concept plan comments and as required by the Project Manager.
- 2) Design Development Drawings for clearing, grading, drainage, landscape plans, and irrigation sprinkler layout and grassing, and other necessary construction design elements. The preliminary construction drawings shall be sufficient in detail, in the opinion of the Golf Course Architect, to reasonably ascertain scope of construction.
- 3) At this presentation the Consultant shall also submit an updated Statement of Probable Construction Cost (which will be prepared by a Construction Manager, if applicable). If the updated Statement of Probable Construction Cost exceeds the total budgeted amount, appropriate cost or scope reduction recommendations must be included.
- 3) The Consultant shall submit three sets of all documents required under this Phase, without additional charge, for approval by the City, and the Consultant shall not proceed with the next Phase until the City has approved the documents.
- 4.) Attendance at 1 GOB advisory Board Meeting, and at least two public meetings will be required, in addition, the preparation and presentation of a PowerPoint presentation including updated renderings and project information shall be included. Consultant must provide written responses to all comments from the initial GOB advisory Board presentation, including information about why the comment/suggestions was or was not incorporated into the design. Consultant to provide written responses to all comments for every meeting.
- 5.) Attendance at bi-weekly design progress meetings. These meetings will be held via conference call unless the City determines that an in-person meeting is required to address a particular concern. No additional compensation will be provided if any meetings are held in-person.
- 6.) All required preliminary submittals for project permitting, including any required permit coordination meetings, plan revisions, and re-submittals.
  - For City of Hollywood permits, DCM will pay through interoffice transfer
  - For outside agencies, the Consultant will pay any review fees and will be reimbursed upon submittal and approval of expense documentation
- 7.) Value Engineering beginning at 30% plans if construction cost estimate is more than 95% of construction budget.

8.) A project-specific phasing plan for each phase of construction will be included in the project plans beginning with the 60% plan submittal.

### 3.2.1.C – Golf Course Construction Documents Development (Phase 3):

From the approved Design Development Documents, the Consultant shall prepare for approval by City, and in accordance with City's format, Construction Documents setting forth in detail the requirements for the construction of the Project in accordance with the Project Manager. The Consultant is responsible for full compliance of the design and the Construction Documents with all applicable codes.

#### 1) 60% Construction Documents Submittal:

The Consultant shall make a 60% Construction Documents submittal, for approval by the City, which shall include:

- **Master Plan** showing golf course layout
  - **Staking Plan** showing proposed centerlines of each golf hole
  - **Clearing Plan**, where applicable
  - **Grading Plan**
  - **Golf Course Drainage Plan** (coordinated with master drainage plan, designed by others, where applicable)
  - **Grassing Plan**
  - **Landscape Architecture plans** to include a detailed layout of proposed planting with a plant list identifying species, quantities, sizes, locations, spacing and installation notes and trees to remain and /or replaced as determined by code.
  - **Green Details** at a scale of not less than 1"=40.0 feet
  - **Construction Details**
  - **Irrigation Plans**(Golf Course Architect's plans shall only designate the general location of irrigation lines for the Project, considering only matters customarily within the expertise of the Golf Course Architect including appropriate coverage and access to water source).
  - **Greens Construction Specifications**
  - **Cart Path Construction Documents** (Golf Course Architect's plans shall only designate the general location and quantity of cart path contemplated for the Project, considering only matters customarily within the expertise of the Golf Course Architect including circulation, accessibility, concealment and aesthetics).
- a. Three sets of prints and electronic submittal of all drawings and specifications, perspective and visual supporting graphic information as required by the Project Manager.
  - b. A complete index of every drawing sheet, to become part of the Construction Documents, and the Consultant's evaluation of the individual percentage completion of each sheet.
  - c. Preparation of the Specifications, using CSI Standards, including the 16-Division and 3-part Section format developed and recommended by the Construction Specifications Institute or other industry acceptable



specification format as approved by the Design and Construction Management Department representative. The 60% construction documents submittal shall include all sections of applicable Divisions "0" (zero) and "1" and at least 60% of the technical specification sections, each of which should be 100% complete. These specifications should not be merely outline specifications as submitted during the Design Development phase.

- d. Coordinating with the Construction Manager, if available, to provide an updated Statement of Probable Construction Cost, as indicated by time factor, changes in requirements, or general market conditions, and an updated Project Development Schedule.

An Authorization to Proceed with the completion of the Design Development Phase will not be issued if the latest Statement of Probable Construction Cost exceeds the Total Authorized Design Value, unless the City increases the Total Authorized Design Value or the Consultant and the City agree on methods of cost reduction sufficient to enable construction within the funds available.

- e. Where applicable, approved additive alternate bid items in the Construction Documents to permit the City to award a Construction Contract within the limit of budgeted amount.

- 2) The Consultant shall not proceed with further development until approval of the 60% documents is received from the City. The Consultant shall make all changes to the documents and resolve all questions indicated on the documents. The 60% complete Check Set shall be returned to the City.

3) 100% Construction Documents Submittal:

- a. Upon 100% completion of the Construction Documents, the Consultant shall submit to the City three copies each of check sets of the Drawings, Specifications, reports, programs, etc., together with a final, updated Statement of Probable Construction Cost from the Construction Manager, if applicable.
- b. The Consultant shall make all required changes or additions and resolve all questions on the documents. The 100% complete Check Set shall be returned to the City. Upon final approval by the City, the Consultant shall furnish one copy of all Drawings and Specifications, along with a reproducible

set and an electronic copy to the City without additional charge.

- c. The Consultant shall assist the City in filing the required documents for approval by governmental authorities having jurisdiction over the Project and in obtaining certifications of "permit approval" by reviewing authorities prior to printing of the Bid Documents. The Consultant shall make the original documents or reproducible copies thereof available to the City for reproduction of additional copies as may be required for bidding and/or construction purposes. Facilitating a Public Workshop or a City Commission workshop may also be required.

#### 3.2.1.D– Bidding and Award of Contract (Phase 4):

##### 1) Bid Documents Approvals and Printing:

Upon obtaining all necessary approvals of the Construction Documents, and approval by the City of the latest Statement of Probable Construction Cost, the Consultant shall assist the City, where applicable, in obtaining bids and awarding construction contracts or coordinating with the Construction Manager for same.

The City may have the drawings and specifications printed for bidding purposes, either through its open agreements with printing firms or as a reimbursable service through the Consultant.

##### 2) Issuance of Bid Documents, Addenda and bid opening, in situations where projects are to be constructed without the services of a Construction Manager:

- a. The City shall issue the Bid Documents to prospective bidders and keep a complete "List of Bidders". The Advertisement for Bids will instruct the bidders to pick up the Bid Documents at the Office of the Department of Design and Construction Management
- b. The Consultant shall prepare addenda, if any are required, for the City to issue to all prospective bidders. No addendum shall be issued without the City's approval.
- c. The Consultant shall be present at the bid opening, with the City's representatives.

##### 3) If the lowest responsive, responsible Base Bid received, or the Construction Manager's Guaranteed Maximum Price (GMP), exceeds the Total Authorized Design Value, the City may:

- a. Approve the increase in Project cost and award a contract, or
- b. Reject all bids and rebid the Project, or if a Construction Manager is being utilized, reject the proposed Guaranteed Maximum Price (GMP) and negotiate with another Construction Manager, within a reasonable time with no change in the Project, or

- c. Direct the Consultant to revise the Project scope or quality, or both, as approved by the City, and rebid the Project, or
- d. Suspend or abandon the Project.

NOTE: Under item (3)c above the Consultant shall, without additional compensation, modify the Construction Documents as necessary to bring the Probable Construction Cost within the budgeted amount. The providing of such service shall be the limit of the Consultant's responsibility in this regard, and having done so, the Consultant shall be compensated in accordance with this Agreement. The City may recognize exceptional construction market cost fluctuations before exercising option (3)c above.

It is agreed that any "Statement of Probable Construction Cost" or Detailed Cost Estimate prepared by the Consultant or the Construction Manager (if applicable) represents a reasonable estimate of cost in the Consultant's or Construction Manager's best judgment as a professional familiar with the local construction industry, and that neither the Consultant, Construction Manager nor the City, has any control over the cost of labor, materials, and equipment, bidders' methods of determining bid prices, competitive bidding, or market conditions. Therefore, the Consultant cannot and does not guarantee that bids will not vary from the final Statement of Probable Construction Cost or Detailed Cost Estimate prepared by the Consultant or Construction Manager, if applicable.

If the Latest Statement of Probable Construction Cost exceeds the budgeted amount, the Consultant shall review the materials, equipment, component systems and types of construction included in the Contract Documents and may recommend changes in such items and/or reasonable adjustments in the scope of the Project (to be made at no additional cost to the City) that will result in bids within the available funds.

Evaluations of the City's Project budget, preliminary estimates of construction cost and detailed estimates of construction cost prepared by the Consultant or Construction Manager (if applicable) represent the Consultant's or Construction Manager's best judgment as a professional familiar with the construction industry. Prior to authorizing the Consultant to proceed with preparation of the Final Design, the City may establish and communicate to the Consultant a maximum sum for the cost of construction of the Project ("Construction Budget"). If the City has not advertised for bids within ninety (90) days after the Consultant submits the Final Design to the City, the estimate of the cost of construction may be adjusted. The Consultant cannot and does not guarantee that bids or negotiated prices will not vary from any estimate of construction cost or evaluation prepared or agreed to by the Consultant. Notwithstanding anything above to the contrary, the City may require the Consultant to revise and modify Construction Documents and assist in the re-bidding of the Work at no additional cost to the City if all responsive and responsible bids received exceed the Construction Budget.

#### 3.2.1.E – Administration of the Construction Contract (Phase 5):

- 1) The Construction Phase will begin with the award of the Construction Contract and will end when the City approves the Contractor's final

Payment Certificate. During this period, the Consultant shall provide Administration of the Construction Contract as set forth in the General and Supplementary Conditions of the Construction Contract.

- 2) The Consultant, as the representative of the City during the Construction Phase, shall advise and consult with the City and shall have authority to act on behalf of the City to the extent provided in the General Conditions and the Supplementary Conditions of the Construction Contract.
- 3) The Consultant shall visit the site at least bi-weekly (or as necessary), and at all key construction events, and the Consultant's respective Subconsultants shall visit the site bi-weekly (or as necessary), to ascertain the progress of the Project and to determine in general if the work is proceeding in accordance with the Contract Documents. On the basis of on-site observations, the Consultant shall endeavor to guard the City against defects and deficiencies in the work. The Consultant will not be required to make extensive inspections or provide continuous daily on-site inspections to check the quality or quantity of the work unless otherwise set forth in this Agreement.

The Consultant will not be held responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor will the Consultant be held responsible for the Contractor's or Subcontractors', or any of their agents' or employees' failure to perform the Work in accordance with the Contract Documents.

The Golf Course Architect shall have the authority to make changes to the Work for the purpose of enhancing and adapting the design for site conditions, such as vegetation, terrain and subsurface geology. All changes are subject to the approval of the City, which shall not be unreasonably withheld. If deemed necessary or appropriate by the Golf Course Architect, he shall prepare supplemental drawings or field sketches as information for the Contractor.

- 4) The Consultant shall furnish the City with a written report of all observations of the work made by the Consultant and the Subconsultants during each visit to the Project. The Consultant shall also note the general status and progress of the work and submit it in a timely manner. The Consultant and the Subconsultants shall ascertain that the Contractor is making timely, accurate, and complete notations on the "as-built" drawings.
- 5) Based on observations at the site and consultation with the Project Manager, the Consultant shall determine the amount due the Contractor on account and shall recommend approval of such amount. This recommendation shall constitute a representation by the Consultant to the City that, to the best of the Consultant's knowledge, information and belief, the Work has progressed to the point indicated and the quality of the Work is in accordance with the Contract Documents subject to:
  - a. An evaluation of the Work for conformance with the Contract Documents upon Substantial Completion.
  - b. The results of any subsequent tests required by the Contract Documents.

- c. Minor deviations from the Contract Documents correctable prior to completion.
- d. Any specific qualifications stated in the Payment Certificate and further that the Contractor is entitled to payment in the amount agreed upon at the requisition site meeting.

By recommending approval of a Payment Certificate, the Consultant shall not be deemed to represent that the Consultant has made any examination to ascertain how and for what purpose the Contractor has used the money paid on account of the Construction Contract Sum.

- 6) The Consultant shall be an interpreter of the requirements of the Contract Documents and the judge of the performance thereunder. The Consultant shall render interpretations necessary for the proper execution or progress of the Work with reasonable promptness on written request of either the City or the Contractor, and shall render written decisions, within a reasonable time, on all claims, disputes and other matters in question between the City and the Contractor relating to the execution or progress of the work or the interpretation of the Contract Documents.
- 7) Interpretations and decisions of the Consultant shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in written or graphic form. In the capacity of interpreter, the Consultant shall endeavor to secure faithful performance by both the City and the Contractor, and shall not show partiality to either.
- 8) The Consultant shall have authority to recommend rejection of work which does not conform to the Contract Documents. Whenever, in the Consultant's reasonable opinion, it is necessary or advisable to insure compliance with the Contract Documents, the Consultant will have authority to recommend special inspection or testing of any work deemed to be not in accordance with the Contract, whether or not such work has been fabricated and delivered to the Project, or installed and completed. The Consultant shall provide such normal mechanical, electrical, structural, landscape or other related inspection expertise as necessary to determine compliance with the Construction Contract.
- 9) The Consultant shall promptly review and approve shop drawings, samples, and other submissions of the Contractor for conformance with the design concept of the Project and for compliance with the Contract Documents. The Consultant shall prepare illustrative renderings to review the landscape/lighting/hardscape and site furniture, with the Director of the Department of Design and Construction Management and furnish the approved colors to the Contractor in a timely manner so as not to delay the construction progress. Changes or substitutions to the Contract Documents shall not be authorized without concurrence of the Project Manager.
- 10) The Consultant shall initiate Change orders for the City's approval as required by the Consultant's observations, or requested by the City; and review and recommend action on proposed Change Orders within the scope of the Project initiated by others.

- 11) The Consultant shall examine the Work upon receipt of the Contractor's Request for Substantial Completion Inspection of the Project and shall, prior to occupancy, recommend execution of a Certificate of Acceptance for Substantial Completion after first ascertaining that the Project is substantially completed in accordance with the contract requirements. A punch list of any defects and discrepancies in the Work required to be corrected by the Contractor shall be prepared by the Consultant and the Subconsultants in conjunction with representatives of the City, and satisfactory performance obtained thereon before the Consultant recommends execution of a Certificate of Final Acceptance and final payment to the Contractor. The Consultant shall obtain from the Contractor all guarantees, operating and maintenance manuals for equipment, releases of claims and such other documents and certificates as may be required by applicable codes, laws, and the specifications, and deliver them to the City.
- 12) The Consultant shall provide assistance in obtaining the Contractor's compliance with the Contract Documents relative to 1) initial instruction of CITY's personnel in the operation and maintenance of any equipment or system, 2) initial start-up and testing, adjusting and balancing of equipment and systems and 3) final clean-up of the Project.
- 13) The Consultant shall furnish to the City, the original drawings, revised to "as-built" conditions based on information furnished by the Contractor; such drawings shall become the property of the City.

3. PAYMENTS TO CONSULTANT. Payments to CONSULTANT will be in accordance with Article 3 of the Contract. For Personnel working on this project, payments will be based upon the below rate schedule.

a. Principal Golf Course Architect/Landscape Architect:	\$200.00
b. Design Associate:	\$125.00
c. Certified Arborist:	\$155.00
d. Golf Course Shaper:	\$150.00
e. On-Site Representative:	\$125.00
f. Irrigation Design:	\$150.00
g. CAD Technician:	\$ 95.00
h. Administrative:	\$ 65.00

Additionally, the CITY agrees to pay CONSULTANT and CONSULTANT agrees to accept at the above hourly billing rates, plus expenses at cost that might be required for expert testimony or any other court appearances, together with preparation time and legal costs that might arise because of CONSULTANT's involvement in these services and assignments, whether subpoenaed by the client or any other party.