



CITY OF OAKLAND PARK
3650 NE 12th Avenue
Oakland Park, FL 33334

AGREEMENT FOR PROFESSIONAL SERVICES

THIS IS AN AGREEMENT made and entered into this ____ day of _____, 2019 by and between the CITY OF OAKLAND PARK, a municipal corporation the State of Florida, hereinafter referred to as "CITY" and THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A., a CORPORATION authorized to conduct business in the State of Florida, hereinafter referred to as "CONSULTANT." CITY and CONSULTANT may hereinafter be collectively referred to as the "Parties".

W I T N E S E T H:

WHEREAS, the CITY desires to engage the services of CONSULTANT related to providing ongoing environmental legal and consulting assistance in connection with the cleanup and redevelopment of the former Bennet Auto Supply Site, located 3855 N. Dixie Highway, Oakland Park, Broward County, Florida 33334, Folio No. 494223000470 and the Public Works campus, located at 3801 NE 5 Avenue, Oakland Park, FL 33334, Folio No. 494222240010;

WHEREAS, the Parties hereto have agreed upon a Scope of Services for work to be performed hereunder by the CONSULTANT and attached hereto and made a part hereof as Exhibit "A";

NOW THEREFORE, in consideration of the promises, the mutual covenants, conditions, provisions and undertakings herein contained, and for other good and valuable considerations, the Parties do mutually covenant and agree with each other as follows:

ARTICLE I
COMPENSATION

1.1 The CITY agrees to employ the CONSULTANT for the dates and times hereinafter referred to, consistent with applicable, professional and ethical requirements imposed upon the CITY, existing Rules, or existing agreements as they may be amended from time to time.

1.2 The CITY agrees to pay and to compensate the CONSULTANT consistent with the terms, conditions and provisions set forth on Exhibit "A", attached hereto and made a specific part hereof.

1.3 The CITY shall reimburse the CONSULTANT for actual expenses incurred that are directly related to the CONSULTANT'S performance under and pursuant to this Agreement, but in no event at rates or in amounts in excess of those rates/charges set forth in Chapter 112, Florida Statutes, as amended from time to time.

1.4 All payments shall be governed by the Local Government Prompt Payment Act as set forth in Part VII, Chapter 218, Florida Statutes, as may be amended from time to time. Payment shall be made to the CONSULTANT at:

The Goldstein Environmental Law Firm, P.A
2100 Ponce de Leon Boulevard, Suite 710
Coral Gables, Florida 33134

1.5 Both the CITY and the CONSULTANT agree that the CONSULTANT shall at all times act as an independent contractor in the performance of his duties under this Agreement, provided however, that he shall represent the CITY and identify himself in the performance of his duties set forth on Exhibit "A". In no event, however, shall the CONSULTANT be considered an employee of the CITY. Accordingly, the CONSULTANT shall be responsible for the payment of

all taxes arising out of his activities in accordance with this Agreement including, by way of illustration but not limitation, Federal income tax, Social Security tax, Unemployment Insurance taxes, and any other taxes or business license fees as may be lawfully required of a CONSULTANT performing such services. CONSULTANT shall retain sole and absolute discretion in the judgment of the manner and means of carrying out CONSULTANT's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT, which policies of CONSULTANT shall not conflict with CITY, State or United States policies, rules or regulations relating to the use of CONSULTANT's funds provided for herein. The CONSULTANT agrees that it is a separate and independent enterprise from the CITY, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between the CONSULTANT and the CITY and the CITY will not be liable for any obligation incurred by CONSULTANT, including but not limited to unpaid minimum wages and/or overtime premiums.

ARTICLE II

TERM AND CANCELLATION

2.1 This Agreement shall commence on upon execution and shall expire one (1) year from that date. To the extent that the CONSULTANT has been directed by the CITY to perform services hereunder, prior to the execution hereof by the City Manager, then, in that event, Exhibit "A" shall reflect such total compensation as may be earned and payable to the CONSULTANT in accordance with Exhibit "A".

2.2 It is anticipated that the CONSULTANT shall fulfill its obligations under this Agreement with concentrations of time which may vary from day to day, or week to week.

2.3 Either party may cancel this Agreement on not less than ninety (90) days' notice to the other party in writing, by certified mail, personal delivery or facsimile transfer. In the event of cancellation by the CITY, the CITY shall still be responsible for payment for services rendered

and reasonable costs incurred to date. In the event of a cancellation by the CONSULTANT, the amount owed by CITY shall be prorated to reflect the amount of services actually received.

ARTICLE III

GENERAL PROVISIONS

3.1 It is understood and agreed that this Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and that the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

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

3.3 This document may be executed in counterparts each of which shall be deemed to be a duplicate original.

3.4 This Agreement is executed and is to be performed in the State of Florida, and shall be governed by and construed in accordance with the laws of the State of Florida.

3.5 In connection with any conflict arising out of this Agreement, the Parties hereto agree to mediate the dispute prior to instituting any litigation in connection with this Agreement. The mediator shall be an individual agreed to by all parties. All costs of mediation shall be shared equally by the parties and the mediation shall be initiated within thirty (30) days of the conflict being expressed in writing by either party. In the event of litigation arising out of this Agreement, including any administration, trial level, or appellate proceedings, the prevailing party shall be entitled to recover all costs incurred, including a reasonable attorney's fee and paralegal costs.

3.6 If any clause, section or other part or application of this Agreement shall be held by any Court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or

invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

3.7 Notice. Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, or by facsimile transmission with certification of transmission to the receiving party, addressed to the following individuals:

CITY: City of Oakland Park, Florida
David Hebert, City Manager
3650 NE 12th Avenue
Oakland Park, FL 33334

COPY TO: Donald J. Doody, City Attorney
Goren, Cherof, Doody & Ezrol, P.A.
3099 East Commercial Boulevard, Suite 200
Fort Lauderdale, Florida 33308
Telephone: (954) 771-4500
FAX: (954) 771-4923

CONSULTANT: The Goldstein Environmental Law Firm, P.A.
2100 Ponce de Leon Boulevard, Suite 710
Coral Gables, Florida 33134
Telephone: (305) 777-1680
www.goldsteinenvlaw.com

3.8 Indemnification. The CONSULTANT agrees to indemnify and save CITY, its public officials, agents, servants and employees harmless from and against any and all claims arising out of or in any way connected with the willful misconduct or negligence of the contractor, or its employees, to protect the CITY and its interests from such actions of the CONSULTANT or its sub-contractors. CONSULTANT further agrees to reimburse CITY for any and all court costs and other expenses, including reasonable attorney's fees incurred by CITY in defending any action, at both the trial and appellate levels, including paralegal expenses associated therewith, brought against CITY for injury or damage claimed to have been suffered as a result of or in any way connected with CONSULTANT's willful misconduct or negligence or that of its employees.

3.9 Governing Law; Venue. This Agreement is executed and is to be performed in the State of Florida, and shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any legal proceeding commenced with respect to the performance of the Parties' obligations pursuant to this Agreement shall be in a court of competent jurisdiction located in Broward County, Florida.

3.10 Public Records. The CITY is a public agency subject to Chapter 119, Florida Statutes. The CONSULTANT shall comply with Florida's Public Records Law. Specifically, the CONSULTANT shall:

- 3.10.1 Keep and maintain public records required by the CITY to perform the service;
- 3.10.2 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, Fla. Stat., or as otherwise provided by law;
- 3.10.3 Ensure that public records that are exempt or that are confidential and exempt from public record disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and, following completion of the Agreement, CONSULTANT shall destroy all copies of such confidential and exempt records remaining in its possession after the CONSULTANT transfers the records in its possession to the CITY; and
- 3.10.4 Upon completion of the Agreement, CONSULTANT shall transfer to the CITY, at no cost to the CITY, all public records in CONSULTANT's possession. All records stored electronically by the CONSULTANT 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.
- 3.10.5 The failure of CONSULTANT to comply with the provisions set forth in this Article shall constitute a Default and Breach of this Agreement, for which CITY may terminate the Agreement in accordance with the terms set forth herein.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**RENEE M SHROUT, CMC
CITY CLERK
CITY OF OAKLAND PARK
3650 NE 12 AVENUE
OAKLAND PARK, FL 33334
954-630-4298
RENEES@OAKLANDPARKFL.GOV**

3.11 Scrutinized Companies. CONSULTANT certifies that it and any of its affiliates are not scrutinized companies as identified in Section 287.135, F.S. In addition, CONSULTANT agrees to observe the requirements of Section 287.135, F.S. for applicable sub-agreements entered into for the performance of work under this Agreement. Pursuant to Section 287.135, F.S., the CITY may immediately terminate this Agreement for cause if the CONSULTANT, its affiliates, or its subcontractors are placed on any applicable scrutinized companies list or engaged in prohibited contracting activity during the term of this Agreement. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

3.12 Non-Discrimination & Equal Opportunity Employment. During the performance of this Agreement, neither CONSULTANT nor its subcontractors shall discriminate against any employee or applicant for employment because of race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. CONSULTANT will take affirmative action to ensure that employees are treated during employment, without regard to their race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. Such actions must include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation, and selection for training, including apprenticeship. CONSULTANT

shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. CONSULTANT further agrees that he/she/it will ensure that all subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause.

3.13 Ethics and Conflict of Interest. CONSULTANT shall avoid all conflicts of interests, as well as appearances of conflicts of interests, throughout the term of this Agreement. CONSULTANT shall not at any time during the term of this Agreement represent any party seeking approvals, permits, or licenses, of any kind from the CITY. Nothing set forth in this Agreement shall preclude or limit CONSULTANT's ability to engage in outside work or employment which is not in conflict with the duties and responsibilities set forth herein.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates of each signature.

ATTEST

CITY OF OAKLAND PARK

RENEE SHROUT, CITY CLERK

DAVID HEBERT, CITY MANAGER

(SEAL)

I APPROVE THIS AGREEMENT
AS TO FORM:

DONALD J. DOODY,
CITY ATTORNEY

WITNESSES:

CONSULTANT: **THE GOLDSTEIN
ENVIRONMENTAL LAW FIRM, P.A.**





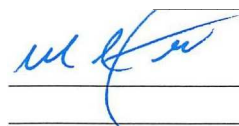


EXHIBIT A
SCOPE OF SERVICES

I. Scope of Work

Based on conversations and correspondence to date, the following three tasks constitute the services for this engagement (the “Scope of Work”):

Task 1
Preparation and Filing of Voluntary Cleanup Tax Credit Application
3855 NE Dixie Highway

This task consists of working with the CITY and the CITY’s contractors to develop and implement a strategy for maximizing an award of Voluntary Cleanup Tax Credits (“VCTC”) for eligible costs incurred and paid in calendar year 2019 for site rehabilitation activities at the Property located at 3855 N. Dixie Highway. Included as part of this task are (i) assistance with ensuring that all contractor invoices that are to be included in the VCTC application for 2019 costs (the “2019 Application”) are properly paid consistent with the applicable regulations; (ii) all 2019 Application preparation activities, inclusive of assembling all payment invoices, contractor certification information, and the Application Audit, which must be issued by a licensed Certified Public Accountant (“CPA”); (iii) all pre-filing communications with the Florida Department of Environmental Protection (“FDEP”); and (iv) filing the 2019 Application with FDEP by the statutory deadline of January 31, 2020.

CONSULTANT will procure a qualified CPA firm to conduct the audit; however, the cost of audit, likely between \$1,800.00 and \$2,000.00, is not included as part of CONSULTANT’s fee and will be billed separately. In addition, the FDEP application fee of \$250.00 is not included as part of CONSULTANT’s fee and will be billed separately.

Please note that CONSULTANT’s services are only those expressly set forth in the Scope of Work. Matters not covered by the Scope of Work include but are not limited to the following: (i) any appeal of a denial, in full or in part, of the 2019 Application; (ii) any assistance with site assessment or remediation matters; and (iii) any other application for economic incentives, including but not limited to application for eligible costs incurred and paid in calendar year 2019 for site rehabilitation activities at the Property located at 3855 N. Dixie Highway. Any such additional work requested of CONSULTANT shall be performed pursuant to a separate engagement letter and additional fee as may be agreed to by the parties.

Task 2
Brownfield Area Designation
3801 NE 5 Avenue (Public Works Campus)

This task involves preparing a brownfield area ("Green Reuse Area") designation request for City's Public Works Facility Located at 3801 NE 5 Avenue, Oakland Park, Broward County, Florida 33334 and shepherding it to approval by the City Commission. When authorized to perform this task, the CONSULTANT's services will consist of the following activities:

- Brief City staff and elected officials on the Green Reuse Area designation request in advance of public hearings. Respond to requests for supplemental information, if any, from City staff and elected officials.
- Draft the staff report in support of the Green Reuse Area designation request for review and consideration by the City Commission.
- Draft the resolution effectuating Green Reuse Area designation for consideration and use by the Office of the City Attorney.
- Draft the Green Reuse Area designation notice of public hearing to be published by the CITY as required by Florida Statutes.
- Assist with coordination and management of all public notification and outreach requirements associated with Green Reuse Area designation as required by statute.
- Appear at all community meetings and public hearings in support of the Green Reuse Area designation.
- Ensure City's timely transmittal of approved Green Reuse Area designation resolution to FDEP.

Task3
Brownfield Site Rehabilitation Agreement
3801 NE 5 Avenue (Public Works Campus)

This third task involves assisting CITY enter into a Brownfield Site Rehabilitation Agreement ("BSRA") for the Property located at 3801 NE 5 Avenue in order to take advantage of certain financial and regulatory incentives. These incentives, which would only be available upon execution of a BSRA, could include a state corporate income tax credit for eligible contamination assessment and response costs (including all legal fees associated with this task) and state liability protection against third-party claims for contamination at the Property. When authorized to perform this task, the CONSULTANT's services will consist of the following activities:

- Demonstrate CITY's eligibility to enter into the BSRA to Broward County EPGMD.
- Draft the BSRA and assemble all supporting documents to be included in the BSRA appendix for review by CITY and Broward County EPGMD.
- Negotiate the BSRA with Broward County EPGMD technical staff and the Office of the County Attorney.
- Secure full execution of the BSRA by all signatories.
- Ensure that draft and fully executed versions of BSRA are timely transmitted to the Brownfields Advisory Committee.

II. Costs

CITY agrees to be responsible for any and all costs incurred by the CONSULTANT on its behalf related to public notification in connection with tasks, overnight mail, delivery by courier, and/or third party copying charges. CITY will not be charged for long distance phone service, transmittals via U.S. Mail, facsimiles, and any routine copying performed at the CONSULTANT's offices.

III. Fees

Task 1: CONSULTANT's fixed fee for the above the Scope of Work is Task 1 \$7,500.00 (the "Fixed Fee"), which shall be paid in full upon filing of the VCTC application with FDEP. Any costs incurred on behalf of the Client pursuant to Section III herein shall also be paid at this time.

Task 2: Fixed Fee: \$30,000.00, to be paid as follows:

- \$15,000.00 upon presentation of staff report, draft resolution, and all draft notices required per statute
- \$15,000.00 upon approval by of brownfields designation request by the City Commission

If the City Commission denies the designation request filed by the CONSULTANT, the CONSULTANT will return 100% of the initial payment under this agreement (\$15,000.00); however, CITY shall still be responsible for any approved costs up to that point.

Task 3: Fixed Fee: \$15,000.00, to be paid as follows:

- 50% upon submittal of initial draft BSRA to Broward County EPGMD
- 50% upon full execution of BSRA

If Broward County EPGMD determines that CITY is ineligible to enter into a BSRA, the CONSULTANT will return 100% of the initial earned retainer paid for this task (\$7,500.00); however, CITY shall still be responsible for any approved costs up to that point.

Please note that the fixed fees quoted above do not include any task not specifically and expressly set forth herein, including but not limited to (i) any appeal by any party of an approval or denial, in full or in part, of a Brownfields Area designation or BSRA; (ii) a legal opinion regarding CITY's exposure to environmental regulatory or third-party legal liability risk; (iii) any application for any economic incentive that may be available pursuant to a fully executed BSRA or any other local, state, or federal law; (iv) evaluation or pursuit of environmental insurance coverage for on- and off-site contamination conditions; (v) assistance with any contamination assessment or remediation related task pursuant to Chapter 62-780, Florida Administrative Code, or Chapter 27, Broward County Code; (vi) the evaluation, assertion, or prosecution against any claims against third parties that may have responsible for on-site contamination conditions documented or to be documented at the Subject Properties; and

(vii) the negotiation and drafting of any environmental provisions in any agreements of any kind for the sale, lease, development, and/or other form of use of the Subject Properties. All such additional work requested of the CONSULTANT shall be performed either at the firm's standard hourly rates then in effect or pursuant to a separate flat fee agreement. The CONSULTANT's fixed fee quoted above also does not include any costs and fees associated with services to be rendered to CITY by third-party professionals.

IV. Other Matters

The initial and final invoices are due upon presentation and must be paid within ten business days in order to avoid an interest charge of One and One-Half Percent (1.5%) per month. The prevailing party in any litigation that may arise out of this engagement shall be entitled to attorney's fees. If any term of this engagement letter is to any extent invalid, illegal, or incapable of being enforced, such term shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other terms hereof shall remain in full force and effect. Venue shall be in any competent court of jurisdiction in Broward County, Florida. Upon completion of the matter to which this representation applies, the attorney-client relationship will end unless CITY and the CONSULTANT have expressly agreed to a continuation with respect to other matters.