

PROFESSIONAL SERVICES AGREEMENT
(Insurance Brokerage Services)

THIS AGREEMENT (“Agreement”) is made this 15th day of April 2024, between the **City of Greenacres**, a Florida municipal corporation (“City”) and **RSC Insurance Brokerage, Inc.**, a corporation authorized to do business in the State of Florida (“Consultant”).

RECITALS

WHEREAS, On January 21, 2024 the City issued a request for proposals for insurance brokerage services (RFP No. 24-010) seeking qualified insurance and benefit broker(s) to represent the City (“RFP”); and

WHEREAS, in response to the RFP, Contractor timely submitted its Proposal and was evaluated by the City’s Selection Committee as the highest ranked responsive-responsible proposer whose proposal, qualifications and references demonstrated to be the most advantageous to the City in the procurement of Insurance Brokerage Services; and

WHEREAS, the City desires to award the RFP to the Consultant; and

WHEREAS, the purpose of this Agreement is to set forth certain terms and conditions for the provision of services by the Consultant to the City.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the sufficiency of which is hereby acknowledged by the parties, the City and the Consultant agree as follows:

SECTION 1: INCORPORATION OF RECITALS. The foregoing Recitals are incorporated into this Agreement as true and correct statements.

SECTION 2: CONSULTANT’S SERVICES. The Consultant shall provide the City with insurance brokerage services as further described and set forth in the RFP. The RFP is incorporated into this Agreement by reference.

SECTION 3: INDEPENDENT CONTRACTOR RELATIONSHIP. No relationship of employer or employee is created by this Agreement, it being understood that Consultant will act hereunder as an independent contractor and none of the Consultant’s, officers, directors, employees, independent contractors, representatives or agents performing services for Consultant pursuant to this Agreement shall have any claim under this Agreement or otherwise against the City for compensation of any kind under this Agreement. The relationship between the City and Consultant is that of independent contractors, and neither shall be considered a joint venturer, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.

SECTION 4: TERM AND TERMINATION.

(a) **Term.** The term of this Agreement shall commence upon the approval of this Agreement by the City Council and shall be for an initial term of one (1) year with additional four (4) one (1) year renewal options unless earlier terminated as stated herein. The one (1) year renewal options shall be exercised by written amendment to this Agreement signed by both parties.

(b) Termination without cause. Either party may terminate this Agreement at any time with or without cause by giving not less than sixty (60) days written notice of termination.

(c) Effect of Termination. Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of transactions which occurred prior to termination. Upon termination of this Agreement, the Consultant shall stop all work in progress and promptly provide the City with all deliverables (including any incomplete deliverables) in its possession that were created under this Agreement. The deliverables shall be provided to the City in a format acceptable to the City. Failure to comply with the foregoing will authorize the City to withhold (or direct others to withhold) any and all payments to the Consultant under this Agreement until the Consultant fully complies with the foregoing.

(d) This Agreement is subject to budgeting and appropriation by the City of funds sufficient to pay the costs associated herewith in any fiscal year of the City. Termination of this Agreement for lack of budgeting or appropriation shall be without penalty or expense to the City of any kind whatsoever; however, City shall pay Consultant for all services performed under this Agreement through the date of termination.

SECTION 5: COMPENSATION.

(a) Compensation. The Consultant's compensation shall be consistent with the commission and fees set forth in **Exhibit "A"** attached hereto and incorporated herein. If the City seeks services from the Consultant that are not set forth in the RFP and addressed in **Exhibit "A"**, the City and Consultant shall agree to the compensation in writing prior to the Consultant performing such services. The City shall not pay or reimburse the Consultant for any additional costs or expenses incurred as a direct or indirect result of the Consultant providing services to the City under this Agreement unless both the City and the Consultant execute a written amendment to this Agreement. The City Manager is authorized to approve additional compensation to the Consultant in an amount not to exceed \$35,000 per fiscal year; otherwise, the amendment must be approved by the City Council.

(b) Invoices. For compensation to be paid directly by the City, the Consultant shall render monthly invoices to the City for services that have been rendered in conformity with this Agreement in the previous month. The invoices shall specify the services performed and the time spent on such work. All reimbursable expenses shall also be clearly identified on the invoice with supporting documentation. Invoices will normally be paid within thirty (30) days following the City's receipt of the Consultant's invoice.

SECTION 6: INDEMNIFICATION. The Consultant, its officers, employees and agents shall indemnify and hold harmless the City, including its officers, employees and agents from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence of the Consultant, its officers, directors, employees, representatives and agents employed or utilized by the Consultant in the performance of the services under this Agreement. The City agrees to be responsible for its own negligence. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or the Consultant, nor shall this Agreement be construed as a waiver of sovereign immunity for the City beyond the waiver provided in section 768.28, Florida Statutes, nor shall the City indemnify the Consultant.

SECTION 7: COMPLIANCE AND DISQUALIFICATION. Each of the parties agrees to perform its responsibilities under this Agreement in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of this Agreement, including, without limitation, the applicable licensure requirements and Florida Public Records laws.

SECTION 8: FEDERAL AND STATE TAX. The City is exempt from payment of Florida State Sales and Use Tax. The Consultant is not authorized to use the City's Tax Exemption Number.

SECTION 9: INSURANCE. Prior to commencing any services, the Consultant shall provide proof of insurance coverage as required hereunder. Such insurance policy(s) shall be issued by the United States Treasury or insurance carriers approved and authorized to do business in the State of Florida, and who must have a rating of no less than "excellent" by A.M. Best or as mutually agreed upon by the City and the Consultant. The required insurance policies may not be modified or terminated without the express written authorization of the City.

<u>Type of Coverage</u>	<u>Amount of Coverage</u>
Professional liability/ Errors and Omissions	\$1,000,000 per occurrence
Commercial general liability (Products/completed operations Contractual, insurance broad form property, Independent Consultant, personal injury)	\$1, 000,000 per occurrence \$2,000,000 annual aggregate
Automobile (owned, non-owned, & hired)	\$ 1,000,000 single limits
Worker's Compensation	\$ statutory limits

The commercial general liability and any excess liability policies will name the City as an additional insured on a primary, non-contributing basis and proof of all insurance coverage shall be furnished to the City by way of an endorsement to same or certificate of insurance prior to the provision of services. The additional insured and certificate holder address shall read: City of Greenacres, 5800 Melaleuca Lane, Greenacres, FL 33463. If no automobiles are owned by the Consultant, a statement to that extent must be provided to the City. The certificates shall clearly indicate that the Consultant has obtained insurance of the type, amount, and classification as required for strict compliance with this section. Failure to comply with the foregoing requirements shall not relieve Consultant of its liability and obligations under this Agreement.

SECTION 10: OWNERSHIP OF DOCUMENTS. All deliverables created under this Agreement for the City shall be or become the property of the City. The Consultant may keep copies or samples of the deliverables and may utilize copies or samples of the deliverables at its own risk without recourse against the City; provided that, any and all references to the City is removed from the deliverables, without limitation, the logo or seal of the City. The City may use, reuse, edit, publish, copyright or take any action with regards to the deliverables in its sole discretion at any time and the Consultant shall have no ownership interest in or other intellectual property rights to the deliverables.

SECTION 11: 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 Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as agreed in writing by all parties, this Agreement is not assignable.

SECTION 12: DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES. All claims arising out of this Agreement or its breach shall be submitted first to mediation. The parties shall share the mediator's fee equally. The mediation shall be held in Palm Beach County. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach 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.

SECTION 13: WAIVER OF JURY TRIAL. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

SECTION 14: ACCESS AND AUDITS. The Consultant shall maintain adequate records to justify all payments made by the City or by commission under this Agreement for at least three (3) years after completion of this Agreement and longer if required by applicable federal or state law. 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. In no circumstances will Consultant be required to disclose any confidential or proprietary information regarding its products and service costs.

SECTION 15: EQUAL OPPORTUNITY EMPLOYMENT. The Consultant warrants and represents that it will not discriminate against any employee or applicant for employment for services under this Agreement because of race, color, religion, sex, age, national origin, or disability and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, national origin or disability. This provision shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships.

SECTION 16: 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 provide the services required under this Agreement, and that it will at all times conduct its business and provide the services under this Agreement in a reputable manner. Proof of such licenses and approvals shall be submitted to the City upon request.

SECTION 17: SEVERABILITY. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, 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 Agreement shall be deemed valid and enforceable to the extent permitted by law.

SECTION 18: PUBLIC ENTITY CRIMES. Consultant acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The Consultant will advise the City immediately if it becomes aware of any violation of this statute.

SECTION 19: NOTICE. All notices required in this Agreement shall be sent by hand-delivery, certified mail (RRR), or by nationally recognized overnight courier, and if sent to the City shall be sent to:

City of Greenacres
Attn: Purchasing Agent
5800 Melaleuca Lane
Greenacres, FL 33463

and if sent to the Consultant, shall be sent to:

RSC Insurance Brokerage, Inc.
Kurt N. Gehring
3500 Kyoto Gardens Drive
Palm Beach Gardens, FL 33410

The foregoing names and addresses may be changed if such change is provided in writing to the other party.

SECTION 20: ENTIRETY OF AGREEMENT. The City and the Consultant agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

SECTION 21: WAIVER. Failure of a party to enforce or exercise any of its right(s) under this Agreement shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

SECTION 22: PREPARATION AND NON-EXCLUSIVE. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation. This is a non-exclusive Agreement and the City reserves the right to contract with individuals or firms to provide the same or similar services.

SECTION 23: MATERIALITY. All provisions of the Agreement shall be deemed material. In the event Consultant fails to comply with any of the provisions contained in this Agreement or exhibits,

amendments and addenda attached hereto, said failure shall be deemed a material breach of this Agreement and City may at its option provide notice to the Consultant to terminate for cause.

SECTION 24: LEGAL EFFECT. This Agreement shall not become binding and effective until approved by the City Commission. The Effective Date is the date this Agreement is approved by the City Council and fully executed by the City.

SECTION 25: NOTICE OF COMPLAINTS, SUITS AND REGULATORY VIOLATIONS. Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Agreement. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

SECTION 26: SURVIVABILITY. Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

SECTION 27: COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement.

SECTION 28: PALM BEACH COUNTY IG. In accordance with Palm Beach County ordinance number 2011-009, the CONSULTANT acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The Consultant has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

SECTION 29: AGREEMENT CONTROLLING. This Agreement consists of the terms and conditions herein, the RFP and Exhibit "A" and represent the sole agreement of the parties. This Agreement supersedes any prior written or oral agreements of the parties. If there are any conflicts between the terms and conditions of this Agreement and the aforementioned documents, the terms and conditions of this Agreement shall take precedence with the RFP next taking precedence.

SECTION 30: E-VERIFY. Pursuant to Section 448.095(2), Florida Statutes, beginning on January 1, 2021, the CONSULTANT shall:

- A. Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;
- B. Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;
- C. Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the CITY upon request;
- D. Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;

- E. Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,
- F. Be aware that if the CITY terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the CONSULTANT may not be awarded a contract for at least 1 year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the CITY as a result of the termination of the Agreement.

SECTION 31: PUBLIC RECORDS. The Consultant shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (a) Keep and maintain public records required by the City to perform the service.
- (b) Upon request from the City's custodian of public records or designee, 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, 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 for the duration of this Agreement and following completion of this Agreement if the Consultant does not transfer the records to the City.
- (d) Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the Agreement, the Consultant shall destroy any duplicate public records that are confidential or exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Agreement, the Consultant 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 or designee, in a format that is compatible with the information technology systems of the City.

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 OR DESIGNEE AT (561) 642-2006, CITYCLERK@GREENACRESFL.GOV, OR 5800 MELALEUCA LANE, GREENACRES, FL 33463.

SECTION 32: CONFIDENTIAL AND PROPRIETARY INFORMATION. Each party (the "Receiving Party") will keep confidential and not disclose to any other person or entity or use (except as expressly and unambiguously authorized by this Agreement) information, technology or software ("Confidential Information") obtained from the other party (the "Disclosing Party"); provided, however, that the Receiving Party will not be prohibited from disclosing or using information (i) that at the time of disclosure is publicly available or becomes publicly available through no act or omission of the Receiving Party, (ii) that is or has been disclosed to the

Receiving Party by a third party who is not under, and to whom the Receiving Party does not owe, an obligation of confidentiality with respect thereto, (iii) that is or has been independently acquired or developed by the Receiving Party without access to the Disclosing Party's Confidential Information, (iv) that is already in the Receiving Party's possession at the time of disclosure, or (v) that is required to be released by law.

SECTION 33: NO THIRD PARTY BENEFICIARIES. There are no third party beneficiaries under this Agreement.

SECTION 34: SCRUTINIZED COMPANIES.

(a) The Consultant certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if the Consultant or any of its subcontractors are found to have submitted a false certification; or if the Consultant or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

(b) If this Agreement is for one million dollars or more, the Consultant certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if the Consultant, or any of its subcontractors are found to have submitted a false certification; or if the Consultant or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

(c) The Consultant agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

(d) The Consultant agrees that the certifications in this section shall be effective and relied upon by the City for the term of this Agreement, including any and all renewals.

(e) The Consultant agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the Consultant shall immediately notify the City of the same.

(f) As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

SECTION 35: ADA COMPLIANCE. If the Consultant is providing software and/or other digital services that may be accessed by the public via the City's website, the Consultant shall ensure said software and/or other digital services are compliant with the Americans with Disabilities Act including, without limitation, providing for website accessibility consistent with the WCAG 2.0AA standards for accessibility or better.

IN WITNESS WHEREOF, the parties hereto have made and executed this Professional Services Agreement (Insurance Brokerage Services) as of the day and year it is approved by the City Council and fully executed by the City.

CITY OF GREENACRES, FLORIDA

By: _____
Chuck Shaw, Mayor

ATTEST:

Quintella Moorer, City Clerk

Approved as to form and legal sufficiency:

Glen J. Torcivia, City Attorney

CONSULTANT:

By: _____

[Corporate Seal]

Print Name: _____

Title: _____

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2024, by _____, who was physically present, as _____ (title), of _____ (name of entity) which is authorized to do business in the State of Florida, and who is personally known to me or who has produced the following _____ as identification.

Notary Public

Print Name: _____

My commission expires: _____

EXHIBIT "A"
Broker Services Compensation

The Consultant shall be compensated by the City for the services set forth in the RFP as follows:

1. Employee Benefits: The Consultant shall be entitled to receive a commission up to the percentage set forth below from the applicable carriers:
 - a. Medical 3.5%
 - b. Dental 5%
 - c. Life/AD&D 10%
 - d. Vision 10%
 - e. Disability (LTD/STD) 10%
 - f. Supplemental/Worksite Carrier Schedule

2. BenTek®: The Consultant shall provide the City with access to and use of BenTek® and shall be entitled to the following fee:
 - a. Annual Flat Fee: \$27,000

Consultant shall use its best efforts to seek and obtain technology contributions from carriers in its negotiations. All technology contributions received from carriers shall be used to off-set the BenTek® annual flat fee set forth above. The applicable carriers shall pay their technology contribution directly to the Consultant, who will reduce the City's fee accordingly.

3. Risk Management: The Consultant shall be entitled to receive a commission(s) for its Risk Management service for a total annual fee not to exceed sixty thousand dollars (\$60,000).
4. Wellness Contributions: The Consultant shall use its best efforts to seek and obtain wellness contributions from applicable benefit carriers in its negotiations. Such wellness contributions shall be used by the Consultant to provide the City and its employees with additional wellness services (e.g., wellness programs, seminars and events).