

**TOWN OF HIGHLAND BEACH**  
**PROFESSIONAL SERVICES AGREEMENT**

This Professional Services Agreement (“Agreement”) is made on the \_\_\_\_ day of \_\_\_\_\_, 2021, between the **Town of Highland Beach**, a Florida municipal corporation (“Town”) and **Pace Communications Group, Inc. doing business as Pace Branding and Marketing**, a foreign profit corporation authorized to do business in the state of Florida (“Consultant”).

**WHEREAS**, the Town’s Purchasing Policy and Procedures allows the Town to enter into contracts for professional services without utilizing a sealed competitive method or written quotations; and

**WHEREAS**, the Town is in need of branding and marketing services and the Consultant is qualified and willing to perform such services for the Town; and

**WHEREAS**, the parties wish to enter into an agreement for such services and the Town finds that such agreement will serve a public purpose and be in the best interests of the Town.

**NOW THEREFORE**, the Town hereby engages the services of the Consultant, and in consideration of the mutual promises herein contained, the sufficiency of which is hereby acknowledged by both parties, the parties agree as follows:

**ARTICLE 1 - SCOPE OF SERVICES AND TASK ORDER(S)**

A. Scope of Services: The Town has awarded the CONSULTANT the non-exclusive right to provide the Town with branding and marketing services as described in the Consultant’s Scope of Services set forth in **Exhibit A** (the “Services”).

B. Task Order(s): This Agreement does not guarantee that the Town will utilize Consultant in any capacity or for any Services identified herein. When the Town identifies a need for the Consultant’s Services for a specific project or other assignment, the Town will request a proposal from the Consultant to provide the Services requested. The Consultant’s proposal shall be submitted in the format of the sample task order, attached hereto and incorporated herein as **Exhibit B** (the “Task Order”) and shall be based on the Consultant’s fee schedule agreed to by the Town, and as set forth in **Exhibit A**. If a subconsultant(s) is to be utilized for Services under a Task Order, the Consultant shall obtain a written proposal from the subconsultant(s) and attach the same to the Consultant’s proposal submitted to the Town. Upon receipt of the Consultant’s proposal, the Town shall decide in its sole discretion whether to award the Task Order to the Consultant. Depending on the lump sum, not to exceed amount of each proposed Task Order, the Task Order may be awarded by the Town Manager (if within purchasing authority) or the Town Commission. If the Task Order is awarded to the Consultant, the Consultant shall commence the identified Services upon receipt of a Notice to Proceed from the Town or upon the Consultant’s receipt of a fully executed Task Order for the Services. The Town reserves the right to reject any and all proposals submitted by the Consultant.

**ARTICLE 2 - TERM OF CONTRACT**

This non-exclusive Agreement shall become effective upon approval by the Town Commission and execution by the Mayor and shall have an initial term of two (2) years with two (2) additional one (1) year renewal options, unless earlier terminated in accordance with this Agreement. Each fiscal year of this Agreement and any renewals will be subject to the availability of funds lawfully appropriated for its purpose by the State of Florida and the Town.

**ARTICLE 3 – COMPENSATION**

A. Fee Schedule: The fee schedule set forth in **Exhibit A** shall remain firm for the initial term of the Agreement. The hourly fees are all-inclusive. No changes to the fee schedule shall occur unless approved

in writing by the Town Commission and the Consultant. The fee schedule shall be the basis for all fees proposed by the Consultant and in any approved Task Order, unless otherwise agreed to by the parties.

B. Lump Sum Task Orders: The Town shall pay the Consultant the lump sum, not to exceed amount(s) set forth in an approved Task Order. The Consultant expressly acknowledges and agrees that the total cost to complete all services as set forth in an approved Task Order shall be a lump sum, not to exceed price, and no additional costs shall be authorized or paid by the Town unless approved by written amendment to the Task Order by the Town Manager or Town Commission (depending on the Town's required level of approval for such additional costs). In no case shall the Consultant bill the Town for any amount not stated in an approved Task Order or written amendment thereto.

C. Additional Services: If the Town seeks to utilize the Consultant for any additional services, the Town and Consultant will meet and negotiate a reasonable fee for such services. The negotiated fee shall be approved by the Town in the form of a Task Order prior to said services being provided.

D. Status Report: Upon the request of the Town, the Consultant shall complete and submit a technical summary and budgetary status report at no additional cost to the Town.

#### **ARTICLE 4 - TERMS OF PAYMENT**

A. Monthly Invoices: The Consultant shall submit invoices once each month to the Town for the Services performed under this Agreement pursuant to an approved Task Order. Separate invoices shall be submitted for each Task Order. Payment as prescribed in Article 3 for services rendered by the Consultant during the previous billing period shall be processed in accordance with the Florida Prompt Payment Act (Ch. 218, Part VII, Florida Statutes). For charges not subject to monthly invoicing, payments shall be billed and paid in accordance with the procedures described in **Exhibit A**.

B. Sales Tax: The CONSULTANT shall pay all applicable sales taxes; or the Town shall provide to the CONSULTANT the tax exemption information, where and if appropriate.

#### **ARTICLE 5 - TERMS OF PERFORMANCE**

A. Starting Work: The CONSULTANT will not begin any of the Services until authorized in writing by the Town or upon the Consultant's receipt of a fully executed Task Order for the Services.

B. Ownership of Documents: The drawings, specifications, calculations, supporting documents, or other work products which are listed as deliverables by the Consultant in a Task Order or such other drawings, specifications, calculations, supporting documents, or work products prepared for the Town under this Agreement shall become the property of the Town upon delivery or completion. The Town shall not gain ownership of any intellectual property of Consultant that was used to create deliverables in a Task Order or as otherwise specified under this Agreement. The Consultant may keep copies or samples thereof and shall have the right to use such drawings, specifications, calculations, supporting documents, or other documents. The Town accepts sole responsibility for its reuse of any such documents in a manner other than as initially intended under this Agreement or any approved Task Order, or for any use of incomplete documents unless prior written approval is obtained from the Consultant.

C. Account Records: The Consultant's accounting records, insofar as they pertain to invoicing the Town or for disbursements made from the Consultant's account for Services under this Agreement, shall be open to Town's inspection and audit at the Consultant's office upon reasonable prior notice and during normal business hours. These records will be retained by the Consultant for ten (10) years after the calendar year in which the Services to which they pertain were rendered or the disbursements were made.

D. Force Majeure: Neither party hereto shall be liable for its failure to perform hereunder due to any circumstances beyond its reasonable control, such as acts of God, wars, riots, national emergencies,

sabotage, strikes, labor disputes, accidents, and governmental laws, ordinances, rules, or regulations. The Consultant or Town may suspend its performance under this Agreement as a result of a force majeure without being in default of this Agreement, but upon the removal of such force majeure, the Consultant or Town shall resume its performance as soon as is reasonably possible.

Upon the Consultant's request, the Town shall consider the facts and extent of any failure to perform the Services and, if the Consultant's failure to perform was without its or its subconsultant's fault or negligence, the schedule and/or any other affected provision of this Agreement may be revised accordingly, subject to the Town's rights to change, terminate, or stop any or all of the Services at any time. No extension shall be made for delay occurring more than seven (7) days before a notice of delay or claim therefore is made in writing to the Town. In the case of continuing cause of delay, only one (1) notice of delay or claim is necessary.

E. Approval of Changes: The Town, through the Town Commission or the Town Manager (as specifically identified herein) must approve in writing any changes in the scope of services which result in additional costs or expenses to the Town, extension of the schedule or which would change the underlying purpose of the Services. Changes include, but are not limited to, issuing additional instructions, requesting additional work, direct omission of work previously ordered, or changes in time of performance.

F. Authorized Representative: Before starting work, the Consultant shall designate an authorized representative to represent and act for the Consultant and shall inform the Town in writing of the name and address of such representative. The authorized representative of the Town shall be the Town Manager or designee.

G. Time of the Essence: Time is of the essence in the performance of this Agreement. The Consultant shall at all times carry out its duties and responsibilities in accordance with the schedule set forth in each Task Order, subject to delays in the schedule which are not the fault of Consultant or its subconsultants.

H. Personnel: The Consultant represents that it has, or will secure at its own expense, all necessary personnel required to perform the Services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the Town. 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. The Consultant shall furnish Services in a manner consistent with industry standards and to a level of professional skill generally acceptable in the industry with regard to services of this kind. The Consultant shall comply with all applicable laws in the provision of Services under this Agreement. The Consultant agrees that it is fully responsible to the Town for the acts and omissions of subconsultants and of persons either directly or indirectly employed by the Consultant. Nothing contained herein shall create any contractual relationship between any subconsultant and the Town. All of the Consultant's personnel (and all subconsultants) while on Town premises, will comply with all Town requirements governing conduct, safety, and security. The Town reserves the right to request replacement of any of Consultant's personnel furnished by the Consultant upon written notice by Town to Consultant of the cause for such replacement. The Consultant shall comply with the Town's reasonable requests regarding the replacement of personnel. The Town reserves the right to pre-approve all subconsultants, if any, for any Services performed under this Agreement. Such right shall be in the sole discretion of the Town.

I. Conflict of Interest: The Consultant represents that it presently 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 Town of Highland Beach's Purchasing Policy and Procedures

and Code of Ordinances, the Palm Beach County Code of Ethics, or as provided for in Chapter 112, Part III, Florida Statutes. The Consultant further represents that no person having any such conflicting interest shall be employed for said performance. The Consultant shall promptly notify the Town's representative, in writing, 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 Town as to whether the association, interest or circumstance would, in the opinion of the Town, constitute a conflict of interest if entered into by the Consultant. The Town agrees to notify the Consultant of its opinion within thirty (30) days of receipt of notification by the Consultant. If, in the opinion of the Town, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Consultant, the Town shall so state in the notification 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 Town by the Consultant under the terms of this Agreement.

J. Status as an Independent Contractor: The status of the Consultant under this Agreement is that of an independent contractor. Nothing in this Agreement shall create or be construed as creating a partnership or joint venture between the Town and the Consultant. The Consultant does not have the power or authority to bind the Town in any promise, contract or representation other than as specifically provided for in this Agreement.

K. News Releases / Publicity: The Consultant shall not make any news releases, publicity releases, or advertisements relating to this Agreement or the tasks associated with the Services without prior written Town approval.

L. 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, political affiliation, marital status, handicap, or sexual orientation. Further, Consultant shall not discriminate or permit discrimination against any employee or an applicant for employment on the basis of race, color, religion, disability, sex, age, national origin, ancestry, political affiliation, marital status, handicap, or sexual orientation.

#### **ARTICLE 6 - TOWN'S RESPONSIBILITIES**

A. Provision of Information: The Town shall furnish to the Consultant, if required for performance of the Consultant's Services, all available data and other information relating to a project or other assignment, if any.

B. Examine Work of the Consultant: Within a reasonable time so as not to delay the Services of the Consultant, the Town shall examine all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by the Consultant, obtain advice of an attorney, insurance counselor, or other consultants, as the Town deems appropriate, for such examinations and the rendering, if required, of written opinions pertaining thereto.

#### **ARTICLE 7 – SUSPENSION BY TOWN FOR CONVENIENCE**

The Town may, at any time without cause, order Consultant in writing to suspend, delay or interrupt its Services in whole or in part for such period of time as Town may determine for Town's convenience. Such order shall be by written notice to the Consultant providing at least ten (10) days advance notice unless such order is immediately necessary for the protection of the public health, safety or welfare or for the protection of property.

#### **ARTICLE 8 –TERMINATION**

A. Termination by Town for Consultant Default: If the Town's authorized representative deems that the Consultant is in default for failure to supply adequate personnel, or Services of proper quality, or has failed in any other respect to satisfactorily perform the Services specified in this Agreement, the Town's authorized representative may give written notice to the Consultant specifying the default(s) to be remedied within fifteen (15) days. Such notice shall set forth the basis for any dissatisfaction and suggest corrective measures. If the Consultant does not remedy defaults within fifteen (15) days or commence steps to remedy default to the reasonable satisfaction of the Town's authorized representative, the Town may do one or all of the following: secure such services from another consultant; withhold any money due or which may become due to the Consultant for such services related to the claimed default(s); and/or, elect to immediately terminate this Agreement. No compensation shall be paid for de-mobilization, take-down, disengagement, wind-down, lost profits or other costs incurred due to termination of this Agreement for default.

B. Termination by Consultant for Town Default: This Agreement may be terminated by the Consultant upon thirty (30) days prior written notice to the Town in the event of a failure by the Town to perform in accordance with the terms of this Agreement through no fault of the Consultant; provided the Town fails to cure same within that thirty (30) day period.

C. Termination Without Cause: Notwithstanding the foregoing, the parties reserve the right and may elect to terminate this Agreement at any time upon thirty (30) days' written notice to the other party. At such time, the Consultant shall be compensated only for those Services which have been satisfactorily performed to the date of termination. No compensation shall be paid for de-mobilization, take-down, disengagement, wind-down, lost profits or other costs incurred due to termination of this Agreement without cause.

D. Early Termination: If this Agreement is terminated before the expiration of the initial term or expiration of the renewal term by either party, the Consultant shall:

1. Stop service on the date and to the extent specified.
2. Terminate and settle all orders and subcontracts relating to the performance of the terminated services.
3. Transfer all work in progress, completed work, and other materials related to the terminated services to the Town in the format acceptable to Town.
4. Continue and complete all parts of the Services that have not been terminated.

#### **ARTICLE 9 –INDEMNIFICATION AND INSURANCE**

A. Indemnification: The Consultant shall indemnify, hold harmless and, at the Town's option, defend or pay for an attorney selected by the Town to defend, the Town and its officials, employees, and representatives, against any claim, action, loss, damage, injury, liability, cost or expense including, but not limited to, reasonable attorneys' fees and court costs at all trial and appellate levels, directly or indirectly arising out of or related to any omission or act by the Consultant, its directors, officers, employees, agents, contractors, subcontractors, licensees or representatives, in the performance of this Contract. Nothing contained in this provision or in any of the Contract Documents shall be construed or interpreted as consent by the Town to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes. Neither party shall be liable to the other for any special, incidental or consequential damages of any kind whether or not caused by the other party's negligence even if the parties have been advised of the possibility of such damages. The obligations contained in this provision shall survive termination of this Agreement and shall not be limited by the amount of any insurance required to be obtained or maintained under this Agreement.

B. Insurance: The Consultant shall not commence any Services in connection with this Agreement until it has obtained the insurance required hereunder. The Consultant, at its sole expense, shall obtain and maintain in force at all times during the term of the Agreement insurance coverage as required herein. The requirements contained herein, as well as the Town's review or acceptance of insurance maintained by the Consultant are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Consultant under the Agreement.

All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. All insurance carriers must have an AM Best rating of at least A VII or better. The Certificates shall clearly indicate that no material change or cancellation of the insurance shall be effective without thirty (30) days' prior written notice to the Town. All insurance, other than Professional Liability and Workers' Compensation, shall specifically include the "Town of Highland Beach, its commissioners, employees, and agents" as an "Additional Insured."

1. Workers' Compensation - The selected consultant shall carry Workers' Compensation Insurance and Employer's Liability Insurance for all employees in accordance with Florida Statutes. Employer's Liability must include limits of at least \$100,000.00 each accident, \$100,000.00 each disease/employee, and \$500,000.00 each disease/maximum.
2. Commercial General Liability - The selected consultant shall maintain commercial general liability coverage, issued under an occurrence from basis, including contractual liability to cover the hold harmless agreement set forth in the contract, with limits of not less than the following:

Each Occurrence: \$1,000,000.00

Personal/advertising injury: \$1,000,000.00

Products/completed operations aggregate: \$2,000,000.00

General aggregate: \$2,000,000.00

3. Professional/Errors & Omissions – The selected consultant shall provide standard Professional Liability Insurance or equivalent Errors & Omissions Liability at a limit of liability not less than \$1,000,000.00 per occurrence. For policies written on a "Claims-Made" basis, the consultant warrants the retroactive date equals or precedes the effective date of the awarded contract. If the policy contains an exclusion for dishonest or criminal acts, defense coverage for the same shall be provided.
4. Business Automobile Liability - The selected consultant shall provide coverage for all owned, non-owned and hired vehicles in the minimum amount of \$1,000,000.00, each accident.

The selected firm shall agree to a Waiver of Subrogation for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss contract to waive subrogation without an endorsement then the selected firm shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy where a condition to the policy specifically prohibits such an endorsement, or voids coverage should the firm enter into such a contract on a pre-loss basis.

The Consultant shall require all subconsultants to obtain the same insurance as required herein and no subconsultant shall commence any Services under this Agreement until the Consultant has obtained a copy of all subconsultant(s) proofs of insurance. The Consultant shall provide the Town with proof of all subconsultant's insurance upon request by the Town. The Town's insurance, if any, shall be considered excess, as may be applicable to claims which arise out of indemnifications, insurance, certificates of

insurance and any additional insurance provisions of this Agreement. The Consultant shall procure and maintain all insurance required by the Town for the life of this Agreement. Receipt of certificates or other documentation of insurance or policies or copies of policies by the Town or by any of its representatives which indicate less coverage than required by this Agreement does not constitute a waiver of the Consultant's obligations to fulfill the requirements of this Article.

#### **ARTICLE 10 - SUCCESSORS AND ASSIGNS**

The Town and Consultant each binds themselves and their partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assignees of such other party in respect to all covenants of this Agreement. The Consultant shall not assign, sublet, or transfer any interest in this Agreement without the prior written consent of the Town, which the Town may withhold in its sole and absolute discretion. Nothing herein shall be construed as creating any personal liability on the part of any elected official, officer, employee or agent of the Town, nor shall it be construed as giving any rights or benefits hereunder to any third party other than the Town and Consultant.

#### **ARTICLE 11 - REMEDIES**

A. Claims, Counter-Claims, Disputes, Etc.: Prior to the filing of any claim, proceeding or litigation related to the Agreement, all claims, counter-claims, disputes, and other matters in question between the Consultant and the Town will be first reviewed by authorized representatives of both parties for a recommended solution. If no solution or resolution is forthcoming, either party may pursue its claim, proceeding or litigation.

B. Governing Law and Venue: This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Florida. Each of the parties hereto (a) irrevocably submits itself to the exclusive jurisdiction of the Fifteenth Judicial Circuit Court, in and for Palm Beach County, Florida, for state actions, and the jurisdiction of the United States District Court for the Southern District of Florida for federal actions, for the purposes of any suit, action or other proceeding arising out of, or relating to, this Agreement; (b) waives and agrees not to assert against any party hereto, by way of motion, as a defense or otherwise in any suit, action or other proceeding, (i) any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason whatsoever, and (ii) to the extent permitted by applicable law, any claim that such suit, action or proceeding by any party hereto is brought in an inconvenient forum, or that the venue of such suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced in or by such courts.

#### **ARTICLE 12 – NOTICE**

A. Any notice required to be given under this Agreement shall be given in writing and delivered by hand or through the instrumentality of certified mail of the United States Postal Service (return receipt requested) or other nationally recognized overnight courier service, such as Federal Express.

B. Unless otherwise notified in writing of a new address, all notices shall be made to each party at the below listed addresses. Any party shall have the right, from time to time, to change the address to which notices shall be sent by giving the other party at least ten (10) days prior notice of the address change.

All notices to the Consultant shall be sent to:

PACE Communications Group, Inc.  
Attn: Dana L. Riser, President  
5450 N. Ocean Blvd. #54  
Lauderdale By the Sea, FL 33308

All notices to the Town shall be sent to:

Town of Highland Beach

Attn: Marshall Labadie, Town Manager  
3614 South Ocean Blvd.  
Highland Beach, FL 33487.

**ARTICLE 13 – PUBLIC ENTITIES CRIMES; DISCRIMINATORY VENDOR LIST**

As provided in Sections 287.132 and 287.133, Florida Statutes, by entering into this Agreement or performing any service in furtherance thereof, the Consultant certifies that it, its affiliates, suppliers, subconsultants and contractors who will perform under the terms and conditions of this Agreement have not been placed on the convicted vendor list maintained by the Florida Department of Management Services within the 36 months immediately preceding the date of this Agreement.

Consultant acknowledges and agrees that an entity or affiliate who has been placed on the discriminatory vendor list 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, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

**ARTICLE 14 - NONEXCLUSIVE CONTRACT**

This Agreement is not intended to be and shall not be construed as an exclusive agreement, and the Town may employ additional or other consultants to perform Services contemplated by this Agreement without liability to the Town.

**ARTICLE 15 - MISCELLANEOUS**

A. Validity, Severability and Reformation: The validity, interpretation, construction, and effect of this Agreement shall be in accordance with and be governed by the laws of the State of Florida. Any provision or part of this Agreement held to be void or unenforceable under any law shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the parties. The parties agree that this Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision which comes as close as possible to expressing the intention of the stricken provision.

B. Headings: The headings of the sections of this Agreement and capitalizations are for the purpose of convenience only and shall not be deemed to expand or limit the provisions contained in such sections.

C. Entire Agreement and Conflicts: This Agreement, the exhibits hereto and any approved Task Orders, constitutes the entire Agreement between the parties hereto and supersedes any prior negotiations, representations, agreements, and understandings, either written or oral. This Agreement consists of the terms and conditions provided herein; the Consultant’s Scope of Services (Exhibit A); and, any approved Task Orders. To the extent that there exists a conflict between this Agreement and the remaining documents, the terms, conditions, covenants, and/or provisions of this Agreement shall prevail; provided, however, that the specific scope of services set forth in an approved Task Order shall take precedence over any other more general description of services. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

D. Waiver: No waiver of any of the terms or conditions of this Agreement shall be effective unless in writing and executed by the party to be changed therewith. No waiver of any condition or of the breach of any term, covenant, representation, warranty or other provision hereof shall be deemed to be construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term, covenant, representation, warranty or other provision contained in this Agreement.



E. **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, claim or proceeding related to this Agreement.

F. **Counterparts:** This Agreement and all Task Orders may be executed in two or more counterparts, each of which shall be deemed to be an original, but each of which together shall constitute one and the same instrument.

G. **Preparation:** This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

H. **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.

I. **Scrutinized Companies:**

1. By its representative's signature below, Consultant certifies that it and its subconsultants 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 Town may immediately terminate this Agreement at its sole option if the Consultant or any of its subconsultants are found to have submitted a false certification; or if the Consultant or any of its subconsultants, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

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

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

4. The Consultant agrees that if it or any of its subconsultants' status changes in regards to any certification herein, the Consultant shall immediately notify the Town of the same.

5. 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.

#### **ARTICLE 16 - 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 Town as provided under section 119.011(2), Florida Statutes, specifically agrees to:

A. Keep and maintain public records required by the Town to perform the service.

B. Upon request from the Town's custodian of public records or designee, provide the Town 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 Town.

D. Upon completion of this Agreement, transfer, at no cost, to the Town all public records in possession of the Consultant or keep and maintain public records required by the Town to perform the service. If the Consultant transfers all public records to the Town 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 Town, upon request from the Town's custodian of public records or designee, in a format that is compatible with the information technology systems of the Town.

**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 ATTN: LANELDA GASKINS, AT (561) 278-4548, LGASKINS@HIGHLANDBEACH.US, 3614 S. OCEAN BLVD., HIGHLAND BEACH, FL 33487.**

**ARTICLE 17 – E-VERIFY**

Pursuant to Section 448.095(2), Florida Statutes, the Consultant shall:

1. Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subconsultants (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 subconsultants' newly hired employees;
2. Secure an affidavit from all subconsultants (providing services or receiving funding under this Agreement) stating that the subconsultant does not employ, contract with, or subcontract with an unauthorized alien;
3. Maintain copies of all subconsultant affidavits for the duration of this Agreement;
4. Comply fully, and ensure all of its subconsultants comply fully, with Section 448.095, Florida Statutes;
5. Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and
6. Be aware that if the Town terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the Consultant may not be awarded a public 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 Town as a result of the termination of the Agreement.

**ARTICLE 18 - REPRESENTATIONS/BINDING AUTHORITY**

By signing below, Consultant's signee represents that the Consultant has full power, authority and legal right to execute and deliver this Agreement and perform all of its obligations under this Agreement on behalf of the party for whom she is signing. By signing this Agreement, Consultant's signee hereby represents to the Town that he or she has the authority and full legal power to execute this Agreement and any and all documents necessary to effectuate and implement the terms of this Agreement on behalf of the party for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Agreement.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.  
SIGNATURE PAGE FOLLOWS.]**

IN WITNESS WHEREOF, the parties hereto have made and executed this Professional Services Agreement on the day and date first above written.

**TOWN OF HIGHLAND BEACH, FLORIDA**

By: \_\_\_\_\_  
Douglas Hillman, Mayor

ATTEST:

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lanelda Gaskins, MMC, Town Clerk

\_\_\_\_\_  
Glen J. Torcivia, Town Attorney

**CONSULTANT: PACE COMMUNICATIONS GROUP, INC.  
D/B/A PACE BRANDING & MARKETING**

By: \_\_\_\_\_  
Diana L. Riser, President

[Corporate Seal]

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by Diana L. Riser, as President of Pace Communications Group, Inc., a Foreign Profit Corporation, d/b/a Pace Branding & Marketing, and who is personally known to me or who has produced the following \_\_\_\_\_ as identification.

Notary Public

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

## **EXHIBIT A**

### **SCOPE OF SERVICES**

#### **Professional Services**

Pace will provide the Town of Highland Beach with professional services at a rate of \$130 per hour. All project requests will be estimated in hours in advance. Professional Services are all in-house services and include but not limited to:

##### Traditional Services:

- Brand Strategy and Development
- Media Planning and Buying
- Creative and Copy Development
- Video Production
- Pre and Post-Production Video Services
- Market Research and Analysis
- Broadcast Production
- In-house Photography and Videography
- Corporate ID Package

##### Digital Services:

- Custom Website Development
- Website Hosting and Maintenance
- Social Media Content and Paid Ad Management
- Search Engine Marketing
- 3D Animation and Motion Graphics
- Eblast Deployment
- Geo-fencing/Precise Mobile Targeting
- Blog Content

##### Account Service:

- Accounting and Administration
- Dedicated Account Team
- Account Management
- Client/Agency Meetings and
- Status Calls
- Production Management and Vendor Liaison of Projects
- End-of-Month Media Reconciliation
- Reporting and Analytics
- Database Management

#### **Business Terms**

Our fees assume initial concepts and two rounds of revisions. Should the scope of our services change as the program moves forward, additional fees may be incurred. In that case, we will advise you both when the scope of services begins to exceed our current understanding and what additional fees will be incurred prior to proceeding with additional work.

We will provide you with complete, final printing estimates for your written authorization. No printing will be released without your express written authorization. Production and printing estimates include a production supervisory fee at a rate of 17.65% to cover costs associated with estimating and supervising production.

One-half of the creative and project management fees for each item is due when an agreement is signed for the selected services with the balance of that fee due upon approval of design/layout and copy. Since our fees are a range depending upon the as-yet-undetermined complexity of each component, our initial payment is for 50% of the higher fee with the second payment reflecting the final costs. Work commences upon receipt of an initial payment. In terms of production and fabrication, 50% of all expenses are due when the mechanicals are released with the balance invoiced upon delivery of the final materials. One-half printing expenses are due prior to release of mechanicals to the printer. Postage expenses are due in full prior to mailings. Other production expenses are billed monthly as incurred. Payment is due in 30 days.

Traditional Media is billed with a 15% commission at the run date with payment due in 30 days. If any media bill remains open for more than 30 days, all subsequent advertising will be canceled until the account is brought current. Some digital media requires prepayment which will be specified upon approval of the media plan.

1. Finance charges of 1.5% per month (18% per annum) are assessed on unpaid balances after 30 days.
2. Pace Advertising is authorized to obtain credit information.
3. Invoices will be paid in accordance with the above terms.

**EXHIBIT B**

**SAMPLE TASK ORDER**

**Task Order for Professional Services Agreement**

**TASK ORDER NO. \_\_\_\_\_**

THIS TASK ORDER (“Task Order”) is made on the \_\_\_\_ day of \_\_\_\_\_, 202\_\_, between the **Town of Highland Beach**, a Florida municipal corporation located at 3614 South Ocean Blvd., Highland Beach, FL 33487 (“Town”) and \_\_\_\_\_, a Florida corporation (“Consultant”).

**1.0 Project Description:**

The Town desires the Consultant to provide those services as identified herein and generally described as: \_\_\_\_\_ (the “Project”).

**2.0 Scope**

Under this Task Order, the Consultant will provide services to the Town as detailed in the **Consultant’s proposal attached hereto and incorporated herein as Exhibit “1”**.

**3.0 Schedule**

The services to be provided under this Task Order shall be completed within \_\_\_\_\_ calendar days from the Town’s approval of this Task Order or the issuance of a Notice to Proceed.

**4.0 Compensation**

This Task Order is issued for a lump sum, not to exceed amount of \$ \_\_\_\_\_. The attached proposal identifies all costs and expenses included in the lump sum, not to exceed amount. Such lump sum shall be broken down to reflect the approved hourly rate.

**5.0 Project Manager**

The Project Manager for the Consultant is \_\_\_\_\_, phone: \_\_\_\_\_; email: \_\_\_\_\_; and, the Project Manager for the Town is \_\_\_\_\_, phone: \_\_\_\_\_; email: \_\_\_\_\_.

**6.0 Progress Meetings**

The Consultant shall schedule periodic progress review meetings with the Town Project Manager as necessary but every 30 days as a minimum, unless otherwise directed by the Manager.

**7.0 Town Authorization**

This Task Order is issued pursuant to the Professional Services Agreement between the Town of Highland Beach and the Consultant, dated \_\_\_\_\_, 2021 (“Contract” hereafter). If there are any conflicts between the terms and conditions of this Task Order and the

Contract, the terms and conditions of the Contract shall prevail; however, the specific scope of services set forth in this Task Order shall take precedence over any other more general description of services.

IN WITNESS WHEREOF, the parties hereto have made and executed this Task Order as of the day and year set forth above.

**TOWN OF HIGHLAND BEACH, FLORIDA**

By: \_\_\_\_\_  
Douglas Hillman, Mayor

ATTEST:

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lanelda Gaskins, MMC, Town Clerk

\_\_\_\_\_  
Glen J. Torcivia, Town Attorney

**CONSULTANT: PACE COMMUNICATIONS GROUP, INC.  
D/B/A PACE BRANDING & MARKETING**

By: \_\_\_\_\_  
Diana L. Riser, President

[Corporate Seal]

STATE OF \_\_\_\_\_)  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by Diana L. Riser, as President of Pace Communications Group, Inc., a Foreign Profit Corporation, d/b/a Pace Branding & Marketing, and who is personally known to me or who has produced the following \_\_\_\_\_ as identification.

Notary Public

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_