

**TOWN OF HIGHLAND BEACH ADDENDUM TO  
RUBIN, TURNBALL & ASSOCIATES, INC. CONTRACT FOR SERVICES**

This Addendum is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between the Town of Highland Beach, a Florida Municipal Corporation (“Town”) with a mailing address of 3614 South Ocean Blvd., Highland Beach, FL 33487 and Rubin, Turnball & Associates, Inc. (“Consultant”) with a mailing address of 401 East Las Olas Boulevard, Suite 130-447, Ft. Lauderdale, FL 33301.

In consideration of the mutual promises contained in this Addendum and the Rubin, Turnball & Associates, Inc. Contract for Services (collectively hereafter referred to as the “Contract Documents” or the “Contract”) between the Town and Consultant, the Town and Consultant agree as follows:

**SECTION 1 –INDEMNIFICATION**

1.1 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, as amended from time to time.

**SECTION 2 – PUBLIC ENTITY CRIMES**

2.1 As provided in Sections 287.132-133, Florida Statutes, as amended from time to time, by entering into the Contract Documents, Consultant certifies that it and its affiliates who will perform hereunder have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof.

**SECTION 3 – CONTRACT DOCUMENTS AND CONTROLLING PROVISIONS**

3.1 The contract between the parties consists of the Contract Documents. To the extent that there exists a conflict between this Addendum and the remaining Contract Documents, the terms, conditions, covenants, and/or provisions of this Addendum shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

**SECTION 4 – TERMINATION AND EFFECT OF TERMINATION**

4.1 The parties acknowledge and agree that the Town is a political subdivision of the State of Florida, and as such, the Contract Documents are subject to budgeting and appropriation by the Town of funds sufficient to pay the costs associated herewith in any fiscal year of the Town. Notwithstanding anything in the Contract to the contrary, in the event that no funds are appropriated or budgeted by the Town in any fiscal year to pay the costs associated with the Town’s obligations under the Contract Documents, or in the event the funds budgeted or appropriated are, or are estimated by the Town to be,

insufficient to pay the costs associated with the Town's obligations hereunder in any fiscal period and the Town is not seeking the same or similar services from a competitor of Consultant, then the Town will notify Consultant of such occurrence and either the Town or Consultant may terminate the Contract by notifying the other in writing, which notice shall specify a date of termination no earlier than twenty-four (24) hours after giving of such notice. Termination in accordance with this section shall be without penalty or expense to the Town, including, but not limited to any early termination fees or costs, except that the Town shall be responsible for any amount owed to Consultant for services provided prior to and through the date of termination.

#### **SECTION 5 –PALM BEACH COUNTY IG**

5.1 In accordance with Palm Beach County ordinance number 2011-009, this Addendum and the Contract may be subject to investigation and/or audit by the Palm Beach County Inspector General. Consultant should review Palm Beach County ordinance number 2011-009 in order to be aware of its rights and/or obligations under such ordinance and as applicable.

#### **SECTION 6 - TAXES**

6.1 The Town is exempt from payment of Florida State Sales and Use Tax.

#### **SECTION 7 – LAW, VENUE, AND REMEDIES**

7.1 This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract 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. This provision shall supersede and specifically replace all other law, venue and remedies provisions in the Contract Documents.

#### **SECTION 8 - ENTIRETY OF CONTRACTUAL AGREEMENT**

8.1 The Town and Consultant agree that the Contract Documents set forth the entire contract 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 the Contract Documents may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

**SECTION 9 – WAIVER**

9.1 Failure of either party to enforce or exercise any right(s) under the Contract Documents shall not be deemed a waiver of either party’s right to enforce or exercise said right(s) at any time thereafter.

**SECTION 10 – CONFLICT OF INTEREST**

10.1 The Consultant hereby warrants and represents that Consultant does not and will not represent any client where a conflict of interest with the representation of the Town may exist. This would include, but not be limited to, matters where representation would be adverse to the Town, or where representation would require Consultant to advocate or oppose a position contrary to a stated or intended Town position on the same or similar issue

**SECTION 11 – SURVIVAL**

11.1 Any provision of this Contract which is of a continuing nature or imposes an obligation which extends beyond the term of this Contract shall survive its expiration or earlier termination.

**SECTION 12 – SEVERABILITY**

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

**SECTION 13 – AUDIT; RECORDS**

13.1 The Consultant shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the services for at least three (3) years after completion of the Contract Documents. The Town shall have reasonable access, during normal business hours, to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours and upon reasonable prior notice, at the Consultant’s place of business. In no circumstances will the Consultant be required to disclose any confidential or proprietary information regarding its products and service costs.

**SECTION 14 – PUBLIC RECORDS**

14.1 Consultant shall comply with Florida’s Public Records Laws, and, if it is acting on behalf of the Town as provided under section 119.011(2), specifically agrees to:

- a) Keep and maintain public records required by the Town to perform the service.
- b) Upon request from public agencies custodian of public records, 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 the contract term and following completion of the contract if the contractor does not transfer the records to the Town.
- d) Upon completion of the contract, transfer, at no cost, to the Town all public records in possession of the contractor or keep and maintain public records required by the Town to perform the service. If the contractor transfers all public records to the Owner upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.
- e) **IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE THEIR DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT THE TOWN OF HIGHLAND BEACH, ATTN: LANELDA GASKINS, AT (561) 278-4548, LGASKINS@HIGHLANDBEACH.US, 3614 S. OCEAN BLVD., HIGHLAND BEACH, FL 33487.**

Failure of the Consultant to comply with the requirements of this section shall be a material breach of the Contract Documents. Town shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate.

#### **SECTION 15 – SCRUTINIZED COMPANIES**

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 Town may immediately terminate this Contract 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 Contract.

The Consultant agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Contract. The Consultant agrees that the certifications in this section shall be effective and relied upon by the Town for the term of this Contract, including any and all renewals. 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 Town of the same. 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 16 – E-VERIFY**

- 16.1 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 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;
  2. 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;
  3. Maintain copies of all subcontractor affidavits for the duration of this Agreement;
  4. Comply fully, and ensure all of its subcontractors 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.

**[SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, the parties hereto have caused this Addendum to be executed as of the day and year set forth above.

**TOWN OF HIGHLAND BEACH**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Position: \_\_\_\_\_

Attest: \_\_\_\_\_

**RUBIN, TURNBALL & ASSOCIATES, INC.**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Position: \_\_\_\_\_

[CORPORATE SEAL]