

## SERVICES AGREEMENT

(Market Viability Assessment – Lot J Redevelopment Project)

**THIS SERVICES AGREEMENT** (the “Agreement”) is made and entered into as of the \_\_\_\_\_ day of November, 2020 (the “Effective Date”), by and between the **CITY OF JACKSONVILLE**, a consolidated county political subdivision and municipal corporation existing under the laws of the State of Florida (“City”), and **ROBERT CHARLES LESSER & CO., LLC**, a Delaware limited liability company authorized to do business in Florida (“RCLCO”).

### BACKGROUND FACTS

**A.** The City Council for the City of Jacksonville (the “City Council”) is currently considering Ordinance 2020-648, a copy of which is on file with the City Council’s Legislative Services Division, an ordinance approving a mixed-use development on the current site of parking Lot J at the Sports Complex in downtown Jacksonville (the “Lot J Redevelopment Project”).

**B.** The development is being promoted by a partnership between the Jaguars and The Cordish Companies and involves significant commitments from the City.

**C.** The City Council would like assistance with evaluating the market viability of the Lot J Redevelopment Project based on available information as part of its due diligence for the City, to help ensure that the project (if approved) is successful and a good deal for the City.

**D.** The Lot J Redevelopment Project is arguably the largest public private partnership in the history of Jacksonville and merits a third party independent market analysis.

**E.** Pursuant to City of Jacksonville Ordinance 2020\_\_\_\_-E, City has selected RCLCO to perform certain market viability assessment services involving a strategic review and analysis of the Lot J Redevelopment Project.

**F.** City and RCLCO desire to enter into this Agreement regarding such services, subject to the terms and conditions set forth herein.

**NOW, THEREFORE**, for good and valuable consideration paid each respective party to the other, including, but not limited to, the covenants, conditions, and terms hereof, the sufficiency and receipt of said good and valuable consideration being herewith acknowledged by the respective parties, City and RCLCO agree as follows:

#### **Section 1. Background Facts and Capitalized Terms.**

1.1. The Background facts set forth herein are true and correct and are incorporated herein by this reference. All capitalized terms shall have the meanings ascribed to them in this Agreement.

## **Section 2. Engagement of RCLCO; Services to be Performed.**

2.1. City hereby engages RCLCO and RCLCO hereby accepts said engagement for the purpose of providing to City the services as described in and according to the provisions of the scope of services and performance schedule attached hereto as **Exhibit A-1** (the “Services”).

2.2. If any incidental services, functions, or responsibilities not specifically described in this Agreement are necessary for the proper performance of the Services, they shall be deemed to be implied by and included within the Services to the same extent and in the same manner as if specifically described in this Agreement. RCLCO shall be responsible for providing the equipment, supplies, information, personnel (including management, employees, and training), and other resources as necessary to provide the Services.

2.3. Upon request, City shall provide RCLCO during the term of this Agreement with City reasonable records and other information pertaining to the Project necessary for RCLCO to complete the Services, including but not limited to the Johnson Study (as defined herein) and Ordinance 2020-648. To the best of City’s knowledge, all information provided to RCLCO by or on behalf of City in connection with this Agreement (the “City Information”) will be accurate and complete in all material respects. RCLCO will rely on the City Information and, unless expressly agreed otherwise, will have no responsibility to evaluate or verify it.

2.4. City shall have the option to engage RCLCO under this Agreement to perform a market feasibility analysis in accordance with the optional market feasibility analysis scope of services and performance schedule more particularly described on **Exhibit B-1** attached hereto (the “Optional Additional Phase 2 Services”). RCLCO’s fee summary and payment schedule for the Optional Additional Phase 2 Services are set forth in **Exhibit B-2** attached hereto.

## **Section 3. Payments; Maximum Indebtedness.**

3.1. City will compensate RCLCO for the Services rendered hereunder in accordance with the Services set forth in **Exhibit A-1** and the fee summary and payment schedule set forth in **Exhibit A-2**.

3.2. The maximum indebtedness of City for all fees, reimbursable items, or other costs for the Services provided by RCLCO pursuant to this Agreement shall not exceed the sum of **TWENTY-SIX THOUSAND AND FIVE HUNDRED AND 00/100 DOLLARS (\$26,500.00)** for the term of this Agreement. All of City’s obligations under this Agreement are contingent upon the availability of lawfully appropriated funds for the Services.

3.3. Should the City exercise its option to engage RCLCO to perform the Optional Additional Phase 2 Services pursuant to Section 2.4 above, the maximum indebtedness amount in Section 3.2 shall be amended and increased, subject to lawfully appropriated funds, to include the fees for the Optional Additional Phase 2 Services set forth in **Exhibit B-2**.

**Section 4. Term.**

4.1. The term of this Agreement shall become effective as of the Effective Date and shall continue and remain in full force and effect as to all its terms, conditions, and provisions as set forth herein, until the completion of the Services and City's final payment hereunder, unless sooner terminated by either party as set forth herein.

**Section 5. Subcontractors Prohibited.**

5.1. RCLCO acknowledges and agrees that the Services to be performed by RCLCO pursuant to this Agreement are personal to RCLCO. RCLCO further acknowledges and agrees that it will not engage or employ any subcontractor or third party to perform any of the Services to be performed by RCLCO pursuant to this Agreement.

**Section 6. Contract Manager.**

6.1. City shall designate a Contract Manager under this Agreement who will, on behalf of City, coordinate with RCLCO and administer this Agreement according to the terms and conditions contained herein. It shall be the responsibility of RCLCO to coordinate the Services with the designated Contract Manager.

**Section 7. Delays.**

7.1. Neither party shall be considered in default in the performance of its obligations hereunder to the extent that the performance of such obligation is prevented or delayed by any cause beyond the reasonable control of the affected party, and the time for performance of either party hereunder shall in such event be extended for a period equal to any time lost due to such prevention or delay. Delays related to the 2019 Coronavirus Disease shall not be deemed delays under this Section.

**Section 8. Suspension of Services.**

8.1. City may suspend the performance of the Services rendered by providing one (1) days' written notice of such suspension. The Performance Schedule for the Services set forth on **Exhibit A-1** shall be amended by mutual agreement to reflect such suspension. In the event of suspension of the Services, RCLCO shall resume the full performance of the Services when directed in writing to do so by the Contract Manager. Suspension of the Services for reasons other than RCLCO's negligence or failure to perform shall not affect RCLCO's compensation as outlined in this Agreement.

**Section 9. Indemnification; Limitation of Liability.**

9.1. RCLCO shall adhere to the indemnification requirements contained on **Exhibit C**

attached hereto.

**Section 10. Insurance.**

10.1. RCLCO shall adhere to the insurance requirements contained on **Exhibit D** attached hereto.

**Section 11. Accuracy of Work.**

11.1. In providing the Services under this Agreement, RCLCO, including its officers, employees, and agents, will perform the Services in accordance with applicable professional standards and shall exercise that degree of skill and care required by customarily accepted good practices and procedures for the performance of the same or similar services. RCLCO shall be responsible for the accuracy of its work and shall promptly make necessary revisions or corrections resulting from errors and omissions on the part of RCLCO at no additional compensation.

11.2. At any time during the provision of the Services under this Agreement, RCLCO shall confer with City for the purpose of interpreting the information furnished and correcting any errors and/or omissions made by RCLCO. RCLCO shall prepare all data to correct its errors and/or omissions without added compensation even though final payment may have been received therefor.

**Section 12. Events of Default and Termination.**

12.1. Events of Default. The occurrence of any one or more of the following events prior to the expiration of the term shall constitute an “Event of Default” hereunder:

12.1.1. Failure to perform or observe any material term, agreement, covenant, or condition of this Agreement, which such default continues for two (2) days after written notice thereof.

12.1.2. A violation of any applicable and governing federal, state, or local law, rule, regulation, or policy with respect to the subject matter herein.

12.1.3. Any representation or warranty contained in this Agreement that is false or misleading in any material respect.

12.1.4. The application by RCLCO for, or consent to, the appointment of a receiver, trustee, liquidator, custodian, or similar official of its or of all or a substantial part of its assets, or if any party shall be unable or admit in writing to its inability to pay its debts as they mature, make a general assignment for the benefit of creditors, be adjudicated a bankrupt or insolvent, file a voluntary petition in bankruptcy or a petition or answer seeking reorganization or any arrangement with creditors or agrees to take advantage of any insolvency law, file an answer admitting the

material allegations of a petition filed against it in any bankruptcy, reorganization, or insolvency proceeding or if any corporate action shall be taken by it for any purpose of effecting any of the foregoing, or if any order, judgment, or decree shall be entered by a court of competent jurisdiction approving a petition seeking reorganization or appointing a receiver, trustee, liquidator, custodian, or other similar official of any party hereto or of all or a substantial part of its assets, and such other judgment or decree shall continue unstayed and in effect for a period of thirty (30) consecutive days.

12.2. Termination upon Event of Default. Upon the occurrence of an Event of Default, the non-defaulting party, at its sole and absolute election, may terminate this Agreement and exercise all rights and remedies it may have at law or in equity.

12.3. No Waiver. Failure by the non-defaulting party to notify the defaulting party of a default shall not be deemed to be a waiver by the non-defaulting party as to its rights on such default and shall not be deemed to be a waiver of the non-defaulting party's right to notify the defaulting party of such default at a subsequent time, and such notice shall have the same effect as if promptly made.

12.4. Availability of Funding. Notwithstanding the foregoing or any other provision of this Agreement to the contrary, City may terminate this Agreement at any time in the event of loss of funding for any reason by giving RCLCO twenty-four (24) hours' oral notice with written confirmation following.

12.5 Termination for Convenience. Notwithstanding any other provisions in this Agreement to the contrary, City may terminate this Agreement without cause for convenience by giving RCLCO two (2) days' advance written notice of the date of termination. Such notice shall be delivered by Certified United States Mail, return receipt requested, or by any other delivery method (e.g., overnight delivery, hand-delivery, facsimile, or e-mail) with evidence of receipt, to the RCLCO's representative who signed this Agreement at the address specified herein.

12.6. Cease Services. Upon RCLCO's receipt of a notice of termination by City and, except as otherwise directed, RCLCO shall:

- i. Cease providing Services under this Agreement on the date and to the extent specified in the notice of termination.
- ii. Place no further orders to the extent that they relate to the performance of the Services that were terminated.
- iii. Terminate all orders to the extent that they relate to the performance of the Services that were terminated.

In the event of termination of this Agreement, RCLCO shall be paid for the Services actually

performed up to the receipt of the notice of termination, except as otherwise provided by Sections 12.6(iv).

12.7. RCLCO may terminate this Agreement or any particular Services immediately upon written notice to City if it reasonably determines that it can no longer provide the Services in accordance with applicable law or professional obligations; provided however, upon such termination by RCLCO, RCLCO shall not be entitled to receive any payments from City under this Agreement for any Services performed by RCLCO from the Effective Date through the termination date and shall return to City all amounts paid to RCLCO under this Agreement within ten (10) days following RCLCO's written receipt of City's demand thereof.

**Section 13. Nonwaiver and Limitation of Liability.**

13.1. Nonwaiver. Failure by either party to insist upon strict performance of any of the provisions hereof, either party's failure or delay in exercising any rights or remedies provided herein, City's payment for the Services or any part or combination thereof, or any purported oral modification or rescission of this Agreement by an employee or agent of either party shall not release either party from its obligations under this Agreement, shall not be deemed a waiver of any rights of either party to insist upon strict performance hereof or of either party's rights or remedies under this Agreement or by law, and shall not operate as a waiver of any of the provisions hereof.

13.2 Limitation of Liability.

(a) Neither City nor RCLCO shall be liable, in contract or tort, under statute or otherwise, for any consequential, incidental, indirect, punitive, or special damages in connection with claims arising out of this Agreement or otherwise relating to the Services, including any amount for loss of profit, data, or goodwill, whether or not the likelihood of such loss or damage was contemplated.

(b) The foregoing limitations of liability do not apply to (i) personal injury, death, tangible, intellectual or real property damage, (ii) claims arising under any indemnity or warranty provisions of this Agreement, or (iii) losses caused by RCLCO's fraud or willful misconduct or to the extent prohibited by applicable law or professional regulations.

(c) RCLCO's total liability to City shall not exceed the total fees and expenses actually paid by City to RCLCO for the scope of work covered in this Agreement.

**Section 14. Compliance with State and Other Laws/Licenses and Certifications.**

14.1. In the provision of the Services, RCLCO must comply with any and all applicable federal, state, and local laws, rules, regulations, and ordinances as the same exist and may be amended from time to time. Such laws, rules, regulations, and ordinances shall include, but are not limited to, Chapter 119, Florida Statutes (the Florida Public Records Law), and Section

286.011, Florida Statutes (the Florida Sunshine Law). Such laws, rules, regulations, and ordinances must also include, but are not limited to, obtaining and maintaining all licenses and certifications that are required to perform the Services contemplated in this Agreement in the City of Jacksonville, State of Florida.

**Section 15. Nondiscrimination Provisions.**

15.1. In conformity with the requirements of Section 126.404, *Ordinance Code*, RCLCO represents that it has adopted and will maintain a policy of nondiscrimination against employees or applicants for employment on account of race, religion, sex, color, national origin, age, or handicap in all areas of employment relations throughout the term of this Agreement. RCLCO agrees that on written request, it will permit reasonable access to its records of employment, employment advertisement, application forms, and other pertinent data and records by the Executive Director of the Jacksonville Human Rights Commission or successor agency or commission for the purpose of investigation to ascertain compliance with the nondiscrimination provisions of this Agreement; *provided however*, that RCLCO shall not be required to produce for inspection records covering periods of time more than one (1) year prior to the day and year first above written.

**Section 16. Equal Employment Opportunity.**

16.1. The Equal Opportunity clause in Title 41, Part 60-1.4 of the Code of Federal Regulations (Paragraphs 1 through 7 of President's Executive Order 11246), the provisions of the Equal Opportunity for Individuals with Disabilities Act in 42 U.S.C. Section 12112, the Listing of Employment Openings for Veterans Clause in Title 41, Part 50-260.2 of the Code of Federal Regulations, and the Disabled Veterans and Veterans of the Vietnam Era Clause in Title 41, Part 60-250.5 of the Code of Federal Regulations are incorporated herein by reference if and to the extent applicable. If RCLCO is exempt from any of the above-cited terms, written evidence of such exempt status must be provided to City.

**Section 17. Contingent Fees Prohibited.**

17.1. In conformity with Section 126.306, *Ordinance Code*, RCLCO warrants that it has not employed or retained any RCLCO or person other than a bona fide employee working solely for RCLCO to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for RCLCO, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of these provisions, City shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the contract price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

**Section 18. Truth in Negotiation.**

18.1. In conformity with Section 126.305, *Ordinance Code*, RCLCO understands and agrees that execution of this Agreement by RCLCO shall be deemed to be simultaneous execution of a truth-in-negotiation certificate under this provision to the same extent as if such certificate had been executed apart from this Agreement, such certificate being required by Section 126.305, *Ordinance Code*, for professional services contracts over \$65,000.00. Pursuant to such certificate, RCLCO hereby states that the wage rates and other factual unit costs supporting the compensation hereunder are accurate, complete, and current at the time of contracting. Further, RCLCO agrees that the compensation hereunder shall be adjusted to exclude any significant sums where City determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs, provided that any and all such adjustments shall be made within one (1) year following the completion date of this Agreement.

**Section 19. Independent Contractor.**

19.1. In the performance of this Agreement, RCLCO shall be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture, or associate of City. RCLCO shall be solely responsible for the means, methods, techniques, sequences, and procedures utilized in the full performance of this Agreement. RCLCO will not assume any of City's management responsibilities in connection with the Services, and will not be responsible for the use or implementation of the output of the Services, although RCLCO may otherwise provide advice and recommendations to assist City in its management functions and making decisions.

**Section 20. Retention of Records/Audit.**

20.1. RCLCO must establish and maintain books, records, contracts, papers, financial records, supporting documents, statistical records, goods, services, and all other documents in whatsoever form or format, including but not limited to electronic storage media sufficient to reflect all receipt and expenditure of funds provided by City under this Agreement (for purposes of this Section 20, hereinafter the "Records").

20.2. RCLCO must retain all Records pertinent to this Agreement for a period of three (3) years after completion of the Services. If an audit has been initiated and audit findings have not been resolved at the end of six years, the Records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this Agreement, at no additional cost to City. Records shall be retained for longer periods when the retention period exceeds the time frames required by law or ordinance.

20.3. Upon demand, at no additional cost to City, RCLCO must facilitate the duplication and transfer of any Records during the required retention period in Section 20.2 hereof.

20.4. RCLCO must provide the Records at all reasonable times for inspection, review, copying, and/or audit by City.



20.5. At all reasonable times for as long as the Records are maintained, RCLCO must allow persons duly authorized by City to have full access to and the right to examine any of the Records, regardless of the form in which kept.

20.6. RCLCO, at its sole and exclusive cost and expense, must provide audits or reports as requested by City and must insure that all related party transactions are disclosed to the auditor.

20.7. RCLCO must comply and cooperate promptly with any inspections, reviews, and investigations related to the Records deemed necessary by City.

20.8. All reports, audits, and other information provided by RCLCO pursuant to this Section 20 shall contain the following statement: "The information provided to the City of Jacksonville in this submittal is submitted under penalties of perjury, under Section 837.06, Florida Statutes."

## **Section 21. Representation and Warranties by RCLCO to City.**

Without limiting the representations, warranties, and covenants of RCLCO set forth elsewhere in this Agreement, as a material inducement for City to enter into this Agreement, RCLCO represents and warrants to City (and unless otherwise specified, such representations, warranties, and covenants are true as of the Effective Date and shall continue to be effective during the Term of this Agreement as if continuously reiterated) that:

21.1. Robert Charles Lesser & Co., LLC, a duly organized and validly existing under the laws of the State of Delaware and is authorized to conduct business and is in good standing in the State of Florida. RCLCO has full power and authority to execute and deliver this Agreement and all documents contemplated hereby, and perform its obligations arising hereunder. The individuals signing on behalf of RCLCO have full power and authority to do so.

21.2. The making, execution, and delivery of this Agreement and the performance of all obligations hereunder by RCLCO have been duly authorized and approved by the appropriate members, shareholders, partners, principals, or officers of RCLCO.

21.3. This Agreement and all documents contemplated hereby each constitute a legal, valid, and binding obligation of RCLCO, enforceable in accordance with their respective terms, assuming execution of same by City.

21.4. This Agreement and all documents contemplated hereby do not and will not contravene any provision of the governing documents of RCLCO, any judgment, order, decree, writ, or injunction to which RCLCO is bound, or any provision of any applicable law or regulation to which RCLCO is bound. The execution and delivery of this Agreement and all documents contemplated hereby and performance of its obligations hereunder will not result in a breach of or

constitute a default under any agreement or require the consent from any third party.

21.5. RCLCO holds all necessary licenses, certifications, authorizations, and other approvals required by every governmental and regulatory authority related to entering into this Agreement and performing the Services.

21.6. RCLCO has not employed or retained any third party having a relationship with City to solicit or secure this Agreement and has not paid or agreed to pay any such person a fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the execution of this Agreement.

21.7. RCLCO has not engaged a broker, finder, or other similar third party in connection with this Agreement that would obligate City to pay any cost, expense, or fee to such broker, finder, or other similar third party.

21.8. RCLCO has the appropriate background, education, skill, knowledge, and personnel necessary to perform the Services in the manner and with the care and skill contemplated by this Agreement.

21.9. The representations and warranties of RCLCO in this section are not false or misleading in any material respect.

The foregoing representations and warranties are understood to be relied upon by City and shall survive indefinitely.

## **Section 22. Reports; Use of Documents.**

Any information, advice, recommendations, or other content of any reports or memorandums, presentations, or other communications RCLCO provides under this Agreement (“Report(s)”) are for the sole use of, and reliance by, City. The Reports prepared for City remain the property of RCLCO, including data used in the preparation of this report, the methodologies employed by RCLCO, any graphic design images and exhibit formatting visualizations and content. RCLCO gives City a perpetual, royalty-free, fully paid up license to use the report, included images and exhibits and exhibit content. City may use the Report in any manner or share it with others subject to the indemnification provisions in this Agreement.

## **Section 23. Miscellaneous.**

23.1. Governing State Law/Venue/Severability. The rights, obligations, and remedies of the parties as specified under this Agreement shall be interpreted and governed in all aspects by the laws of the State of Florida. Should any provision of this Agreement be determined by the courts to be illegal or in conflict with any law of the State of Florida, the validity of the remaining provisions shall not be impaired. Venue shall be in courts of competent jurisdiction located in

Jacksonville, Duval County, Florida.

23.2. Section Headings. Section headings appearing herein are inserted for convenience or reference only and shall in no way be construed to be interpretations of text.

23.3. Construction. Both parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. Therefore, any doubtful or ambiguous provisions contained herein shall not be construed against the party who physically prepared this Agreement.

23.4. Successors and Assigns. RCLCO shall not assign this Agreement.

23.5. Notice. All notices under this Agreement shall be delivered by certified mail, return receipt requested, or by other delivery (e.g., overnight delivery, hand-delivery, facsimile or e-mail) with receipt to the following:

As to City:

City of Jacksonville  
117 West Duval Street, Suite 400  
Jacksonville, Florida 32202  
Attn: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

As to RCLCO:

RCLCO  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

With a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

23.6. Ethics in Professional Service Agreements. RCLCO represents that it has reviewed the provisions of the Jacksonville Ethics Code, as codified in Chapter 602, *Ordinance Code*, and the provisions of the Jacksonville Purchasing Code, as codified in Chapter 126, *Ordinance Code*.

23.7. Conflict of Interest. The parties will follow the provisions of Section 126.112, *Ordinance Code*, with respect to required disclosures by public officials who have or acquire a financial interest in a bid or contract with the City of Jacksonville, to the extent the parties are aware of the same.

23.8. Public Entity Crimes Notice. The parties are aware and understand that a person or affiliate who has been placed on the State of Florida Convicted Vendor List following a conviction for a public entity crime may not: submit a bid on a contract to provide any goods or services to a public entity; submit a bid on a contract with a public entity for the construction or repair of a public building or public work; submit bids on leases of real property to a public entity; be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; or, transact business with any public entity, in excess of \$35,000.00, for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List.

23.9. Entire Agreement/Amendments. This Agreement constitutes the entire agreement between the parties hereto for the Services to be performed and furnished by RCLCO hereunder. No statement, representation, writing, understanding, agreement, course of action, or course of conduct made by either party or any representative of either party which is not expressed herein shall be binding. All changes to, additions to, modifications of, or amendments to this Agreement or any of the terms, provisions, and conditions hereof shall be binding only when in writing and signed by the authorized officer, agent, or representative of each of the parties hereto.

23.10. Exhibits. All exhibits and other attachments to this Agreement are by this reference made a part hereof and are incorporated herein.

23.12. Counterparts and Electronic Signatures. This Agreement and all amendments thereto may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument. This Agreement may be executed by the parties via electronic signatures.

23.13. Severability. Except as expressly provided to the contrary herein, each section, part, term, or provision of this Agreement shall be considered severable, and if for any reason any section, part, term, or provision herein is determined to be invalid, contrary to, or in conflict with any existing or future law, rule, or regulation by a court or governmental agency having competent jurisdiction, such determination shall not impair the operation of or have any other effect on the remaining sections, parts, terms, or provisions of this Agreement, which shall continue to be given full force and effect and bind the parties hereto. Such invalid sections, parts, terms, or provisions shall be deemed to be not a part of this Agreement.

23.14. Survival. All representations, warranties, indemnities and other covenants set forth herein shall be deemed continuing in nature and shall survive the expiration or early termination of this Agreement.

23.15. Public Records. This Agreement and any related documents, including the Report, are considered public records under the “Public Records Law,” Chapter 119, Florida Statutes, unless specifically exempted by law. In accordance with Section 119.0701, Florida Statutes, the Contractor shall:

1. Keep and maintain public records required by City to perform the Services under this Agreement; and
2. Upon request from City’s custodian of public records and in accordance with applicable patient privacy and confidentiality laws, provide City with a copy of the requested records or allow records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for in Chapter 119, Florida Statutes, or as otherwise provided by law; and
3. 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 Agreement Term and following completion of this Agreement if the Contractor does not transfer the records to City; and
4. Upon completion of this Agreement, keep and maintain public records required by City to perform the Services. Upon request by City, the Contractor may also transfer public records to City in accordance with applicable laws. If the Contractor transfers all public records to City upon completion of this Agreement, the Contractor shall destroy any duplicate public records in its possession that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of this Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to City upon request from City’s custodian of public records in a format that is compatible with City’s information technology systems.

The above requirements apply to the RCLCO to the extent it is a “Contractor” as defined in Section, 119.0701, Florida Statutes.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, IT MAY CONTACT THE CITY’S**

**CUSTODIAN OF PUBLIC RECORDS AT (904) 630-7678; REQUEST@COJ.NET; CITY OF JACKSONVILLE, PUBLIC RECORDS REQUEST, 214 N. HOGAN STREET, SUITE 1180, JACKSONVILLE, FLORIDA 32202.**

23.16. Scrutinized Companies List. Pursuant to Section 287.135 (2), Florida Statutes, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with an agency or local government entity for goods or services of:

- (i) Any amount if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, RCLCO is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or
- (ii) One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, RCLCO:
  - (1) Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes; or
  - (2) Is engaged in business operations in Cuba or Syria.

Pursuant to Section 287.135(3)(a)4, Florida Statutes, City may terminate this Agreement at City's option if the Agreement is for goods or services in an amount of one million dollars or more and RCLCO:

- (1) Is found to have submitted a false certification under Section 287.135(5), Florida Statutes;
- (2) Has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes; and
- (3) Is engaged in business operations in Cuba or Syria.

Pursuant to Section 287.135(3)(b), Florida Statutes, City may terminate this Agreement at City's option if the Agreement is for goods and services of any amount and RCLCO:

- (1) Is found to have been placed on the Scrutinized Companies that Boycott Israel List; or
- (2) Is engaged in a boycott of Israel.

23.17. Confidential Information. To the extent permitted by law, each party agrees not to use, disclose, sell, license, publish, reproduce, or otherwise make available the Confidential

Information of the other party except and only to the extent necessary to perform under this Agreement. To the extent permitted by law, each party agrees to secure and protect the other party's Confidential Information in a manner consistent with the maintenance of the other party's confidential and proprietary rights in the information and to take appropriate action by instruction or agreement with its employees, consultants, or other agents who are permitted access to the other party's Confidential Information to satisfy its obligations under this Section. The provisions of this paragraph shall be subject to Florida's Public Records Laws and shall survive the term of this Agreement.

23.18. General Limiting Conditions. It is understood by City that RCLCO can make no guarantees about the recommendations resulting from the proposed engagement because these recommendations must be based upon facts discovered by RCLCO during the course of the study and those conditions existing as of the date of the Report.

It is understood that RCLCO's fee for the undertaking of this engagement is in no way dependent upon the specific conclusions reached or the nature of the advice given by RCLCO in its Report to City. The final Report furnished by RCLCO will contain a statement of general limiting conditions, as follows:

"Reasonable efforts have been made to ensure that the data contained in this study reflect accurate and timely information and are believed to be reliable. This study is based on estimates, assumptions, and other information developed by RCLCO from its independent research effort, general knowledge of the industry, and consultations with the client and its representatives. No responsibility is assumed for inaccuracies in reporting by the client, its agent, and representatives or in any other data source used in preparing or presenting this study. This report is based on information that to our knowledge was current as of the date of this report, and RCLCO has not undertaken any update of its research effort since such date. Our report may contain prospective financial information, estimates, or opinions that represent our view of reasonable expectations at a particular time, but such information, estimates, or opinions are not offered as predictions or assurances that a particular level of income or profit will be achieved, that particular events will occur, or that a particular price will be offered or accepted. Actual results achieved during the period covered by our prospective financial analysis may vary from those described in our report, and the variations may be material. Therefore, no warranty or representation is made by RCLCO that any of the projected values or results contained in this study will be achieved. Possession of this study does not carry with it the right of publication thereof or to use the name of "Robert Charles Lesser & Co." or "RCLCO" in any manner without first obtaining the prior written consent of RCLCO. No abstracting, excerpting, or summarization of this study may be made without first obtaining the prior written consent of RCLCO. This report is not to be used in conjunction with any public or private offering of securities or other similar purpose where it may be relied upon to any degree by any person other

than the client without first obtaining the prior written consent of RCLCO. This study may not be used for any purpose other than that for which it is prepared or for which prior written consent has first been obtained from RCLCO.”

**[Remainder of page left blank intentionally; signature page follows.]**



**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement the day and year first above written.

**ATTEST:**

**CITY OF JACKSONVILLE**

By: \_\_\_\_\_  
James R. McCain, Jr.  
Corporation Secretary

By: \_\_\_\_\_  
Lenny Curry, Mayor

Date: \_\_\_\_\_

Encumbrance and funding information for internal City use:

Account/PO Number \_\_\_\_\_

Amount: **\$24,000.00**

This above stated amount is the maximum fixed monetary amount of the foregoing Agreement. It shall not be encumbered by the foregoing Agreement. It shall be encumbered by one (1) or more subsequently issued purchase order(s) that must reference the foregoing Agreement. All financial examinations and funds control checking will be made at the time such purchase order(s) are issued.

In accordance with Section 24.103(e), of the Ordinance Code of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered and unimpounded balance in the appropriation sufficient to cover the foregoing Agreement; provided however, this certification is not nor shall it be interpreted as an encumbrance of funding under this Agreement. Actual encumbrance[s] shall be made by subsequent purchase order[s], as specified in said Agreement.

\_\_\_\_\_  
Director of Finance  
City Contract # \_\_\_\_\_

FORM APPROVED:

By: \_\_\_\_\_  
Office of General Counsel

**ROBERT CHARLES LESSER & CO.,  
LLC**, a Delaware limited liability company

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Type/Print Name

## Exhibit A-1

### **Scope of Services – Phase 1 Services**

1. Review the Jacksonville, Florida, Economic and Fiscal Impact Analysis dated October 21, 2020 (the “Johnson Study”) prepared for the Project and, based on RCLCO’s professional experience and knowledge of similar or comparable developments and market feasibility studies, identify and comment on (i) any assumptions, methods of analysis and conclusions contained in the Johnson Study that are not consistent with best practices used by firms engaged to conduct market feasibility studies for developments similar to the Project; (ii) any matters typically covered similar studies pertaining to similar or comparable developments; (iii) the strengths and weaknesses in the Study. The review conducted by RCLCO shall include the Horizontal Infrastructure Improvements, the Vertical Infrastructure Improvements, the Live! Component, the Hotel Component and the Mixed-Use Component (each a “Component”) as such terms are defined in the Development Agreement between the City and the Developer.
  
2. Review the proposed legislation approving the Project as available on the City’s website or as provided by City, to include the Development Agreement between the Developer and the City and the other transactional documents attached as exhibits to the legislation (or updated versions of such documents provided by the City’s Office of General Counsel). Based on this review and RCLCO’s experience with other similar arrangements for similar developments in other counties and municipalities, identify and comment on any areas and/or material targeted issues that are unique or difference compared to other similar or comparable developments based on RCLCO’s experience that could be further refined to the benefit of the City, any rights and obligations of the parties contained in these documents that are not typically found in development agreements for similar projects, and any terms that pose significant risks for the City, including identifying any methods to mitigate these risks, if any, in a manner commonly seen in other development agreements. RCLCO’s will provide an outline of material issues and prioritize each issue based on the magnitude of potential ramifications, if any.
  
3. Provide RCLCO’s opinion relative to the market viability of each Component of the Project based upon the review above, RCLCO’s experience, and readily available market information that can reasonably be assembled and analyzed in the timeframe available for this phase of the Services. For this phase of the Services, the City acknowledges that RCLCO will have limited opportunity to independently verify all assumptions relative to supply and demand and the subject property’s ability to capture sufficient market share. RCLCO will take a deeper dive into the Project’s market feasibility should the City engage RCLCO to perform the Optional Additional Phase 2 Services. RCLCO shall include in its opinion a SWOT analysis based on available information (strengths, weaknesses, opportunities and threats) and its review of the Johnson Study.

4. Identify issues and risks as well as potential solutions or mitigations that RCLCO recommends be evaluated more in-depth as a part of the Optional Additional Phase 2 Services.
5. Prepare a written Executive Memorandum summarizing RCLCO's findings, analysis and conclusions relating to the work to be provided by RCLCO as described in items 1-4 above.
6. Participate in a web-meeting conference call (Zoom, Microsoft Teams, Webex or other Council preferred platform) to verbally present RCLCO's conclusions and recommendations pertaining to this Scope of Services.

#### **Performance Schedule – Phase 1 Services**

The performance schedule for the Phase 1 Scope of Services shall be nine (9) calendar days from the Effective Date of this Agreement.

**Exhibit A-2**

**Fee Summary and Payment Schedule**

**TIME AND PROFESSIONAL FEE SCHEDULE**

RCLCO shall complete the Scope of Services contained in this Exhibit A-1 and deliver the Executive Memorandum on or before the date that is nine calendar days after the Effective Date of this Agreement. The fees to be paid to RCLCO for this Scope of Services is shown below.

	Timing	Professional Fee	Additional Meeting /Contingency	Travel Expenses (Not to Exceed)
Phase 1: Initial Review and Memorandum	9 calendar days	*\$24,000.00	\$2,500.00	No Travel

\*12,000.00 of City shall pay to RCLCO within three (3) days from the Effective Date of this Agreement.

The professional fees for the Services will be billed on the basis of time and expense actually incurred by RCLCO in performing the Services, not to exceed the quoted figures above. The professional fees include expenses related to data subscriptions and materials expenses (7% of the professional fee)

## Exhibit B-1

### **Scope of Services - Optional Additional Services – Phase 2**

The objective of the Optional Additional Phase 2 Services is to carefully forecast market-driven demand for the proposed land uses at the subject site. The analytical tasks will include an in-depth analysis of area socioeconomic and demographic trends focusing on the various sources of demand for uses at the subject site such as proximity to events at the Stadium, opportunity for the development to be a destination in and of itself for events and as an entertainment district, an assessment of appropriate market positioning (including quantities and densities, configurations, lease rates, prices, rents, etc.), and a projection of the likely future performance of the proposed land uses over a forecast absorption period.

1. **Kick-Off Meeting:** Conduct a kick-off meeting with Project team members and other individuals identified by the City to review and refine the assignment objectives and our approach, and to obtain a complete debriefing from the City about the Project and any relevant information from prior work completed relative to this Scope of Services.

2. **Site Evaluation:** Visit the subject property and evaluate the development potential of Jacksonville's Sports and Entertainment District and surrounding properties, including, but not limited to, Lot J, the Stadium, the Amphitheater, Metropolitan Park, the Baseball Field and the Arena based on an investigation of its location, access, visibility, zoning and planning status, current and/or proposed neighboring uses, topography, views, vegetation, other natural and/or man-made features, on-site improvements (if any), and other pertinent factors.

3. **Regional Socioeconomic Analysis:** Determine the regional economic development context influencing future development in the region, and at the subject property specifically. Describe future growth patterns in the local area through an analysis of key socio-economic and demographic statistics pertaining to the future demand for different product types. Comment on the reasonableness of available population and employment projections based on observed local and regional economic patterns; offer alternative projections and explain the rationale for these changes if appropriate. This should include but not be limited to:

- a. Employment trends;
- b. Population and household growth trends;
- c. Household distribution by age, income, and type;
- d. Retail expenditures;
- e. Land use (historical and projected) trends;
- f. Tenure;
- g. Geographic distribution of the above within the environs, MSA, and region; and
- h. Impact of COVID-19 on all of the above items.

4. **Local Market Context:** Obtain and analyze secondary market information regarding the health of and trends occurring in the market and relevant submarket(s) for each land use, focusing in particular

on new construction activity. Characterize the relevant concentrations of each product type in the local market, including amount and type of space, general market performance, pricing power, character and geographic draw, and so forth.

5. Competitive Supply Analysis: Investigate existing, planned, and proposed supply characteristics for the most innovative and relevant competitive properties for each Component of the Project (as detailed in the assignment objectives) to understand competitive market conditions.

- a. Define the appropriate competitive market area(s) for each Component proposed at the subject property. Evaluate historical performance indicators of supply/demand in this area relative to the broader market.
- b. Profile competitive properties based on total SF/units, year built, developer/owner, location, rents/prices, occupancy, target market audience, product type, and critical success factors, as available.
- c. Identify potential future supply, including projects under construction, which would be likely to compete with the subject site in terms of location, timing, or product positioning.
- d. Examine the impact of this new product on the local market and the opportunities at the subject site.

6. Demand Forecast and Market Outlook: Develop market forecasts for future demand for each Component of the Project by land use at the subject property over the next five to ten years, in light of regional growth projections, the absorption history of recently built projects, location strengths, and planned additions to the supply.

- a. Define the appropriate primary market area(s) for each product type proposed at the subject property.
- b. For each land use, construct a detailed statistical model to calculate the demand potential in the PMA using relevant economic, demographic, and preference/behavior data compared against recent absorption trends.
- c. Compare and contrast the site's locational strengths versus existing and planned developments in the immediate region. Estimate the relationship and the magnitude of demand that the subject site might capture at rent levels and sales prices supportive of new construction, considering other under construction, planned, and proposed properties and potential destination-type users that could locate at the site.
- d. Synthesize this information to inform a series of recommendations regarding the future market trajectory, and the depth of support and rent/price positioning for the recommended land uses at the site.

8. Case Study and Analogue Research: Profile two to four other successful mixed-use districts, with a focus on Live! Districts, anchored by sports and entertainment facilities to evaluate what has been successful, the similarities/differences of those locations to Jacksonville, and the impact in the surrounding market.

- a. Research the mix of uses, lease rates compared to other existing centers, and the implications for retail at each case study in terms of demand by type, orientation, and timing.
- b. Characterize other centers relative to their critical success factors and levels of underlying market support to identify metrics with which to evaluate the subject project, and gauge the degree to which those same elements are present, or could be present, and the degree to which those same factors may (or may not) apply here in Jacksonville.
- c. Utilize these metrics to assess the viability of the project as proposed and/or offer adjustments to the program based on our findings
- d. Include an analysis of other Cordish Live! developments.

9. **Summary of Market Opportunity:** Incorporate all of the above into a market opportunity matrix that provides the rent/price positioning and supportable scale (units/SF) for each land use at the property, and assess the relative supply, demand, concept/positioning, and site opportunity of each development option. For each land use, the matrix will include:

- a. Rental Apartments: Total units, product type, absorption pace, and projected rents (gross and effective) in today's dollars
- b. For-Sale Condominiums: Total units, product type, sales paces, and projected sales prices in today's dollars
- c. Office: Total square feet supported in the near-term (0-5 years) and mid-term (6-10 years), projected absorption timeline, and projected rents (gross and effective) in today's dollars.
- d. Retail, Restaurants, and Entertainment: Total square feet by concept (lifestyle, community, neighborhood, etc.), projected absorption timeline, and projected rents (gross and effective) in today's dollars.
- e. Hospitality: Supportable hotel keys, likely chain scale/level of service, estimated ADR and occupancy

10. **Strategic Development Recommendations:** Recommend the most viable development concepts to pursue on site and prepare a site-specific development program that best responds to the site constraints and market opportunity based on the above opportunity matrix, including:

- a. The appropriate types and mix of development products by square feet, density, and land area consumed;
- b. Recommendations as to the target market audiences for each land use;
- c. Market positioning as defined by price and size ranges, or lease rates and ADR;
- d. An absorption and phasing timeline; and,
- e. Marketing/branding strategies and other critical success factors.

11. **Working Session:** Conduct a working session at our office<sup>2</sup> or via webex, at which time we will present our findings, conclusions and recommendations. Supporting documentation in the form of exhibits, tables, and charts will be made available at the working session.

12. **Final Report:** Prepare an Executive Report summarizing our key findings, conclusions, and recommendations under this engagement. The Final Executive Report shall cover the following

topics:

#### Objectives and Key Findings

- Objectives
- Key findings
- Summary of Market Opportunity by land use
- Assessment of proposed development program and market risks/opportunities based on RCLCO's market analysis

#### Regional and Site Overview

- Regional employment growth
- Economic expansion by sector
- Metropolitan development trends
- Regional context
- Site analysis

#### Retail, Restaurant, and Entertainment Market Analysis (of Live! Component)

- Regional retail destinations
- Existing retail supply and performance in downtown
- Drivers of retail demand at the site
- Retail programming at site
- Comparison to other Live! Venues and relevant case studies

#### Multifamily Market Analysis

- Primary market area overview
- Historical market trends
- Demand forecast
- Performance of competitive properties
- Target market audience and site positioning

#### Office Market Analysis

- Regional office cores
- Existing office supply and performance in downtown
- Drivers of office demand at the site
- Target tenants and site positioning

#### Hotel Market Analysis

- Existing and planned hotel supply
- Hotel market trends
- Hotel demand
- Site positioning



### **Performance Schedule – Optional Additional Phase 2 Services**

The performance schedule for the Phase 1 Scope of Services shall be no more than six (6) weeks from the Effective Date of a written amendment to this Agreement increasing the maximum indebtedness of this Agreement to include funding for the Optional Additional Phase 2 Services.

**Exhibit B-2**

**Fee Summary and Payment Schedule - Optional Additional Phase 2 Services**

**TIME AND PROFESSIONAL FEE SCHEDULE**

RCLCO shall complete the Scope of Services contained in Exhibit B-1 and deliver the Final Report on or before the date that is six calendar weeks from the date of the kick-off session. The fees to be paid to RCLCO for this Scope of Services is shown below.

	Timing	Professional Fee	Additional Meeting /Contingency	Travel Expenses (Not to Exceed)
Phase 2: Market Feasibility Analysis, Report	Four to Six Weeks	\$40,000.00	\$5,500.00	\$2,500

The professional fees for the Services will be billed on the basis of time and expense actually incurred by RCLCO in performing the Services, not to exceed the quoted figures above. The professional fees include expenses related to data subscriptions and materials expenses (7% of the professional fee).

## Exhibit C

### **Indemnification**

RCLCO shall hold harmless, indemnify, and defend City and City's members, officers, officials, and employees (collectively the "Indemnified Parties") from and against, without limitation, any and all claims, suits, actions, losses, damages, injuries, liabilities, fines, penalties, costs, and expenses of whatsoever kind or nature (including, but not limited to, court, investigation, and defense costs and reasonable expert and attorney's fees) which may be incurred by, charged to, or recovered from any of the foregoing Indemnified Parties for:

(a) General Tort Liability, for any negligent act, error, omission, recklessness, or intentionally wrongful conduct on the part of the RCLCO, or persons employed or utilized by the RCLCO in the performance of the Services, that causes injury (whether mental or corporeal) to persons (including death) or damage to property, whether arising out of or incidental to the RCLCO's performance of the Agreement, operations, services, or work performed hereunder; and

(b) To the extent this Agreement contemplates intellectual property exposures, Intellectual Property Liability, arising directly or indirectly out of any claims by third parties that the Report provided in connection with the Services constitutes an infringement of any copyright, U.S. patent, trade secret, or trademark; provided, however, that RCLCO shall have no such indemnification obligation to the extent that the alleged infringement arises out of or results from (i) data, materials, or other content provided by, from, through, or at the request of, City, (ii) any modification or alteration to, or of, the Reports by anyone other than RCLCO or not at RCLCO's direction, or (iii) RCLCO's compliance with City's designs, specifications, requests, or instructions in the creation of the Reports. If in any such suit or proceeding, the Report is held to constitute an infringement and its use is permanently enjoined, RCLCO shall promptly make every commercially reasonable effort to secure within 60 days, or such other period reasonable under the circumstances, for the Indemnified Parties a license authorizing the continued use of the Services or product. If RCLCO fails to secure such a license for the Indemnified Parties, then RCLCO shall replace the Services or product with non-infringing Services or product or modify such Services or product in a way satisfactory to the Indemnified Parties so that the Service or product is non-infringing.

(c) If an Indemnified Party exercises its rights under this Agreement, the Indemnified Party will (1) provide reasonable notice to RCLCO of the applicable claim or liability, and (2) allow RCLCO, at their own expense, to participate in the litigation of such claim or liability to protect their interests.

(d) The indemnifications above are separate and apart from, and are in no way limited by, any insurance provided pursuant to this Agreement or otherwise. This provision relating to indemnification shall survive the term of this Agreement and any holdover and/or contract extensions thereto, whether such term expires naturally by the passage of time or is terminated earlier pursuant to the provisions of this Agreement.

**Exhibit D**

**Insurance**

Without limiting its liability under this Agreement, RCLCO shall procure prior to commencement of the Services and maintain at its sole expense during the life of this Agreement insurance of the types and limits not less than the amounts stated below, and prior to work commencement provide a certificate with applicable endorsements on a standard accord form evidencing the following required coverages to the City:

<b>Schedule</b>	<b>Limits</b>
<b>Worker's Compensation Employer's Liability</b>	Florida Statutory Coverage \$1,000,000 Each Accident \$1,000,000 Disease Policy Limit \$1,000,000 Each Employee/Disease

This insurance shall cover RCLCO for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers' Compensation Act, coverage is to be included for the Federal Employers' Liability Act and any other applicable federal or state law where appropriate.

<b>Commercial General Liability</b>	\$2,000,000	General Aggregate
	\$2,000,000	Products & Completed Ops Aggregate
	\$1,000,000	Personal/Advertising Injury
	\$1,000,000	Each Occurrence
	\$ 50,000	Fire Damage
	\$ 5,000	Medical Expenses

Such insurance shall be no more restrictive than that provided by the most recent version of the standard Commercial General Liability Form (ISO Form CG 00 01) as filed for use in the State of Florida without any restrictive endorsements other than those approved by the City's Office of Risk Management.

<b>Automobile Liability</b> (Coverage for all automobiles owned, hired, or non-owned used in performance of the Services)	\$1,000,000	Each Occurrence – Bodily Injury and Property Damage Combined
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Such insurance shall be no more restrictive than that provided by the most recent version of the standard Business Auto Coverage Form (ISO Form CA0001) as filed for use in the State of Florida without any restrictive endorsements other than those which are required by the State of Florida, or equivalent manuscript form, and must be attached to the policy equivalent endorsement as filed with ISO (i.e., mandatory endorsement).

<b>Professional Liability</b>	\$5,000,000 Per Claim
	\$5,000,000 Aggregate

Such insurance shall be on a form acceptable to City and shall cover for those sources of liability arising out of the rendering of, or failure to render, the Services. Such coverage must be provided on an Occurrence Form or, if on a Claims Made Form, the retroactive date must be no later than the first date of this Agreement and such claims-made coverage must respond to all claims reported within three years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

**Additional Insurance Provisions**

- A. **Additional Insured.** All insurance except Workers' Compensation and Crime shall be endorsed to name the City and its members, officials, officers, employees and agents as Additional Insured. Additional Insured for General Liability shall be in a form no more restrictive than CG2010 and CG2037, Automobile Liability CA2048.
- B. **Waiver of Subrogation.** All required insurance policies shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the City and its members, officials, officers employees and agents.
- C. **RCLCO's Insurance Primary.** The insurance provided by the RCLCO shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by the City or any City members, officials, officers, employees and agents but only for claims arising out of the RCLCO's activities.
- D. **Deductible or Self-Insured Retention Provisions.** All deductibles and self-insured retentions associated with coverages required for compliance with this Agreement shall remain the sole and exclusive responsibility of the named insured RCLCO. Under no circumstances will the City and/or its members, officers, directors, employees, representatives, and agents be responsible for paying any deductible or self-insured retentions related to this Agreement.
- E. **RCLCO's Insurance Additional Remedy.** Compliance with the insurance requirements of this Agreement shall not limit the liability of the RCLCO or its subcontractors, employees or agents to the City or others. Any remedy provided to the City and/or its members, officials, officers, employees or agents shall be in addition to and not in lieu of any other remedy available under this Agreement or otherwise.

- F. Waiver/Estoppel. Neither approval by the City nor failure to disapprove the insurance furnished by the RCLCO shall relieve RCLCO of the RCLCO's full responsibility to provide insurance as required under this Agreement.
- G. Certificates of Insurance. The RCLCO shall provide the City with Certificates of Insurance that show the corresponding City contract number in the description, if known, Additional Insured as provided above, and waivers of subrogation. The Certificates of Insurance shall be mailed to the City of Jacksonville (Attention: Chief of Risk Management), 117 W. Duval Street, Suite 335, Jacksonville, Florida 32202.
- H. Carrier Qualifications. The above insurance shall be written by an insurer holding a current certificate of authority pursuant to Chapter 624, Florida Statutes, or a company that is declared as an approved surplus lines carrier under Chapter 626, Florida Statutes. Such insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better.
- I. Notice. The RCLCO shall provide an endorsement issued by the insurer to provide the City thirty (30) days' prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal. If such endorsement is not provided, then the RCLCO shall provide said thirty (30) days' written notice of any change in the above coverages or limits, coverage being suspended, voided, cancelled, including expiration or non-renewal.
- J. Survival. Anything to the contrary notwithstanding, the liabilities of the RCLCO under this Agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.
- K. Additional Insurance. Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the City may reasonably require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that the City also be included as an Additional Insured.
- L. Special Provisions. Prior to executing this Agreement, the RCLCO shall present this Agreement and **Exhibit C** (Indemnification) and **Exhibit D** (Insurance) to its insurance agent affirming that: (1) the agent has personally reviewed the insurance requirements of the Agreement documents, and (2) the agent is capable (has proper market access) to provide the coverages and limits of liability required on behalf of the RCLCO.