RESOLUTION NO. ___2015-R-30_____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, APPROVING THE CITY ADMINISTRATION'S SELECTION OF M&M STABLES SOUTH LLC, TO PROVIDE THE LABOR, SUPERVISION, MATERIALS, EQUIPMENT, TOOLS, MACHINERY, EXPERTISE, AND OTHER SERVICES NECESSARY FOR COMPREHENSIVE EQUINE MANAGEMENT SERVICES AT THE ENCHANTED FOREST ELAINE GORDON PARK EQUESTRIAN CENTER, IN ACCORDANCE WITH THE TERMS, CONDITIONS, AND SPECIFICATIONS CONTAINED IN THE REQUEST FOR PROPOSAL NO. 03-14-15, ENCHANTED FOREST ELAINE GORDON PARK EQUESTRIAN CENTER MANAGEMENT AND OPERATION SERVICES; AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT, IN SUBSTANTIALLY THE ATTACHED FORM, WITH M&M STABLES SOUTH LLC; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.

WHEREAS, on December 16, 2014, the City of North ("City") advertised ***Request for Proposal No. 03-14-15, Enchanted Forest Elaine Gordon Park Equestrian Center Management and Operation Services*** ("RFP"), to provide the labor, supervision, materials, equipment, tools, machinery, expertise, and other services necessary for comprehensive equine management services, including the management, maintenance and operation of the worksite encompassing the facilities, office area, restrooms, stables, corrals, public pony rides, riding lessons, horse camp, horse training, horse care and maintenance lessons, horse boarding and veterinarian care, in accordance with the terms, conditions, and specifications contained in the RFP ("Services); and

WHEREAS, M&M Stables South LLC ("Contractor"), timely submitted its proposal and was evaluated as the highest ranked respondent by the City's Evaluation Committee, and which had demonstrated qualifications and references that were the most advantageous to the City in the procurement of Services; and

WHEREAS, the Contractor has expressed its capability, expertise and willingness to perform the Services, at a monthly fee payable to the City in the amount of not less than Six Hundred Twenty-Five Dollars ($625.00) per month, in addition to a percentage of Contractor's gross monthly sales of not less than ten (10) percent; and

WHEREAS, the City Manager respectfully requests that the Mayor and City Council approve the selection of Contractor, in order to provide the much needed Services at the Enchanted Forest Elaine Gordon Park Equestrian Center; and

WHEREAS, the Mayor and City Council, find that entering into an agreement with Contractor for the provision of Services, in substantially the attached form, is advantageous to the public health, safety and welfare, and is thereby, in the best interest of the City.

NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:

Section 1. **Selection Approval.** The Mayor and City Council of the City of North Miami, Florida, hereby approve the City administration's selection of M&M Stables South LLC, to provide the labor, supervision, materials, equipment, tools, machinery, expertise, and other services necessary for comprehensive equine management services at the Enchanted Forest Elaine Gordon Park Equestrian Center, in accordance with the terms, conditions, and specifications contained in the *Request for Proposal No. 03-14-15, Enchanted Forest Elaine Gordon Park Equestrian Center Management and Operation Services*.

Section 2. **Authority of City Manager.** The Mayor and City Council of the City of North Miami, Florida, hereby authorize the City Manager to execute an agreement, in substantially the attached form, with M&M Stables South LLC.

Section 3. **Effective Date.** This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by a ____4-0___ vote of the Mayor and City Council of the City of North Miami, Florida, this __10th__ day of March, 2015.

DR. SMITH JOSEPH
MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Galvin

Seconded by: Bien-Aime

Vote:

Mayor Smith Joseph, D.O., Pharm.D.	X (Yes)	(No)
Vice Mayor Carol Keys, Esq.	X (Yes)	(No)
Councilman Scott Galvin	X (Yes)	(No)
Councilman Philippe Bien-Aime	X (Yes)	(No)
Councilwoman Marie Erlande Steril, MSW	(Yes)	(No) Absent

CITY OF NORTH MIAMI

ENCHANTED FOREST / ELAINE GORDON PARK EQUESTRIAN CENTER MANAGEMENT AND OPERATIONS SERVICES AGREEMENT (RFP No. 03-14-15)

THIS EQUESTRIAN CENTER MANAGEMENT AND OPERATIONS SERVICES AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2015, by and between the **City of North Miami**, a Florida municipal corporation, located at 776 NE 125th Street, North Miami, FL ("City") and **M&M Stables South LLC**, a limited liability company organized and existing under the laws of the State of Florida, having its principal business office at 7350 SW 39th Street, Davie, FL ("Contractor"). The City and Contractor shall collectively be referred to as the "Parties", and each may individually be referred to as a "Party".

RECITALS

WHEREAS, on December 16, 2014, the City of North Miami ("City") advertised ***Request for Proposal No. 03-14-15, Enchanted Forest Elaine Gordon Park Equestrian Center Management and Operation Services*** ("RFP"), to provide the labor, supervision, materials, equipment, tools, machinery, expertise, and other services necessary for comprehensive equine management services, including the management, maintenance and operation of the Worksite encompassing the facilities, office area, restrooms, stables, corrals, for public pony rides, riding lessons, horse camp, horse training, horse care and maintenance, horse boarding and veterinarian care, in accordance with the terms, conditions, and specifications contained in the RFP; and

WHEREAS, in response to the RFP, Contractor submitted its sealed proposal and related documents expressing the capability, willingness and expertise necessary to perform the Services, pursuant to RFP requirements; and

WHEREAS, the Proposal was reviewed and selected by the City's Evaluation Committee as the highest ranked response, including qualifications and references most advantageous to the City in the procurement of Services; and

WHEREAS, on March 10, 2015, the Mayor and City Council passed and adopted Resolution No. _____-____, approving the selection of Contractor, and authorized the City Manager and City Attorney to execute this Agreement, for the provision of Services in accordance with the terms, conditions, and specifications contained in the Contract Documents.

NOW THEREFORE, in consideration of the mutual terms and conditions set forth herein and other good and valuable consideration, the Parties hereto agree as follows:

ARTICLE 1 - RECITALS

1.1 The recitals are true and correct and are hereby incorporated into and made a part of this Agreement.

ARTICLE 2 - DEFINITIONS

2.1 The following words, terms and phrases, when used in this Agreement, shall have the following meanings and shall be applicable to both the singular and plural forms thereof:

Agreement – this written Agreement between the City and Contractor covering the Services to be performed, including the Contract Documents that are attached hereto or incorporated by reference.

Change Order – a written document signed by the Parties authorizing an addition, deletion or revision to the Services pursuant to this Agreement and within the general scope of services; or an adjustment to a time schedule or compensation, issued on or after the effective date of this Agreement.

Contract Documents – shall consist of the RFP and all corresponding amendments; Contractor's response to the RFP, as amended ("Proposal"); City's Proposal tabulation; City's Recommendation of Award; Certificates of Insurance; copies of current licenses and permits; any additional documents which are required to be submitted under this Agreement; and all amendments, modifications and supplements, and Change Orders, issued on or after the effective date of this Agreement. Contract Documents are hereby incorporated into and made part of this Agreement. Nothing contained in the Contract Documents shall be construed to create a contractual relationship of any kind: 1) between the City and a Subcontractor or supplier, or 2) between any persons or entities other than the City and Contractor.

Day – shall mean a consecutive "calendar day," unless specifically designated otherwise.

Fees – are the monthly amounts to be paid by Contractor to the City for the use of the Worksite, consisting of a minimum monthly payment of Six Hundred Twenty Five Dollars ($625.00) in addition to at least ten (10) percent of Contractor's monthly gross sales.

Permitting Authority – means the City of North Miami, Miami-Dade County, the State of Florida, and/or any other governmental entity having jurisdiction over the Contractor and the Services.

Project Manager – a designated representative of the City fully acquainted with the Services and with authority to render decisions necessary to ensure and oversee the proper rendition of Services by Contractor. The Project Manager will provide direct interface with the Contractor, with respect to the City's responsibilities and Contractor's obligations hereunder.

Services – means the act of providing the labor, supervision, materials, equipment, tools, machinery, expertise, and other services necessary for comprehensive equine management services, including the management, maintenance and operation of the Worksite, encompassing the facilities, office area, restrooms, stables, corrals, public pony rides, riding lessons, horse camp, horse training, horse care and maintenance, horse boarding and veterinarian care, to be provided by the Contractor in fulfilling its obligations to the City under this Agreement, in accordance with the terms, conditions, and specifications contained in the Contract Documents.

Subcontractor – a person or entity retained by Contractor to provide labor, materials, equipment, services or supplies, necessary to complete a specific portion of Services.

Subcontractor shall include all sub-Subcontractors, retained directly or indirectly by Contractor.

Worksite – means the area where Services are to be rendered by Contractor encompassing the park area, facilities, office area, restrooms, stables, corrals, and all portions of the park devoted to pony rides, riding lessons, horse camp, horse training, horse care and maintenance, horse boarding and veterinarian care, situated within the Enchanted Forest Elaine Gordon Park, 1725 NE 135th Street, North Miami, Florida.

ARTICLE 3 – INTENT OF AGREEMENT

3.1 Execution of this Agreement is a representation that Contractor has carefully examined the Contract Documents and the Worksite, and represents that the Contractor is thoroughly familiar with the nature and location of the Services, the Worksite, the specific conditions under which the Services are to be performed, and all matters which may in any way affect the Services rendered to the City. The Contractor further represents that, as a result of such examinations and investigations, the Contractor thoroughly understands the Contract Documents and their intent and purpose, and is familiar with all applicable codes, ordinances, laws, regulations and rules as they apply to the Services, and that the Contractor will abide by same. Claims for additional time in providing Services (or a portion thereof), or for a reduction of Fees payable to the City as a result of the Contractor's failure to follow the foregoing procedure and to familiarize itself with all local conditions and the Contract Documents, will not be permitted.

3.2 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of Services by the Contractor. Contract Documents are complimentary, and what is required by any one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

3.3 In the event of any conflict between the Contract Documents or any ambiguity or missing specification or instruction, the following priority is hereby established:

3.3.1 Specific written direction from the Project Manager.

3.3.2 This Agreement.

3.3.3 The RFP.

3.3.4 The Proposal.

3.4 The Parties agree that Contractor is responsible for clarifying any ambiguity, conflict, discrepancy, omission, or other error found in the RFP prior to Contractor submitting its Proposal or the right to clarify same shall be waived.

ARTICLE 4 – TERM OF AGREEMENT

4.1 Subject to City authorized adjustments, the Term of Agreement shall be as follows:

4.1.1 The initial term of Agreement shall commence on the first calendar day of the month succeeding approval of the Agreement by the Mayor and City Council, upon a fully executed Agreement between the Parties.

4.1.2 The initial term shall be a period of two (2) years with the first six (6) months being a trial period. If at the conclusion of this trial period the Services provided by Contractor are to the City's satisfaction, then the Agreement may continue in effect for the remaining initial term period.

4.1.3 Following the initial term period, the City reserves the right to renew this Agreement in writing for an additional term of two (2) years.

4.1.4 Notwithstanding the foregoing Term of Agreement, this Agreement may be terminated by the City Manager at any time, in accordance with Article 15 or Article 16.

4.2 Contractor agrees that Services shall be rendered to the City on schedule, diligently and uninterrupted. Contractor shall be required to show just cause for delays or for additional time requests. Failure to achieve timely Services shall be regarded as a breach of this Agreement and subject to the appropriate remedies available hereunder and at law.

4.3 When, in the opinion of the City, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform Services or any portion thereof, the City may request that the Contractor, within a reasonable time frame set forth in the City's request, provide adequate assurances to the City in writing, of Contractor's ability to perform in accordance with terms of this Agreement. In the event that the Contractor fails to provide the City the requested assurances within the prescribed time frame, the City may treat such failure as a repudiation or breach of this Agreement, and resort to any remedy for breach provided for in this Agreement or at law.

ARTICLE 5 – GUARANTEED MINIMUM PAYMENT TO CITY

5.1 In consideration of the right and privilege of providing Services on the Worksite, Contractor shall pay the City the following two monthly minimum fee amounts (collectively referred to as "Fees"):

5.1.1 A monthly fee of not less than Six Hundred Twenty Five Dollars ($625.00); and

5.1.2 A monthly Percentage of Gross Sales of not less than ten percent (10%).

5.2 The cutoff date for the Fees shall be the last business day of the month. Contractor shall submit no later than the tenth day of the following month Contractor's statement of sales along with the corresponding Fees pursuant to this Article.

5.3 The Contractor shall not withhold payment of Fees, or any portion thereof, to the City. Any Fees not timely paid by Contractor shall be subject to a late penalty amount prorated daily at a rate of twelve (12) percent, per annum.

5.4 Should Contractor fail to pay the City any Fee amount on each of the payment due dates, such failure shall constitute a default by the Contractor and City may send notice to Contractor of such default. In the event Contractor fails to cure the default within thirty (30) Days, the City, at its option, may immediately terminate this Agreement. Any extension of time for payment of Fees beyond the thirty (30) Day grace period must be authorized by the City. The prevailing Party in any case regarding the collection of Fees shall be entitled to court costs and attorneys' fees.

5.5 All Fees shall be paid to the City at City's address indicated herein.

5.6 No payment by Contractor or receipt by City of a lesser amount than the amount owed under this Agreement shall be deemed to be other than a part payment on account by Contractor. Any endorsement or statement on any check or letter accompanying any check or payment of Fees shall not be deemed an accord or satisfaction. City may accept any such check or payment without prejudice to City's right to recover the balance of such Fees or pursue any other remedy.

5.7 The making of final payment shall not constitute a waiver of any claims by the City (or third party) and shall not relieve the Contractor of the responsibility for negligence or defects in Services to the extent within the period provided by law and by the warranties provided herein. Upon written notice by the City, the Contractor shall remedy any defects due thereto and pay all expenses for any damages resulting therefrom.

5.8 Fees paid by Contractor shall be subject of verification by audit.

ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES & SCOPE OF SERVICES

6.1 Contractor shall provide the Services as set forth in the Contract Documents, and render full and prompt cooperation with the City in all aspects of Contractor's performance of such Services including, but not limited to the following items:

6.1.1 Stables: The stables consist of approximately fourteen (14) stalls and the building is approximately 6,600 sq. ft. in size.

6.1.2 Corral Areas: There are two (2) corral areas at the Worksite. The main corral is approximately 14,000 sq. ft. in size and the Pony corral is 5,000 sq. ft. in size.

6.1.3 Riding Lessons: Contractor shall conduct horse riding lessons in the areas designated for such use. These lessons shall be supervised by an experienced equestrian staff person at all times. All riding instructors must wear identification and appropriate leather top shoes.

6.1.4 Horse Camp: Contractor shall offer related user participation recreation services to community based programs featuring coordinated participation by community groups, subject to the approval of the City Manager.

6.1.5 Horse Training: Contractor shall have knowledgeable and friendly trainers willing to help work with the community in providing horse training to all ages. The horse training should include timed events, pleasure riding, reining, and basic horsemanship.

6.1.6 Lessons on the Care and Maintenance of Horses: Contractor shall be able to provide lessons regarding the care and maintenance of horses to horse owners and/or to the community.

6.1.7 Horse Boarding: Services must include boarding, feeding and routine care of horses, on behalf of their owners.

6.1.8 Hours of operation: The park hours of operation shall be between the hours of sunrise to sunset, or as otherwise approved by the City Manager in writing.

6.1.9 Public Access: The park will be open to the general public, during the Hours of Operation.

6.1.10 Maintenance of Grounds and Facilities: Contractor must maintain the facility on a daily basis, in a proper manner so as to not allow such area to become dirty, a nuisance, annoyance, and inconvenience or become detrimental to the public's health, welfare and safety. The Contractor accepts the Worksite in "as is" condition, with any and all defects, latent and patent, if any, as of the date of executing the Agreement with the City, and agrees, at its sole cost and expense to maintain said area in the same or better condition throughout the term of the Agreement. Contractor shall make no changes, alterations, or improvements to the electrical service, plumbing systems, mechanical equipment, floors, walls, ceiling, counters or doors without prior written approval of the City. The City shall make repairs to the electrical service, plumbing system, mechanical equipment, flooring and painting of walls and ceilings when necessary, as determined by the City Manager. It is requested that Contractor give reasonable advance notice when requesting routine maintenance items to be done by City staff. No additional electrical equipment may be added which would increase the total electrical service load at the facilities, without City approval. The Contractor shall call in daytime emergencies and request routine maintenance through City staff who will then prepare the appropriate Work order requests.

6.1.11 Safety: In regards to the stable areas, the Contractor is responsible for the safety of horses, ponies, volunteers, invitees, staff and all participants.

6.1.12 Security: City Police Department patrols City facilities with respect to criminal activities. Contractor is responsible for ensuring compliance with all safety and security precautions relating to the provision of Services on the Worksite.

6.1.13 Boarding: Horse boarding services shall consist of boarding, feeding and routine care of horses for the owners of said horses. No more than one (1) horse or two (2) ponies shall be boarded in each stall at the premises at any time. A maximum total of fourteen (14) horses shall be permitted to be boarded at any time at the premises. Boarders must supply the proper health records on all boarded animals in accordance with the published Certified Horsemanship Association (CHA) and the American Association for Horsemanship Safety and Education Standards.

6.1.14 Healthcare: Contractor shall provide annual veterinarian exams for the horses. The contractor shall provide at its cost all annual veterinarian exams for the horses.

6.1.15 On-call: Contractor shall have an on call employee available every day of the week.

6.2 Contractor hereby agrees that it will exert every reasonable and diligent effort to ensure that all labor and services employed by Contractor, including that of its Subcontractors for Services, shall be in accordance with the Contract Documents and shall incorporate the requirements set forth by applicable rules, regulations, codes and statutes of Permitting Authority.

6.3 Contractor covenants to furnish its best skill and judgment in furthering the interests of the City. Contractor agrees to furnish efficient business administration and superintendence and use its best efforts to furnish Services in the best, safest and soundest way and in the most expeditious manner consistent with the best interest of the City.

6.4 Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of Services under this Agreement. All things not expressly mentioned in this Agreement but necessary in carrying out its intent are required by this Agreement, and Contractor shall perform the same as though they were specifically mentioned, described and delineated herein.

6.5 Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Services that are necessary for the completion of this Agreement. Services shall be accomplished to the satisfaction of the City's Project Manager.

6.6 Contractor warrants that all Services which may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied by Contractor at its own cost, whether or not specifically called for.

6.7 Contractor warrants and accepts that any and all work, materials, services or equipment necessitated by Permitting Authorities as are applicable to bring Services into conformity with the Contract Documents and all applicable laws, codes, regulations, procedures, or considered inside the contemplation of the Contract Documents, shall be deemed the responsibility of the Contractor at no cost to the City or subject to a reduction of Fees payable to City.

6.8 Community Benefits. The City believes in doing business with persons and business entities which adhere to corporate principles confirming a commitment for being good corporate citizens, and which value the goals and importance of community goodwill by providing tangible benefits back to the community in which they do business. As such, the City will seek those persons and business entities which are willing and cable of establishing a relationship with the City to identify, develop and furnish benefits back to the local community.

6.8.1 As an inducement for the City to enter into this Agreement, Contractor may be requested to provide Community Benefits, as identified and approved by the City Manager. The approved Community Benefits submitted by Contractor shall be incorporated into and shall become a part of this Agreement with the City. Such Community Benefits shall be

exclusive of the City of North Miami's Local Preference requirement, under Section 7-151 of the City Code of Ordinances.

6.9 Contractor shall strive to ensure maximum local business and workforce preference requirements are realized in the rendition of Services.

6.10 Contractor shall supervise and achieve performance of Services, using the highest quality established by industry standards. The Contractor shall be solely responsible for and have control over the means, methods, techniques, sequences and safety procedures and for coordinating all portions of Services under this Agreement, unless Contract Documents or the Project Manager provide other specific instructions concerning these matters.

6.11 Contractor shall be responsible to the City for the acts and omissions of the Contractor's employees, Subcontractors and their agents and their employees, and other persons performing portions of the Services.

6.12 Contractor shall not be relieved of obligations to perform Services in accordance with the Contract Documents either by activities, tests, inspections or approvals required or performed by Permitting Authorities or persons other than the Contractor.

6.13 Contractor shall be responsible for and coordinate any and all inspections required by the Permitting Authorities having jurisdiction over Services and/or the Worksite. Failure to obtain any required approval because of failure of the Contractor to conform to the Contract Documents shall not extend the Term of Agreement.

6.14 Contractor shall employ sufficient, competent personnel who shall be in attendance at the Worksite during the performance of Services.

6.15 Contractor shall secure all necessary permits from Permitting Authorities, the cost of which shall be paid by Contractor.

6.16 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for all labor, materials, equipment, tools, equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for the proper execution and completion of Services.

6.17 Contractor shall develop and maintain a program to assure quality control and safety measures related to the provision of Services. Contractor shall supervise all Subcontractors providing instructions to each when their work does not conform to the requirements of the Contract Documents and shall continue to exert its influence and control over each Subcontractor to ensure that corrections are made in a timely manner so as to not affect the efficient rendition of Services. The City shall be the final judge of performance and acceptability of Services.

6.18 Contractor shall enforce strict discipline and good order among the Contractor's employees and Subcontractors while on the Worksite. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

6.19 Contractor shall perform Services in accordance with the Contract Documents. If the Contractor performs Services knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the City, it shall assume full responsibility for such Services, and shall bear the attributable costs to comply accordingly.

6.20 Contractor shall keep the Worksite premises and surrounding areas free from accumulation of waste, garbage or materials as a result of rendering Services. Failure to clean Worksite as provided herein may cause the City to do so, and the cost incurred thereof shall be charged Contractor.

6.21 Contractor accepts, understands and agrees that these provisions of the Agreement constitute a material inducement for the City to enter into this Agreement and that the City has indeed relied on these particular provisions in making its decision to enter into this Agreement with Contractor.

ARTICLE 7 – CITY'S RESPONSIBILITY

7.1 The City shall designate a Project Manager who shall be fully acquainted with the Worksite and shall define the lines of City authority to approve Change Orders and render decisions promptly and furnish information expeditiously to Contractor.

7.2 As more particularly set forth in the RFP, the City shall furnish the Worksite with the existing improvements "as is" with access to certain utilities.

7.3 The City expects the Contractor to recognize, coordinate and comply with the requirements of Permitting Authorities.

ARTICLE 8 - CHANGES IN SERVICES

8.1 The City, without invalidating this Agreement, may order changes in the Services within the general scope of this Agreement. The City's compensation of Fees may be adjusted accordingly upon an executed amendment to this Agreement. All such changes in the Services shall be authorized by Change Order, subject to any limitations in the Contract Documents.

ARTICLE 9 – SUBCONTRACTORS

9.1 By an appropriate written agreement, the Contractor shall require that each Subcontractor be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor by these Contract Documents, assumes towards the City. Said agreements shall preserve and protect the rights of the City under the Contract Documents with respect to the Services to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights.

9.2 The Contractor shall make available to each proposed Subcontractor, prior to the execution of a subcontract, copies of the Contract Documents to which the Subcontractor will be bound to.

ARTICLE 10 - INDEPENDENT CONTRACTOR

10.1 Contractor has been procured and is being engaged by the City as an independent contractor, and not as an agent or employee of the City. Accordingly, Contractor shall not attain,

nor be entitled to, any rights or benefits under the Civil Service or Pension Ordinances of the City, nor any rights generally afforded classified or unclassified employees of the City. Contractor further understands that Florida workers' compensation benefits available to employees of the City, are not available to Contractor. Therefore, Contractor agrees to provide workers' compensation insurance, as required by Florida law, for any employee or agent of Contractor rendering Services to the City under this Agreement.

ARTICLE 11 - ENVIRONMENTAL AND SAFETY REQUIREMENTS

11.1 Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of this Agreement.

11.2 Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

11.2.1 Employees, Subcontractors, agents, invitees, attendees, and members of the public on or about the Worksite and all other persons who may be affected thereby.

11.2.2 The Worksite premises and area, horses, equipment, materials, and appliances used, or to be incorporated in the provision of Services, under the care, custody or control of the Contractor or Subcontractors.

11.2.3 Other public or private property at the Worksite and adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of providing Services.

11.2.4 All alcoholic beverages, smoking and drugs shall be prohibited from the Worksite.

11.3 Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of Permitting Authorities and public authorities bearing on the safety of persons or property, their protection from damage, injury or loss.

11.4 Contractor shall erect and maintain, as required by existing conditions and performance of the Agreement, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying users of adjacent sites and utilities.

11.5 Contractor shall promptly remedy any damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible, except damage or loss attributable to acts or omissions of the City or anyone directly or indirectly employed by the City and whose acts are not attributable to the fault or negligence of the Contractor.

11.6 Contractor shall designate a responsible person at the Worksite whose duty shall be prevention of accidents or injury to property or person.

11.7 Contractor shall not load or permit any part of the Worksite to be so loaded or congested, so as to endanger the Worksite, any property, or produce a decrease in safety.

11.8 Contractor shall promptly report to the City and all accidents arising out of or in connection with the Services.

ARTICLE 12 – TESTS AND INSPECTIONS

12.1 Contractor shall allow tests, inspections and approvals required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction to be conducted on the Worksite at all reasonable times. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with the appropriate Permitting Authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Project Manager timely notice of when and where tests and inspections are to be made so as to allow him or her, the opportunity to observe such procedures, if needed. The Contractor shall support and cooperate with all tests, inspections and findings.

12.2 If such procedures for testing, inspection or approval reveal failure of any portion of the Services to comply with requirements established by the Contract Documents, the Contractor shall bear all costs made necessary by such failure including those of repeated procedures.

12.3 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and copies promptly delivered to the City.

12.4 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the provision of Services.

ARTICLE 13 – CORRECTION OF SERVICES

13.1 Contractor shall promptly correct those portions of Services rejected by the Permitting Authorities or failing to conform to the requirements of the Contract Documents. The Contractor shall bear costs of correcting such rejected Services, including any additional testing and inspections.

13.2 Contractor shall bear the cost of correcting or replacing damaged or destroyed portions or sections of the Worksite caused by the Contractor.

ARTICLE 14 - CONFLICTS OF INTEREST

14.1 Contractor represents and warrants to the City that it has not employed or retained any person or company employed by the City to solicit or secure this Agreement and that it has not offered to pay, paid, or agreed to pay any person any fee, commission, percentage, brokerage fee, or gift of any kind contingent upon or in connection with, the award of this Agreement.

14.2 Contractor covenants that no person under its employ who presently exercises any functions or responsibilities on behalf of the City in connection with this Agreement has any personal financial interest, directly or indirectly, with Contractor. Contractor further covenants that, in the performance of this Agreement, no person having such conflicting interest shall be employed.

ARTICLE 15 – CITY'S RIGHT TO TERMINATE AGREEMENT

15.1 The City Manager shall have the right to terminate this Agreement, in its sole discretion at any time, with or without cause, upon thirty (30) Days written notice to Contractor. The City shall not be liable to Contractor for any compensation, or for any consequential or incidental damages or loss of profits.

15.2 In the event of termination, Contractor shall stop Services on the date specified in the written notice and take such action as may be necessary for the protection and preservation of the Worksite.

15.3 Contractor understands and agrees that termination of this Agreement under this section shall not release Contractor from any obligations accruing prior to the effective date of termination.

ARTICLE 16 - DEFAULT

16.1 In the event the Contractor fails to comply with any provision of this Agreement, the City Manager may declare the Contractor in default by written notification, specifying the basis for such default, and advising the Contractor that such default must be cured immediately or this Agreement with the City will be terminated. Notwithstanding, the City Manager may, in its sole discretion, allow the Contractor to rectify the default to the City Manager's reasonable satisfaction within a thirty (30) Day period. The City Manager may grant an additional period of such duration as the City Manager shall deem appropriate without waiver of any of the City's rights hereunder, so long as the Contractor has commenced curing default and is effectuating a cure with diligence and continuity during such thirty (30) Day period or any other period which the City Manager prescribes. The default notice shall specify the date the Contractor shall discontinue the Services as the termination date.

16.2 An event of default shall mean a breach of this Agreement by Contractor. Without limiting the generality of the foregoing and in addition to those instances referred to herein as a breach, an event of default, shall include the following:

16.2.1 Contractor has not delivered Services or a portion thereof, on a timely basis.

16.2.2 Contractor has refused or failed, except in case for which an extension of time is provided, to supply enough properly skilled staff personnel.

16.2.3 Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver.

16.2.4 Contractor has failed to obtain the approval of the City where required by this Agreement.

16.2.5 Contractor has failed to provide "adequate assurances" as required by this Agreement.

16.2.6 Contractor has failed in the representation of any warranties stated herein.

16.2.7 Monetary Default. The non-payment of any Fees due to City which continues for thirty (30) Days after notice from City.

16.2.8 Prohibited Liens. If Contractor fails to comply with any obligation regarding liens and does not remedy such failure within 30 Days after notice from City.

16.2.9 Contractor's failure to timely pay any applicable taxes.

16.2.10 Contractor's failure to pay on a timely basis Fees or utility charges.

16.2.11 Contractor's failure to maintain the Worksite or the minimum insurance coverage as required herein.

16.2.12 Contractor's failure to provide access to Permitting Authorities.

16.2.13 Contractor's failure to comply with certain local preference or community benefits requirements.

16.3 In the event the City Manager terminates this Agreement for default, the City or its designated representatives, may immediately take possession of its real property, in addition to Contractor's personal property, including all equipment, materials, products, documentation, reports and data.

ARTICLE 17 - NOTICES

17.1 All notices, demands, correspondence and other communications between the Parties shall be deemed sufficiently given under the terms of this Agreement when dispatched by registered or certified mail, postage prepaid, return receipt requested, addressed as follows or as the same may be changed from time to time:

For Contractor:
M&M Stables South LLC
Attn: Melissa McGoey
540 SE 6th Street
Ft. Lauderdale, FL 33301
Phone: (954) 881- 5017
Fax: (954) 761-7712
Email: Rodeolissa@yahoo.com

To City:
City of North Miami
Attn: City Manager
776 N.E. 125th Street
North Miami, Florida 33161

With a copy to:
City Attorney
City of North Miami

776 N.E. 125th Street
North Miami, Florida 33161

17.2 Either Party may at any time designate a different address and/or contact person by giving notice as provided above to the other Party. Such notices shall be deemed given upon receipt by the addressee.

17.3 In the event there is a change of address and the moving Party fails to provide notice to the other Party, then notice sent as provided in this Article shall constitute adequate notice.

ARTICLE 18 - INDEMNIFICATION

18.1 Contractor shall defend, indemnify and hold harmless the City, its officers and employees from and against any and all claims, costs, losses and damages including, but not limited to reasonable attorney's fees, caused by the negligent acts or omissions of the Contractor, its officers, directors, agents, partners, Subcontractors, employees and managers in the performance of Services under this Agreement.

18.2 Contractor shall be fully responsible to City for all acts and omissions of the Contractor, its employees, Subcontractors, suppliers, or other persons directly or indirectly employed by its Subcontractors or suppliers, and any other persons or organizations performing or furnishing supplies under a direct or indirect agreement with Contractor. Nothing in the Contract Documents shall create any contractual relationship between City and any such Subcontractor, supplier or other person or organization, nor shall it create any obligation on the part of City to pay or to cause the payment of any money due any Subcontractor, supplier, employee or agent except as may otherwise be required by law.

18.3 The purchase of insurance by the Contractor with respect to the obligations required herein shall in no event be construed as fulfillment's or discharge of such obligations.

18.4 If any Subcontractor, supplier, laborer, or materialmen of Contractor or any other person directly or indirectly acting for or through Contractor files or attempts to file a mechanic's or construction lien against the real property on which the Services are performed or any part or against any personal property or improvements or make a claim against any monies due or to become due from the City to Contractor or from Contractor to a Subcontractor, for or on account of any Services, labor, construction services, material, equipment, or other items furnished in connection with the Services, Contractor agrees to satisfy, remove, or discharge such lien or claim at its own expense by bond, payment, or otherwise within Ten (10) Days of the filing or from receipt of written notice from the City.

18.5 Contractor has visited the Worksite and is familiar with the local conditions under which the Services are to be performed, and relieves the City from any liability in regard to any matter not immediately brought to the attention of the City.

18.6 Nothing contained in this Agreement is any way intended to be a waiver of the limitation placed upon the City's liability as set forth in Chapter 768, Florida Statutes (2014). Additionally,

the City does not waive sovereign immunity, and no claim or award against the City shall include attorney's fees, investigative costs or pre-judgment interest.

ARTICLE 19 - WARRANTY

19.1 The Contractor warrants to the City that Services shall comply with the terms, conditions, and specifications required by Contract Documents.

19.2 If any lien or claim is unsatisfied, the Contractor shall refund to the City all monies that the latter may be compelled to pay in discharging such liens or claims, including all costs and reasonable Attorney's fees.

ARTICLE 20 - INSURANCE

20.1 Prior to the execution of this Agreement, the Contractor shall submit certificate(s) of insurance evidencing all required insurance coverage, as more particularly described in the RFP, with the following minimum coverage:

20.1.1 Commercial General Liability - With minimum limits of Two Million Dollars ($2,000,000.00) per occurrence for bodily injury (including death) and property damage. This coverage shall also include personal and advertising injury, medical payments and products completed operations to be maintained for three (3) years after completion of Services.

20.1.2 Commercial Automobile Liability - With minimum limit of One Million Dollars ($1,000,000.00) covering any automobile including non-owned, hired or leased vehicles.

20.1.3 Commercial Equine Liability Insurance – With minimum limits of One Million Dollars ($1,000,000.00) per occurrence for injuries and damages.

20.1.4 Worker's Compensation - As required by the State of Florida with statutory limits, and Employer's Liability with a minimum limit of One Million Dollars ($1,000,000.00) per accident for bodily injury or disease.

20.1.5 It is strongly recommended that Contractor purchases and carries private horse owner's liability insurance for personally owned horses.

20.1.6 Any other insurance coverage specifically required by the City in the performance of Services by Contractor under this Agreement.

20.2 Contractor shall not commence Services under this Agreement until after Contractor has obtained all of the minimum insurance coverage prescribed in the RFP and the policies of such insurance detailing the provisions of coverage have been received and approved by the City.

20.3 Contractor shall not permit any Subcontractor to begin Services until after similar minimum insurance to cover Subcontractor has been obtained and approved.

20.4 In the event the insurance certificate provided by Contractor or Subcontractor indicates that the insurance shall terminate and lapse during the term of this Agreement, Contractor shall furnish,

at least Thirty (30) Days prior to expiration of the date of the insurance, a renewed certificates of insurance as proof that equal and like coverage and extension is in effect. Contractor shall not continue to perform the Services required by this Agreement unless all required insurance coverage remains in full force and effect.

20.5 All insurance policies required of the Contractor shall be written by a company with a Best's rating of B+ or better and duly authorized and licensed to do business in the State of Florida and be executed by duly licensed managers upon whom service of process may be made in Miami-Dade County, Florida. Contractor and sub-contractors shall maintain the required coverage in full force during the term of this Agreement. The City shall be included as an additional insured on all liability policies throughout the Agreement. It is also the responsibility of the contractor to forward proof of insurance annually when coverage renews to the City's Purchasing Department.

ARTICLE 21 – CITY'S LIMITATION OF LIABILITY

21.1 The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action arising out of the Agreement, so that its liability will never exceed the agreed sum of One Thousand Dollars ($1,000.00). Contractor expresses its willingness to enter into this Agreement with Contractor's recovery from the City for any action or claim arising from this Agreement to be limited to a maximum amount of One Thousand Dollars ($1,000.00).

21.2 Accordingly, and notwithstanding any other term or condition of this Agreement, Contractor agrees that the City shall not be liable to Contractor for damages in an amount in excess of One Thousand Dollars ($1,000.00), for any action or claim for breach of contract or for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon City's liability as set forth in Chapter 768, Florida Statutes (2014). Additionally, the City does not waive sovereign immunity, and no claim or award against the City shall include attorney's fees, investigative costs or pre-judgment interest.

ARTICLE 22 - FORCE MAJEURE

22.1 A "Force Majeure Event" shall mean an act of God, act of governmental body or military authority, fire, explosion, power failure, flood, storm, hurricane, sink hole, other natural disasters, epidemic, riot or civil disturbance, war or terrorism, sabotage, insurrection, blockade, or embargo. In the event that either Party is delayed in the performance of any act or obligation pursuant to or required by the Agreement by reason of a Force Majeure Event, the time for required completion of such act or obligation shall be extended by the number of days equal to the total number of days, if any, that such Party is actually delayed by such Force Majeure Event. The Party seeking delay in performance shall give notice to the other Party specifying the anticipated duration of the delay, and if such delay shall extend beyond the duration specified in such notice, additional notice shall be repeated no less than monthly so long as such delay due to a Force Majeure Event continues. Any Party seeking delay in performance due to a Force Majeure Event shall use its best efforts to rectify any condition causing such delay and shall cooperate with the other Party to overcome any delay that has resulted.

ARTICLE 23 - EMERGENCIES

23.1 In any emergency affecting the safety of persons or property, the Contractor shall act at the Contractor's discretion, to prevent threatened damage, injury or loss.

ARTICLE 24 - OWNERSHIP OF DOCUMENTS

24.1 All documents developed by Contractor under this Agreement shall be delivered to the City by the Contractor upon completion of the Services and shall become property of the City, without restriction or limitation of its use. The Contractor agrees that all documents generated hereto shall be subject to the applicable provisions of the Public Records Law, under Chapter 119, Florida Statutes (2014).

24.2 The Contractor shall additionally comply with Section 119.0701, Florida Statutes (2014), including without limitation, the following conditions: (1) keep and maintain public records that ordinarily and necessarily would be required by the City to perform this service; (2) provide the public with access to public records on the same terms and conditions as the City would at the cost provided by Chapter 119, Florida Statutes (2014), or as otherwise provided by law; (3) ensure that public records that are exempt or confidential and exempt from disclosure are not disclosed, except as authorized by law; (4) meet all requirements for retaining public records and transfer, at no cost to the City, all public records in its possession upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from disclosure requirements; and (5) all electronically stored public records must be provided to the City in a format compatible with the City's information technology systems.

24.3 It is further understood by and between the Parties that any information, writings, tapes, Contract Documents, reports or any other matter whatsoever which is given by the City to the Contractor pursuant to this Agreement shall at all times remain the property of the City and shall not be used by the Contractor for any other purposes whatsoever without the written consent of the City.

24.4 In the event the Agreement is terminated, Contractor agrees to provide the City all such documents within Ten (10) Days from the date the Agreement is terminated.

ARTICLE 25 - AUDITS

25.1 The City, or its duly authorized representatives or other governmental agencies shall, until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its Subcontractors and suppliers which apply to all matters of Contractor's Services to the City. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

25.2 Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and applicability of Fees.

ARTICLE 26 - SURVIVAL OF TERMS

26.1 The Parties acknowledge that any of the obligations in this Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the

Contractor and the City under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

ARTICLE 27 - TAXES

27.1 The City is exempt from Federal Excise and State taxes. The applicable tax exemption number or certificate shall be made available upon request.

27.2 In addition to the Fees payable pursuant to Article 5, Contractor shall assume full responsibility for and shall pay all applicable taxes and assessments that accrue in the provision of Services, or to the improvements thereon, including sales, use and property taxes (if any).

ARTICLE 28 - JESSICA LUNSFORD ACT

28.1 In accordance with the requirements of Sections 435.04 and 435.05, Florida Statutes (2014) as well as with the requirements of HB 1877, The Jessica Lunsford Act (2005), effective September 1, 2005, as amended, and to the extent required by applicable law, the Contractor agrees that all of its employees who provide or may provide Services under this Agreement have completed all background screening requirements as outlined in the above-referenced statutes. Contractor agrees to bear any and all costs associated with acquiring the required background screenings. Contractor agrees that it has an ongoing duty to maintain and update this list as new employees are hired and in the event that any previously screened employee fails to meet the statutory standards. The Contractor further agrees to notify the City immediately upon becoming aware that one of its employees, who was previously certified as completing the background check and meeting the statutory standards, is subsequently arrested or convicted of any disqualifying offense.

28.2 The Contractor further covenants that any of its employees who provide or may provide Services under this Agreement, must also satisfy the requirements and conditions of the Lauren Book Child Safety Ordinance under Article XVII, Miami-Dade County Code of Ordinances, as amended, including background screening requirements.

ARTICLE 29 - MISCELLANEOUS PROVISIONS

29.1 This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the Parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both Parties hereto or their authorized representatives.

29.2 No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

29.3 All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with this Agreement, as well as all continuing obligations indicated in the Contract Documents, shall survive final payment, completion and acceptance of the Services and termination or completion of the Agreement.

29.4 Should any provision, paragraph, sentence, word or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect or limitation of its use.

29.5 This Agreement shall be construed and enforced according to the laws of the State of Florida. Venue in any proceedings between the Parties shall be in Miami-Dade County, Florida.

29.6 The Contractor agrees to comply with and observe all applicable federal, state, and local laws, rules, regulations, codes and ordinances, as they may be amended from time to time.

29.7 Services shall not be subcontracted, transferred, conveyed, or assigned under this Agreement in whole or in part to any other person, firm or corporation without the prior written consent of the City.

29.8 The professional Services to be provided by Contractor pursuant to this Agreement shall be non-exclusive, and nothing herein shall preclude the City from engaging other firms to perform Services.

29.9 This Agreement shall be binding upon the Parties herein, their heirs, executors, legal representatives, successors and assigns.

29.10 The Contractor agrees that it shall not discriminate as to race, sex, color, creed, national origin, or disability, in connection with its performance under this Agreement.

29.11 All other terms, conditions and requirements contained in the RFP, which have not been modified by this Agreement, shall remain in full force and effect.

29.12 In the event of any dispute arising under or related to this Agreement, the prevailing Party shall be entitled to recover all actual attorney fees, costs and expenses incurred by it in connection with that dispute and/or the enforcement of this Agreement, including all such actual attorney fees, costs and expenses at all judicial levels, including appeal, until such dispute is resolved with finality.

29.13 This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute one and the same Agreement.

[*The remainder of this page is intentionally left blank.*]

IN WITNESS WHEREOF, the Parties have executed this Agreement by their respective proper officers duly authorized the day and year first written above.

ATTEST:

Corporate Secretary or Witness:

By: _____

Print Name: _____

Date: _____

M&M Stables South LLC, a Florida limited liability company,

"**Contractor**":

By: _____

Print Name: _____

Date: _____

ATTEST:

By: _____
Michael A. Etienne, Esq.
City Clerk

City of North Miami, a Florida municipal Corporation:
"**City**"

By: _____
Aleem A. Ghany
City Manager

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: _____
Regine M. Monestime, Esq.
City Attorney