CITY OF NORTH MIAMI
PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this 31 day of August, 2015, by and between the **City of North Miami**, a Florida municipal corporation, having its principal office at 776 NE 125th Street, North Miami, FL 33161 ("City"), and **The Russell Life Skills and Reading Foundation, Inc.**, d/b/a **Russell Education Foundation**, a not-for-profit corporation registered and authorized to do business in the State of Florida, located at 5400 S. University Drive, Suite 506, Drive, FL 33328 ("Foundation"). The City and Foundation shall collectively be referred to as the "Parties", and each may individually be referred to as a "Party".

WITNESSETH:

WHEREAS, the Foundation has performed spelling and vocabulary improvement classes, language arts classes, reading comprehension classes, mentoring, homework assistance, and other community based social services to the City's participants, as further delineated in the Scope of Services below ("Services"); and

WHEREAS, the City desires to engage the Foundation to continue to provide Services to local participants, at no cost to the City.

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 - SCOPE OF SERVICES

1.1 The Foundation shall provide community based social services to the local City participants, pursuant to the **"North Miami Russell Reading Room Program"** including but not limited, to the following:

1.1.1 Provide spelling/vocabulary improvement classes to each participant for approximately 50 hours annually;

1.1.2 Provide language arts classes for 25 students to each participant for approximately 50 hours annually;

1.1.3 Provide reading comprehension classess to each participant for approximately 50 hours annually;

1.1.4 Provide mentoring to each participant for approximately 20 hours annually; and

1.1.5 Provide homework assistance to each participant for approximately 40 hours annually.

ARTICLE 2 - CONDITION OF SERVICES

2.1 The Foundation agrees to the following conditions:

2.1.1 The Services shall benefit City residents.

2.1.2 The Foundation shall maintain records including, but not be limited to, the following:

a) Client profiles identifying household income, head of household, ethnicity, race and gender.

b) An outreach plan, which insures equitable participation by all eligible City residents.

2.2 The Foundation shall maintain a resident participation mechanism, which will include, but not be limited to the following:

2.2.1 Logging of citizen comments or complaints when received, pertaining specifically to services provided under this Agreement.

2.2.2 Copies of comments and/or complaints received by participants, in writing and with all responses.

2.3 The City agrees to provide certain premises and corresponding utilities of the Sunkist Grove Community Center, located at 12500 NW 13th Avenue ("City Facility"). The Foundation shall use the City Facility only for the purpose of providing Services to participants. The availability schedule of the City Facility for the use of the Foundation shall be arranged by the City Parks and Recreation Department Manager. Other facilities may be granted and approved for use by the Foundation in writing.

ARTICLE 3 - TERM OF AGREEMENT

3.1 The Term of this Agreement shall commence on September 1, 2015, and shall terminate on June 30, 2015.

ARTICLE 4 – COMPENSATION TO FOUNDATION

4.1 Foundation shall receive no compensation from the City for the provision of Services. The City shall provide the use of the City Facility with corresponding utilities to the Foundation, at no cost to the Foundation.

ARTICLE 5 - DEFAULT

5.1 For purposes of this Agreement (and the documents referenced or incorporated herein), a default shall include, without limitation, the following acts or events of the Foundation, its agents and employees, as applicable and as further detailed below:

5.1.1 Failure to commence Services within thirty (30) days from the date of this Agreement.

5.1.2 Failure to provide the requested documentation within thirty (30) days from this Agreement's expiration date.

5.1.3 Failure to comply with applicable federal, state and local laws and regulations.

5.1.4 Failure to comply with any of the terms and conditions of this Agreement.

5.1.5 Insolvency or bankruptcy.

5.1.6 Failure to maintain the insurance required by the City Manager or his designee ("City Manager"), under this Agreement.

5.1.7 Failure to correct defects within a reasonable time as determined by the City Manager.

5.2 The City Manager shall have the right to terminate this Agreement, in the event Foundation fails to cure a default within ten (10) business days after receiving Notice of Default. Foundation understands and agrees that termination of this Agreement shall not release Foundation from any obligations accruing prior to the effective date of termination.

5.3 The City Manager shall be entitled to bring any and all legal and/or equitable actions in Miami Dade County, Florida, in order to enforce the City's right and remedies against the Foundation for default. The City shall be entitled to recover all costs of such actions including a reasonable attorney's fee, at trial and appellate levels, to the extent allowed by law.

ARTICLE 6 - TERMINATION

6.1 The City Manager and the Foundation agree that this Agreement may be terminated by either Party upon written notice, at least thirty (30) days prior to the effective date of such termination, with or without cause.

ARTICLE 7 - CONFLICT OF INTEREST

7.1 The Foundation 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.

7.2 Foundation 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 Foundation. Foundation further covenants that, in the performance of this Agreement, no person having such conflicting interest shall be employed.

ARTICLE 8 - QUARTERLY REPORTS

8.1 The Foundation shall provide quarterly reports as required by the City Manager, which shall be due thirty (30) days after the reporting period. These shall include:

8.1.1 Participant profile form;

8.1.2 A comparison of actual accomplishments with the goals and objectives established for the period;

8.1.3 Reasons for unmet goals;

8.2 The reports for the final contractual quarter of this Agreement shall contain a final evaluation that includes the cumulative totals and other statistical findings (such as the number of dollars spent to render actual services to each client, and the program's overall effectiveness) and shall be due no more than thirty (30) days following this Agreement's expiration.

8.3 Other reporting requirements may be required by the City Manager in the event of program changes and/or legislative amendments. The Foundation shall be informed, in writing, if any changes become necessary.

ARTICLE 9 - AUDIT AND INSPECTIONS

9.1 At any time during normal business hours and as often as the City Manager may deem necessary, there shall be made available to the City and/or representatives of the federal, state or county agency, the right to audit and examine all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to matters covered by this Agreement. It is further understood that all records and supporting documents pertaining to this Agreement shall be kept for a minimum period of three (3) years from the date of expiration of this Agreement and shall be to the extent required by law, public records available for inspection and copying. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the three year period, the records must be retained until completion of the action and resolution of all issues which arise.

ARTICLE 10 - ACCESS TO RECORDS

10.1 The Foundation, as outlined in Article 9 of this Agreement, shall allow access during normal business hours to all financial records to authorized federal, state, county or City representatives and agrees to provide such assistance as may be necessary to facilitate financial audit by any of these representatives when deemed necessary by the City Manager to insure compliance with applicable accounting and financial standards. The Foundation shall allow access during normal business hours to all other records, forms, files, and documents which have been generated in performance of this Agreement, to those personnel as may be designated by the City Manager.

ARTICLE 11 - NOTICES

11.1 It is understood and agreed between the Parties that all notices which may arise in connection with this Agreement shall be considered sufficient when made in writing and mailed or delivered to the appropriate address:

If to the City: City of North Miami
776 N.E. 125th Street
North Miami, FL 33161
Attn: City Manager

With Copies to: City of North Miami
776 N.E. 125th Street
North Miami, FL 33161
Attn: City Attorney

City of North Miami
12300 N.E. 8th Avenue
North Miami, FL 33161
Attn: Parks and Recreation Manager

Foundation: The Russell Life Skills and Reading Foundation, Inc.
D/B/A Russell Eductaion Foundation
Attn: Twan Russell
5400 S. University Drive, Suite 506
Davie, FL 33328

11.2 Either Party may at any time designate a different address and/or contact person by giving notice as provided above to the other Party.

11.3 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 12 - PERFORMANCE REVIEW

12.1 The City Manager may conduct a formal quarterly review of the Foundation's compliance with the terms of this Agreement. A report of the City Manager's findings will be made available to the Foundation within thirty (30) days of the completion of the review.

ARTICLE 13 – COMPLIANCE WITH JESSICA LUNSFORD ACT

13.1 In accordance with the requirements of Sections 435.04 and 435.05, Florida Statutes (2013) 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 Foundation agrees that all of its employees who provide or may provide program Services under this Agreement have completed all background screening requirements as outlined in the above-referenced statutes. The Foundation agrees to bear any and all costs associated with acquiring the required background screenings.

ARTICLE 14 – INDEMNIFICATION

14.1 The Foundation shall defend, indemnify and hold harmless the City, its officers, employees and agents, against any claims, suits, actions, damages, proceedings, liabilities and costs (including attorney's fees) arising from or in connection with this Agreement or any contracts the Foundation may enter into with third parties pursuant to this Agreement. The Foundation shall pay all claims and losses of any nature, and shall defend all suits, on behalf of the City, its officers, employees or agents when applicable and shall pay all costs and judgments which may issue.

ARTICLE 15 - INSURANCE

15.1 The Foundation shall maintain during the term of this Agreement, the insurance specified below:

15.1.1 Workmen's Compensation Insurance as required by Chapter 440, Florida Statutes (2014).

15.1.2 Comprehensive General Liability Insurance in an amount not less than $1,000,000.000 combined single limit for bodily injury and property damage. The policy shall be endorsed to include the City and its officers, agents and employees as additional insureds, with all necessary endorsements showing the City as a first party insured.

15.1.3 Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than $1,000,000.00 combined single limit for bodily injury and property damage.

15.2 The Comprehensive General Liability Insurance coverage as required above shall include those classifications, as listed in Standard Liability Insurance Manuals, which are applicable to the operations of the Foundation in the performance of this Agreement.

15.3 All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida and executed by duly licensed agents upon whom service of process may be made in Miami-Dade County, Florida. All policies shall have a general policy holders rating of "A" or better and a financial rating no less than "X" as reported by Best's Key Rating Guide, published by A. M. Best company, latest edition.

15.4 Compliance with the foregoing requirements shall not relieve the Foundation of its liability and obligations under this section or any other section of this Agreement.

ARTICLE 16 - PATENT AND COPYRIGHTS

16.1 The Foundation shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Services or the incorporation in the Services of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others.

16.2 The Foundation agrees to indemnify, defend, save and hold harmless the City, its officers, agents and employees, from all damages, liabilities, losses, claims, fines and fees, and from any and all suits and actions of every name and description that may be brought against City, its officers, agents and employees, on account of any claims, fees, royalties, or costs for any invention or patent and/or for the infringement of any and all copyrights or patent rights claimed by any person, firm, or corporation. The Foundation shall pay all claims, losses, liens, settlements or judgments of any nature whatsoever in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees and costs. The City Manager reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith including any costs or fees of an appeal shall be the responsibility of the Foundation. Nothing contained herein is intended nor shall it be construed to waive City's rights and immunities under the common law or Section 768.28, Florida Statutes, as amended from time to time. This obligation

shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any Party described in this Article.

16.3 Foundation warrants that there has been no violation or copyrights of patent rights either in the United States of America or in foreign countries in connection with the Services under this Agreement.

ARTICLE 17 - LIMITATION OF LIABILITY

17.1 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 this Agreement, so that its liability never exceeds the agreed sum of **One Thousand and no/100 Dollars ($1,000.00)**. The Foundation expresses its willingness to enter into this Agreement with Foundation recovery from the City for any action or claim arising from this Agreement to be limited to **One Thousand and no/100 Dollars ($1,000.00)**.

17.2 Accordingly, and notwithstanding any other term or condition of this Agreement, the Foundation hereby agrees that the City shall not be liable to the Foundation for damages in an amount in excess of **One Thousand and no/100 Dollars ($1,000.00)** for any action or claim of the Foundation or any third party 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 the City's liability as set forth in Chapter 768, Florida Statutes, as amended. 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 18 - PROJECT PUBLICITY

18.1 The Foundation agrees that any news release or other type of publicity pertaining to the Services must recognize the City.

ARTICLE 19 - MISCELLANEOUS PROVISIONS

19.1 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.

19.2 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.

19.3 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 Manager.

19.4 This Agreement constitutes the sole and entire agreement between the Parties. No modification or amendments hereto shall be binding on either Party unless in writing and signed by both Parties.

19.5 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.

19.6 The Foundation agrees that it shall not discriminate as to race, sex, color, creed, national origin, or disability, in connection with its performance under this Agreement. The Foundation also agrees to abide and be governed by the Age Discrimination Act of 1975, as amended, which provides in part that there shall be no discrimination against persons in any area of employment because of age.

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

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

19.9 The Foundation 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.

19.10 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.

19.11 The Foundation 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 Foundation.

19.12 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: Pauline D'Oyley

Title: Director of Programs

Date: 8-31-15

The Russell Life Skills and Reading Foundation, Inc., d/b/a Russell Education Foundation, a Florida not-for-profit corporation: **"Foundation"**

By: _____

Print Name: Twan Russell

Title: Founder

Date: 8/31/2015

ATTEST:

By: _____
Michael A. Etienne
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: _____
Roland C. Galdos
Interim City Attorney