

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT (this “Agreement”) is made and entered into as of May 14, 2021, by and between the **CITY OF NORTH MIAMI**, a Florida municipal corporation (the “City”), and the **NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY**, a public body corporate and politic (the “NMCRA”) (the City and NMCRA are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties”).

RECITALS

1. The City will be upgrading its Enterprise Resource Planning (“ERP”) system through the licensing of the MUNIS and EnerGov Enterprise Resource Planning programs (the “Project”), where the total costs for the MUNIS program in Fiscal Year 2021-22 shall be \$705,429.00, and the total costs for the EnerGov program in Fiscal Year 2022-23 shall be \$728,126.00. The MUNIS and EnerGov ERP systems shall be configured for usage by the NMCRA in its daily operations.

2. The costs for each program and its maintenance fees will be partly funded by the NMCRA, with the NMCRA providing funding to the City for the ERP upgrade in (a) an amount not to exceed \$423,257.40 in Fiscal Year 2020-21 for the MUNIS ERP upgrade costs, (b) an amount not to exceed \$436,875.60 in Fiscal Year 2021-22 for the EnerGov ERP upgrade costs, (c) an amount not to exceed \$95,497.20 for the MUNIS annual maintenance fees for each of the first three years, beginning in Fiscal Year 2022-23, and (d) an amount not to exceed \$59,889.00 for the EnerGov annual maintenance fees for each of the first three years, beginning in Fiscal Year 2023-24. Funding for the Project shall be contingent upon configuration of the MUNIS and EnerGov ERP systems for NMCRA usage.

3. The City and NMCRA desire to set forth certain rights and obligations of the parties relative to the Project as set forth in this Agreement.

NOW, THEREFORE, the City and NMCRA agree as follows:

Section 1. Recitals; Authority.

1.1 Recitals. The Recitals set forth above are true and correct and are incorporated in this Agreement by reference.

1.2 Authority. This Agreement is entered into by the Parties pursuant to Section 163.01, Florida Statutes, known as the “Florida Interlocal Cooperation Act of 1969,” and Section 163.400, Florida Statutes, entitled “Cooperation by Public Bodies.”

Section 2. Project Funding.

2.1 Fiscal Year 2020-21. For Fiscal Year 2020-21, the NMCRA shall provide funding in an amount not to exceed \$423,257.40 to the City for the MUNIS ERP upgrade costs (“NMCRA

Contribution #1”). For Fiscal Year 2020-21, the City shall contribute \$282,171.60 for the MUNIS ERP upgrade costs for a total cost of \$705,429.00.

2.2 Fiscal Year 2021-22. For Fiscal Year 2021-22, the NMCRA shall provide funding in an amount not to exceed \$436,875.60 to the City for the EnerGov ERP upgrade costs (“NMCRA Contribution #2”). For Fiscal Year 2021-22, the City shall contribute \$291,250.40 for the EnerGov ERP upgrade costs for a total cost of \$728,126.00.

2.3 Fiscal Year 2022-23. The NMCRA will provide funding in an amount not to exceed \$95,497.20 for the MUNIS annual maintenance fees for each of the first three years, beginning in Fiscal Year 2022-23 (“NMCRA Contribution #3”).

2.4 Fiscal Year 2023-24. The NMCRA will provide funding in an amount not to exceed \$59,889.00 for the EnerGov annual maintenance fees for each of the first three years, beginning in Fiscal Year 2023-24 (“NMCRA Contribution #4”) (NMCRA Contribution #1, #2, #3, and #4 are collectively referred to as the “NMCRA Contribution”).

2.5 Funding Conditions. Notwithstanding anything to the contrary in this Agreement, funding for the Project by the NMCRA shall be contingent upon the MUNIS and EnerGov ERP systems being properly configured for NMCRA usage as determined by the NMCRA in its sole discretion. Failure to properly configure the MUNIS and EnerGov ERP systems shall result in a hold of NMCRA funding until the systems have been properly configured for NMCRA usage as determined by the NMCRA in its sole discretion. If such proper configuration does not or cannot occur within thirty (30) days after written notice by the NMCRA to the City, then this Agreement shall terminate and the NMCRA shall be relieved of rights and obligations hereunder including, but not limited to, the funding of the NMCRA Contribution in whole or in part.

Section 3. Usage. The EnerGov ERP system shall be configured for usage by the NMCRA in its planning, permitting, and licensing operations. The MUNIS ERP system shall be configured for usage by the NMCRA in its financial, human resource, asset management, and revenue operations.

Section 4. Payment of the NMCRA Contribution to City. The NMCRA Contribution shall be paid by the NMCRA to the City, in whole or in part, based upon written request by the City to the NMCRA along with itemized documentation confirming that the requested payment is for the Project. The City agrees to use the NMCRA Contribution solely for the Project and for no other purposes whatsoever.

Section 5. NMCRA Obligations. The NMCRA covenants and agrees to take all actions as necessary and appropriate to enable the NMCRA to fund the NMCRA Contribution.

Section 6. Reporting Requirements. As requested by the NMCRA from time to time, the City will submit to the NMCRA written reports summarizing Project activities. The parties shall agree on matters to be included in the reports. The requirement to provide reports shall continue until such time as the NMCRA notifies the City that such are no longer needed.

Section 7. Authorization to Enter into Agreement. The Parties hereby represent and warrant to each other (a) that this Agreement has been duly approved by the City Council and NMCRA Board, as applicable, executed and delivered by the Parties and constitutes a legal, valid and binding obligation of the Parties enforceable in accordance with its terms and (b) that the execution, delivery and performance by the Parties of this Agreement does not conflict with, or result in a breach of the terms, conditions or provisions of, or constitute a default under or result in any violation of, the terms of any applicable law, charter provision, code provision, regulation, order, judgment or decree of any court or governmental or regulatory body (including the City), or any agreement, document or instrument to which a Party or any of its assets or property is bound.

Section 8. Covenant Not to Challenge. This Agreement has been negotiated by the parties with the expectation and in reliance upon the assumption that it is valid and enforceable. The Parties hereby covenant and agree, to the fullest extent permitted by law, that neither of them shall initiate in any proceeding a challenge to the validity or enforceability of this Agreement.

Section 9. Miscellaneous.

9.1 Headings. The headings of the sections of this Agreement are for convenience only and do not affect meanings of any provisions hereof.

9.2 Amendment. The terms, covenants, conditions and provisions of this Agreement cannot be altered, changed, modified or added to, except in writing signed by the City and the NMCRA and approved by the City Commission and the Board Members of the NMCRA.

9.3 Third Party Beneficiaries. Neither of the Parties intend to directly or substantially benefit any third party by this Agreement. Therefore, Parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

9.4 Construction. Both Parties have substantially contributed to the drafting and negotiation of this Agreement and this Agreement shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.

9.5 Governing Law; Venue. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Venue for litigation concerning this Agreement shall be in Broward County, Florida.

9.6 Invalidity. If any term or provision of this Agreement, or the application thereof to any person or circumstance is determined to be invalid or unenforceable, then to the extent that the invalidity or unenforceability thereof does not deprive a Party of a material benefit afforded by this Agreement, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby, and each term and provision of this Agreement will be valid and will be enforced to the full extent permitted by law.

9.7 Waiver. No express or implied consent or waiver by a Party to or of any breach or dealt by the other Party in the performance by such other Party of its obligations under this Agreement will be deemed or construed to be a consent or waiver to or of any other breach or dealt in the performance by such other Party of the same or any other obligations of such other Party hereunder. Failure by a Party to complain of any act or failure to act of the other Party or to declare the other Party in default, irrespective of how long such failure continues will not constitute a waiver by such Party of its rights hereunder. The giving of consent by a Party in any one instance will not limit or waive the necessity to obtain such Party's consent in any future instance.

9.8 Notice. Whenever any party desires or is required by this Agreement to give notice to the other party, it must be in writing and given by hand, sent by certified mail, with return receipt requested, or sent by a recognized overnight courier (e.g., Federal Express) addressed to the party for whom it is intended, at the address specified for notice by the Parties from time to time. Notice may also be given by electronic means (e.g., facsimile or email) provided such is followed up with a hard copy by one of the methods in the previous sentence.

9.9 Entire Agreement. No statements, representations, warranties, either written or oral, from whatever source arising, except as expressly stated in this Agreement, shall have any legal validity between the parties or be binding upon any of them. The Parties acknowledge that this Agreement contains the entire understanding and agreement of the parties with respect to the subject matter hereof.

9.10 Prevailing Parties. If either Party is required to engage in litigation against the other Party hereto, either as plaintiff or as defendant, in order to enforce or defend any of its or his rights under this Agreement, and such litigation results in a final judgment in favor of such Party ("Prevailing Party"), then the Party against whom said final judgment is obtained shall reimburse the Prevailing Party for all direct, indirect or incidental expenses incurred by the Prevailing Party in so enforcing or defending its or his rights hereunder including, but not limited to, all attorneys' fees and court costs and other expenses incurred throughout all negotiations, trials or appeals undertaken in order to enforce the Prevailing Party's rights hereunder including any proceedings to enforce this provision.

Section 10. WAIVER OF JURY TRIAL. THE PARTIES HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT A PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT.

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IN WITNESS WHEREOF, the City and the NMCRA hereto have caused this Agreement to be executed as of the day and year first above written.

CITY OF NORTH MIAMI,
a Florida municipal corporation

By:_____

Theresa Therilus, Esq.
City Manager

ATTEST:

By:_____

Vanessa Joseph, Esq.
City Clerk

Approved as to form and legal sufficiency

By:_____

Jeff P.H. Cazeau, Esq.
City Attorney

**NORTH MIAMI COMMUNITY
REDEVELOPMENT AGENCY**,
a public body corporate and politic

By:_____

Rasha Cameau
Executive Director

ATTEST:

By:_____

Vanessa Joseph, Esq.
NMCRA Secretary

Approved as to form and legal sufficiency:

By:_____

Spiritus Law LLC
NMCRA Attorney