PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF MIAMI BEACH
AND
NEW HOPE C.O.R.P.S., INC.

This Professional Services Agreement ("Agreement") is entered into this____ day of_____, 20____, with an effective date of September 15, 2022 ("Effective Date"), between the **CITY OF MIAMI BEACH, FLORIDA**, a municipal corporation organized and existing under the laws of the State of Florida, having its principal offices at 1700 Convention Center Drive, Miami Beach, Florida, 33139 (the "City"), and **NEW HOPE C.O.R.P.S., INC.**, whose address is 1020 N. Krome Ave Homestead, FL 33030 ("Contractor").

SECTION 1
DEFINITIONS

Agreement:	This Agreement between the City and Contractor, including any exhibits and amendments thereto.
City Manager:	The chief administrative officer of the City.
City Manager's Designee:	The City staff member who is designated by the City Manager to administer this Agreement on behalf of the City. The City Manager's designee shall be the Office of Housing and Community Services Department Director.
Contractor:	For the purposes of this Agreement, Contractor shall be deemed to be an independent Contractor, and not an agent or employee of the City.
Services:	All services, work and actions by the Contractor performed or undertaken pursuant to the Agreement.
Fee:	Amount paid to the Contractor as compensation for Services.
Risk Manager:	The Risk Manager of the City, with offices at 1700 Convention Center Drive, Third Floor, Miami Beach, Florida 33139; telephone number (305) 673-7000, Ext. 26435; and fax number (305) 673-7023.

SECTION 2
SCOPE OF SERVICES

2.1 In consideration of the Fee to be paid to Contractor by the City, Contractor shall provide the work and services described in **Exhibit "A"** hereto (the "Services").

Although Contractor may receive a schedule of the available hours to provide its Services, the City shall not control nor have the right to control the hours of the Services performed by the

Contractor; where the Services are performed (although the City will provide Contractor with the appropriate location to perform the Services); when the Services are performed, including how many days a week the Services are performed; how the Services are performed, or any other aspect of the actual manner and means of accomplishing the Services provided. Notwithstanding the foregoing, all Services provided by the Contractor shall be performed in accordance with the terms and conditions set forth in **Exhibit "A"** and to the reasonable satisfaction of the City Manager. If there are any questions regarding the Services to be performed, Contractor should contact the following person:

City of Miami Beach
Office of Housing & Community Services
Attention: Alba Ana Tarre, Department Director
1700 Convention Center Drive
Miami Beach, Florida 33139

2.2 Contractor's Services, and any deliverables incident thereto, shall be completed in accordance with the timeline and/or schedule in **Exhibit "A"** hereto.

SECTION 3
TERM

The term of this Agreement ("Term") shall commence upon the Effective Date set forth on p. 1 hereof, and shall have an initial term ending on September 30,2023, with one (1) renewal term, for a period of up to one (1) additional year, to be exercised at the City Manager's sole option and discretion, by providing Contractor with written notice of same no less than thirty (30) days prior to the expiration of the initial term. The initial term and the renewal term, if approved by the City, shall be collectively referred to herein as the "Term".

Notwithstanding the Term provided herein, Contractor shall adhere to any specific timelines, schedules, dates, and/or performance milestones for completion and delivery of the Services, as same is/are set forth in the timeline and/or schedule referenced in **Exhibit "A"** hereto.

SECTION 4
FEE

4.1 In consideration of the Services to be provided, Contractor shall be compensated on a fixed fee basis, for a total not to exceed Five Hundred Sixty-Five Thousand Six Hundred Forty-Eight Dollars and Twenty Cents. ($565,248.20) (the "Fee"); provided however, that the total Fee amount for Services performed through September 20, 2022 shall not exceed Two Hundred One Thousand Two Hundred Forty-Eight Dollars and Twenty Cents ($201,248.20). Contractor shall be paid its Fee in accordance with the Budget that is incorporated herein by reference and attached hereto as **Exhibit "A-1"**. Any change to the Budget shall require the written consent of the City Manager, which consent shall be memorialized in the form of an amendment to the Agreement, executed by both parties. Any change to the total budgeted Fee amount shall require the approval of the City Commission. Funding for this Agreement is subject to funding approval by the City Commission. In the event that funding for the Services is not approved or is no longer available, the City reserves the right to terminate the Agreement for convenience pursuant to Section 5.2.

4.2 Contractor shall be compensated for the Services, as more specifically set forth in **Exhibit "A"** as follows:

The Contractor shall submit monthly requests for payment including payroll records and other applicable back-up documentation no later than the 10th day of the succeeding month. Compensation will be issued in corresponding monthly installments.

4.3 Contractor shall provide the City with a detailed invoice, on a monthly basis, that details all services performed by Contractor in a particular month. Contractor invoices are subject to review and approval. The City shall not remit any payment to Contractor unless Contractor provides a detailed invoice that is acceptable to the City.

4.4 INVOICING

Upon receipt of an acceptable and approved invoice, payment(s) shall be made within forty-five (45) days for that portion (or those portions) of the Services satisfactorily rendered (and referenced in the particular invoice).

Invoices shall include a detailed description of the Services (or portions thereof) provided, and shall be submitted to the City at the following address:

City of Miami Beach
Office of Housing & Community Services
Attention: Alba Ana Tarre, Department Director
1700 Convention Center Drive
Miami Beach, Florida 33139

SECTION 5
TERMINATION

5.1 TERMINATION FOR CAUSE

If the Contractor shall fail to fulfill in a timely manner, or otherwise violates, any of the covenants, agreements, or stipulations material to this Agreement, the City, through its City Manager, shall thereupon have the right to terminate this Agreement for cause. Prior to exercising its option to terminate for cause, the City shall notify the Contractor of its violation of the particular term(s) of this Agreement and shall grant Contractor ten (10) days to cure such default. If such default remains uncured after ten (10) days, the City may terminate this Agreement without further notice to Contractor. Upon termination, the City shall be fully discharged from any and all liabilities, duties, and terms arising out of, or by virtue of, this Agreement.

Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City for any breach of the Agreement by the Contractor. The City, at its sole

option and discretion, shall be entitled to bring any and all legal/equitable actions that it deems to be in its best interest in order to enforce the City's rights and remedies against Contractor. The City shall be entitled to recover all costs of such actions, including reasonable attorneys' fees.

5.2 TERMINATION FOR CONVENIENCE OF THE CITY

THE CITY MAY ALSO, THROUGH ITS CITY MANAGER, AND FOR ITS CONVENIENCE AND WITHOUT CAUSE, TERMINATE THE AGREEMENT AT ANY TIME DURING THE TERM BY GIVING WRITTEN NOTICE TO CONTRACTOR OF SUCH TERMINATION; WHICH SHALL BECOME EFFECTIVE WITHIN THIRTY (30) DAYS FOLLOWING RECEIPT BY THE CONTRACTOR OF SUCH NOTICE. ADDITIONALLY, IN THE EVENT OF A PUBLIC HEALTH, WELFARE OR SAFETY CONCERN, AS DETERMINED BY THE CITY MANAGER, IN THE CITY MANAGER'S SOLE DISCRETION, THE CITY MANAGER, PURSUANT TO A VERBAL OR WRITTEN NOTIFICATION TO CONTRACTOR, MAY IMMEDIATELY SUSPEND THE SERVICES UNDER THIS AGREEMENT FOR A TIME CERTAIN, OR IN THE ALTERNATIVE, TERMINATE THIS AGREEMENT ON A GIVEN DATE. IF THE AGREEMENT IS TERMINATED FOR CONVENIENCE BY THE CITY, CONTRACTOR SHALL BE PAID FOR ANY SERVICES SATISFACTORILY PERFORMED UP TO THE DATE OF TERMINATION; FOLLOWING WHICH THE CITY SHALL BE DISCHARGED FROM ANY AND ALL LIABILITIES, DUTIES, AND TERMS ARISING OUT OF, OR BY VIRTUE OF, THIS AGREEMENT.

5.3 TERMINATION FOR INSOLVENCY

The City also reserves the right to terminate the Agreement in the event the Contractor is placed either in voluntary or involuntary bankruptcy or makes an assignment for the benefit of creditors. In such event, the right and obligations for the parties shall be the same as provided for in Section 5.2.

SECTION 6
INDEMNIFICATION AND INSURANCE REQUIREMENTS

6.1 INDEMNIFICATION

Contractor agrees to indemnify, defend and hold harmless the City of Miami Beach and its officers, employees, agents, and Contractors, from and against any and all actions (whether at law or in equity), claims, liabilities, losses, and expenses, including, but not limited to, attorneys' fees and costs, for personal, economic or bodily injury, wrongful death, loss of or damage to property, which may arise or be alleged to have arisen from the negligent acts, errors, omissions or other wrongful conduct of the Contractor, its officers, employees, agents, Contractors, or any other person or entity acting under Contractor's control or supervision, in connection with, related to, or as a result of the Contractor's performance of the Services pursuant to this Agreement. To that extent, the Contractor shall pay all such claims and losses and shall pay all such costs and judgments which may issue from any lawsuit arising from such claims and losses, and shall pay all costs and attorneys' fees expended by the City in the defense of such claims and losses, including appeals. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the Contractor's responsibility to indemnify, keep and save harmless and defend the City or its officers, employees, agents and instrumentalities as herein provided.

The parties agree that one percent (1%) of the total compensation to Contractor for performance of the Services under this Agreement is the specific consideration from the City to the Contractor for the Contractor's indemnity agreement. The provisions of this Section 6.1 and of this indemnification shall survive termination or expiration of this Agreement.

6.2 INSURANCE REQUIREMENTS

The Contractor shall maintain and carry in full force during the Term, the following insurance:

1. Contractor General Liability, in the amount of $1,000,000;
2. Contractor Professional Liability, in the amount of $200,000; and
3. Workers Compensation & Employers Liability, as required pursuant to Florida Statutes.

The insurance must be furnished by insurance companies authorized to do business in the State of Florida. All insurance policies must be issued by companies rated no less than "B+" as to management and not less than "Class VI" as to strength by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent.

Timely renewal certificates will be provided to the City as coverage renews. The insurance certificates for General Liability shall include the City as an additional insured and shall contain a waiver of subrogation endorsement. Contractor's insurance shall be primary and not contributory for direct claims arising out of the Agreement under the Commercial General Liability policy. If the Professional Liability coverage is provided on a claims made basis, then such insurance shall continue for (3) years following the expiration or termination of the Agreement.

Original certificates of insurance must be submitted to the City's Risk Manager for approval (prior to any work and/or services commencing) and will be kept on file in the Office of the Risk Manager. The City shall have the right to obtain from the Contractor specimen copies of the insurance policies in the event that submitted certificates of insurance are inadequate to ascertain compliance with required coverage.

The Contractor is also solely responsible for obtaining and submitting all insurance certificates for any sub-Contractors.

Compliance with the foregoing requirements shall not relieve the Contractor of the liabilities and obligations under this section or under any other portion of this Agreement.

The Contractor shall not commence any work and or services pursuant to this Agreement until all insurance required under this section has been obtained and such insurance has been approved by the City's Risk Manager.

SECTION 7
LITIGATION JURISDICTION/VENUE/JURY TRIAL WAIVER

This Agreement shall be construed in accordance with the laws of the State of Florida. This Agreement shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida. By entering

into this Agreement, Contractor and the City expressly waive any rights either party may have to a trial by jury of any civil litigation related to or arising out of this Agreement.

SECTION 8
LIMITATION OF CITY'S LIABILITY

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, for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds the sum of $10,000. Contractor hereby expresses its willingness to enter into this Agreement with Contractor's recovery from the City for any damage action for breach of contract to be limited to a maximum amount of $10,000.

Accordingly, and notwithstanding any other term or condition of this Agreement, Contractor hereby agrees that the City shall not be liable to the Contractor for damages in an amount in excess of $10,000 for any action or claim for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement.

Nothing contained in this section 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 Section 768.28, Florida Statutes.

SECTION 9
DUTY OF CARE/COMPLIANCE WITH APPLICABLE LAWS/PATENT RIGHTS; COPYRIGHT; AND CONFIDENTIAL FINDINGS

9.1 DUTY OF CARE

With respect to the performance of the Services contemplated herein, Contractor shall exercise that degree of skill, care, efficiency, and diligence normally exercised by reasonable persons and/or recognized professionals with respect to the performance of comparable work and/or services.

9.2 COMPLIANCE WITH APPLICABLE LAWS

In its performance of the Services, Contractor shall comply with all applicable laws, ordinances, and regulations of the City, Miami-Dade County, the State of Florida, and the federal government, as applicable.

9.3 PATENT RIGHTS; COPYRIGHT; CONFIDENTIAL FINDINGS

Any work product arising out of this Agreement, as well as all information specifications, processes, data and findings, are intended to be the property of the City and shall not otherwise be made public and/or disseminated by Contractor, without the prior written consent of the City Manager, excepting any information, records etc. which are required to be disclosed pursuant to Court Order and/or Florida Public Records Law.

All reports, documents, articles, devices, and/or work produced in whole or in part under this Agreement are intended to be the sole and exclusive property of the City, and shall not be subject to any application for copyright or patent by or on behalf of the Contractor or its employees or sub-Contractors, without the prior written consent of the City Manager.

SECTION 10
GENERAL PROVISIONS

10.1 AUDIT AND INSPECTIONS

Upon reasonable verbal or written notice to Contractor, and at any time during normal business hours (i.e. 9AM – 5PM, Monday through Fridays, excluding nationally recognized holidays), and as often as the City Manager may, in his/her reasonable discretion and judgment, deem necessary, there shall be made available to the City Manager, and/or such representatives as the City Manager may deem to act on the City's behalf, to audit, examine, and/ or inspect, any and all other documents and/or records relating to all matters covered by this Agreement. Contractor shall maintain any and all such records at its place of business at the address set forth in the "Notices" section of this Agreement.

10.2 INSPECTOR GENERAL AUDIT RIGHTS

(A) Pursuant to Section 2-256 of the Code of the City of Miami Beach, the City has established the Office of the Inspector General which may, on a random basis, perform reviews, audits, inspections and investigations on all City contracts, throughout the duration of said contracts. This random audit is separate and distinct from any other audit performed by or on behalf of the City.

(B) The Office of the Inspector General is authorized to investigate City affairs and empowered to review past, present and proposed City programs, accounts, records, contracts and transactions. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of witnesses and monitor City projects and programs. Monitoring of an existing City project or program may include a report concerning whether the project is on time, within budget and in conformance with the contract documents and applicable law. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process including but not limited to project design, bid specifications, (bid/proposal) submittals, activities of the Contractor, its officers, agents and employees, lobbyists, City staff and elected officials to ensure compliance with the contract documents and to detect fraud and corruption. Pursuant to Section 2-378 of the City Code, the City is allocating a percentage of its overall annual contract expenditures to fund the activities and operations of the Office of Inspector General.

(C) Upon ten (10) days written notice to the Contractor, the Contractor shall make all requested records and documents available to the Inspector General for inspection and copying. The Inspector General is empowered to retain the services of independent

private sector auditors to audit, investigate, monitor, oversee, inspect and review operations activities, performance and procurement process including but not limited to project design, bid specifications, (bid/proposal) submittals, activities of the Contractor its officers, agents and employees, lobbyists, City staff and elected officials to ensure compliance with the contract documents and to detect fraud and corruption.

(D) The Inspector General shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which in the Inspector General's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements from and with successful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, (bid/proposal) and contract documents, back-change documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records and supporting documentation for the aforesaid documents and records.

(E) The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence regarding the acquisition (bid preparation) and performance of this Agreement, for examination, audit, or reproduction, until three (3) years after final payment under this Agreement or for any longer period required by statute or by other clauses of this Agreement. In addition:

i. If this Agreement is completely or partially terminated, the Contractor shall make available records relating to the work terminated until three (3) years after any resulting final termination settlement; and

ii. The Contractor shall make available records relating to appeals or to litigation or the settlement of claims arising under or relating to this Agreement until such appeals, litigation, or claims are finally resolved.

(F) The provisions in this section shall apply to the Contractor, its officers, agents, employees, subcontractors and suppliers. The Contractor shall incorporate the provisions in this section in all subcontracts and all other agreements executed by the Contractor in connection with the performance of this Agreement.

(G) Nothing in this section shall impair any independent right to the City to conduct audits or investigative activities. The provisions of this section are neither intended nor shall they be construed to impose any liability on the City by the Contractor or third parties.

10.3 <u>ASSIGNMENT, TRANSFER OR SUBCONSULTING</u>

Contractor shall not subcontract, assign, or transfer all or any portion of any work and/or service under this Agreement without the prior written consent of the City Manager, which consent, if given at all, shall be in the Manager's sole judgment and discretion. Neither this Agreement, nor any term or provision hereof, or right hereunder, shall be assignable unless as approved

pursuant to this section, and any attempt to make such assignment (unless approved) shall be void.

10.4 PUBLIC ENTITY CRIMES

Prior to commencement of the Services, the Contractor shall file a State of Florida Form PUR 7068, Sworn Statement under Section 287.133(3)(a) Florida Statute on Public Entity Crimes with the City's Procurement Division.

10.5 NO DISCRIMINATION

In connection with the performance of the Services, the Contractor shall not exclude from participation in, deny the benefits of, or subject to discrimination anyone on the grounds of race, color, national origin, sex, age, disability, religion, income or family status.

Additionally, Contractor shall comply fully with the City of Miami Beach Human Rights Ordinance, codified in Chapter 62 of the City Code, as may be amended from time to time, prohibiting discrimination in employment, housing, public accommodations, and public services on account of actual or perceived race, color, national origin, religion, sex, intersexuality, gender identity, sexual orientation, marital and familial status, age, disability, ancestry, height, weight, domestic partner status, labor organization membership, familial situation, or political affiliation.

10.6 CONFLICT OF INTEREST

Contractor herein agrees to adhere to and be governed by all applicable Miami-Dade County Conflict of Interest Ordinances and Ethics provisions, as set forth in the Miami-Dade County Code, as may be amended from time to time; and by the City of Miami Beach Charter and Code, as may be amended from time to time; both of which are incorporated by reference as if fully set forth herein.

Contractor covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, which could conflict in any manner or degree with the performance of the Services. Contractor further covenants that in the performance of this Agreement, Contractor shall not employ any person having any such interest. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefits arising therefrom.

10.7 CONTRACTOR'S COMPLIANCE WITH FLORIDA PUBLIC RECORDS LAW

(A) Contractor shall comply with Florida Public Records law under Chapter 119, Florida Statutes, as may be amended from time to time.

(B) The term "public records" shall have the meaning set forth in Section 119.011(12), which means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business of the City.

(C) Pursuant to Section 119.0701 of the Florida Statutes, if the Contractor meets the definition of "Contractor" as defined in Section 119.0701(1)(a), the Contractor shall:

(1) Keep and maintain public records required by the City to perform the service;

(2) Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law;

(3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the contract term and following completion of the Agreement if the Contractor does not transfer the records to the City;

(4) Upon completion of the Agreement, transfer, at no cost to the City, all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

(D) REQUEST FOR RECORDS; NONCOMPLIANCE.

(1) A request to inspect or copy public records relating to the City's contract for services must be made directly to the City. If the City does not possess the requested records, the City shall immediately notify the Contractor of the request, and the Contractor must provide the records to the City or allow the records to be inspected or copied within a reasonable time.

(2) Contractor's failure to comply with the City's request for records shall constitute a breach of this Agreement, and the City, at its sole discretion, may: (1) unilaterally terminate the Agreement; (2) avail itself of the remedies set forth under the Agreement; and/or (3) avail itself of any available remedies at law or in equity.

(3) A Contractor who fails to provide the public records to the City within a reasonable time may be subject to penalties under s. 119.10.

(E) CIVIL ACTION.

(1) If a civil action is filed against a Contractor to compel production of public records relating to the City's contract for services, the court shall assess and award against the Contractor the reasonable costs of enforcement, including reasonable attorneys' fees, if:

a. The court determines that the Contractor unlawfully refused to comply with the public records request within a reasonable time; and

b. At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the Contractor has not complied with the request, to the City and to the Contractor.

(2) A notice complies with subparagraph (1)(b) if it is sent to the City's custodian of public records and to the Contractor at the Contractors address listed on its contract with the City or to the Contractor's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.

(3) A Contractor who complies with a public records request within 8 business days

after the notice is sent is not liable for the reasonable costs of enforcement.

(F) **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, OR AS TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

CITY OF MIAMI BEACH
ATTENTION: RAFAEL E. GRANADO, CITY CLERK
1700 CONVENTION CENTER DRIVE
MIAMI BEACH, FLORIDA 33139
E-MAIL: RAFAELGRANADO@MIAMIBEACHFL.GOV
PHONE: 305-673-7411

10.8 FORCE MAJEURE

(A) A "Force Majeure" event is an event that (i) in fact causes a delay in the performance of the Contractor or the City's obligations under the Agreement, and (ii) is beyond the reasonable control of such party unable to perform the obligation, and (iii) is not due to an intentional act, error, omission, or negligence of such party, and (iv) could not have reasonably been foreseen and prepared for by such party at any time prior to the occurrence of the event. Subject to the foregoing criteria, Force Majeure may include events such as war, civil insurrection, riot, fires, epidemics, pandemics, terrorism, sabotage, explosions, embargo restrictions, quarantine restrictions, transportation accidents, strikes, strong hurricanes or tornadoes, earthquakes, or other acts of God which prevent performance. Force Majeure shall not include technological impossibility, inclement weather, or failure to secure any of the required permits pursuant to the Agreement.

(B) If the City or Contractor's performance of its contractual obligations is prevented or delayed by an event believed by to be Force Majeure, such party shall immediately, upon learning of the occurrence of the event or of the commencement of any such delay, but in any case within fifteen (15) business days thereof, provide notice: (i) of the occurrence of event of Force Majeure, (ii) of the nature of the event and the cause thereof, (iii) of the anticipated impact on the Agreement, (iv) of the anticipated period of the delay, and (v) of what course of action such party plans to take in order to mitigate the detrimental effects of the event. The timely delivery of the notice of the occurrence of a Force Majeure event is a condition precedent to allowance of any relief pursuant to this section; however, receipt of such notice shall not constitute acceptance that the event claimed to be a Force Majeure event is in fact Force Majeure, and the burden of proof of the occurrence of a Force Majeure event shall be on the requesting party.

(C) No party hereto shall be liable for its failure to carry out its obligations under the Agreement during a period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations. The suspension of any of the obligations under this Agreement due to a Force Majeure event shall be of no greater scope and no longer duration than is required. The party shall use its reasonable best efforts to continue to

perform its obligations hereunder to the extent such obligations are not affected or are only partially affected by the Force Majeure event, and to correct or cure the event or condition excusing performance and otherwise to remedy its inability to perform to the extent its inability to perform is the direct result of the Force Majeure event with all reasonable dispatch.

(D) Obligations pursuant to the Agreement that arose before the occurrence of a Force Majeure event, causing the suspension of performance, shall not be excused as a result of such occurrence unless such occurrence makes such performance not reasonably possible. The obligation to pay money in a timely manner for obligations and liabilities which matured prior to the occurrence of a Force Majeure event shall not be subject to the Force Majeure provisions.

(E) Notwithstanding any other provision to the contrary herein, in the event of a Force Majeure occurrence, the City may, at the sole discretion of the City Manager, suspend the City's payment obligations under the Agreement, and may take such action without regard to the notice requirements herein. Additionally, in the event that an event of Force Majeure delays a party's performance under the Agreement for a time period greater than thirty (30) days, the City may, at the sole discretion of the City Manager, terminate the Agreement on a given date, by giving written notice to Contractor of such termination. If the Agreement is terminated pursuant to this section, Contractor shall be paid for any Services satisfactorily performed up to the date of termination; following which the City shall be discharged from any and all liabilities, duties, and terms arising out of, or by virtue of, this Agreement. In no event will any condition of Force Majeure extend this Agreement beyond its stated term.

10.9 <u>E-VERIFY</u>

(A) To the extent that Contractor provides labor, supplies, or services under this Agreement, Contractor shall comply with Section 448.095, Florida Statutes, "Employment Eligibility" ("E-Verify Statute"), as may be amended from time to time. Pursuant to the E-Verify Statute, commencing on January 1, 2021, Contractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees during the Term of the Agreement. Additionally, Contractor shall expressly require any subcontractor performing work or providing services pursuant to the Agreement to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract Term. If Contractor enters into a contract with an approved subcontractor, the subcontractor must provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor shall maintain a copy of such affidavit for the duration of the contract or such other extended period as may be required under this Agreement.

(B) TERMINATION RIGHTS.

(1) If the City has a good faith belief that Contractor has knowingly violated Section 448.09(1), Florida Statutes, which prohibits any person from knowingly employing, hiring, recruiting, or referring an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States, the City shall terminate this Agreement with Contractor for cause, and the City shall thereafter have or owe no further obligation or liability to Contractor.

(2) If the City has a good faith belief that a subcontractor has knowingly violated the

foregoing Subsection 10.9(A), but the Contractor otherwise complied with such subsection, the City will promptly notify the Contractor and order the Contractor to immediately terminate the contract with the subcontractor. Contractor's failure to terminate a subcontractor shall be an event of default under this Agreement, entitling City to terminate the Contractor's Agreement for cause.

(3) A contract terminated under the foregoing Subsection (B)(1) or (B)(2) is not in breach of contract and may not be considered as such.

(4) The City or Contractor or a subcontractor may file an action with the Circuit or County Court to challenge a termination under the foregoing Subsection (B)(1) or (B)(2) no later than 20 calendar days after the date on which the contract was terminated.

(5) If the City terminates the Agreement with Contractor under the foregoing Subsection (B)(1), Contractor may not be awarded a public contract for at least 1 year after the date of termination of this Agreement.

(6) Contractor is liable for any additional costs incurred by the City as a result of the termination of this Agreement under this Section 10.9.

SECTION 11
NOTICES

All notices and communications in writing required or permitted hereunder, shall be delivered personally to the representatives of the Contractor and the City listed below or may be mailed by U.S. Certified Mail, return receipt requested, postage prepaid, or by a nationally recognized overnight delivery service.

Until changed by notice, in writing, all such notices and communications shall be addressed as follows:

TO CONTRACTOR:
New Hope C.O.R.P.S., Inc.
Attention: New Hope C.O.R.P.S., Inc.
1020 N. Krome Ave
Homestead, FL 33030
Office: 786-243-1003
Cell: 786-877-3758

TO CITY:
City of Miami Beach, Florida
Office of Housing and Community Services
Attention: Alba Ana Tarre, Department Director
1700 Convention Center Drive
Miami Beach, Florida 33139
(305) 673-7491

Notice may also be provided to any other address designated by the party to receive notice if such alternate address is provided via U.S. certified mail, return receipt requested, hand delivered, or by overnight delivery. In the event an alternate notice address is properly provided, notice shall be sent to such alternate address in addition to any other address which notice would otherwise be sent, unless other delivery instruction as specifically provided for by the party entitled to notice.

Notice shall be deemed given on the date of an acknowledged receipt, or, in all other cases, on the date of receipt or refusal.

SECTION 12
MISCELLANEOUS PROVISIONS

12.1 CHANGES AND ADDITIONS

This Agreement cannot be modified or amended without the express written consent of the parties. No modification, amendment, or alteration of the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

12.2 SEVERABILITY

If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected and every other term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

12.3 WAIVER OF BREACH

A party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A party's waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

12.4 JOINT PREPARATION

The parties hereto acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been a joint effort of the parties, the language has been agreed to by parties to express their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

12.5 ENTIRETY OF AGREEMENT

The City and Contractor agree that this is the entire agreement between the parties. This Agreement supersedes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein, and there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Title and paragraph headings are for convenient reference and are not intended to confer any rights or obligations upon the parties to this Agreement.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials, as of the date first entered above.

FOR CITY: **CITY OF MIAMI BEACH, FLORIDA**

ATTEST:

By: _____ _____
Rafael E. Granado, City Clerk Alina T. Hudak, City Manager

Date: _____

FOR CONTRACTOR: **NEW HOPE C.O.R.P.S, INC.**

ATTEST:

By: _____ _____

_____ _____
Print Name and Title Print Name and Title

Date: _____

EXHIBIT "A"

"SCOPE OF SERVICES"

Contractor staff must provide outreach services 7 days a week from 7pm-3am. The two outreach teams composed of two staff members must provide daily encounters with the homeless population of Miami Beach, engagement for shelter/treatment services, HMIS reporting of those encounters, VI-SPDAT Assessments, coordination of placement to shelter services, detox services, and transportation and other tasks necessary to house the unsheltered population of Miami Beach. Contractor must also provide pre-treatment beds, treatment beds, and recovery residences.

Contractor staff must advise the City of any changes to service delivery, including but not limited to language barriers, capacity issues, client concerns, staff concerns, and scheduling changes, within 24 hours.

Service	Documentation of Service
Supervision: Street Outreach Supervisor. Provides on-call supervision to contracted outreach team.	Completion of the following documents: 1. Employee Timesheets
Street Outreach Staff: Four (4) full-time employees who will provide services to homeless individuals in Miami Beach	Completion of the following documents: 1. Employee Timesheets 2. Monthly HMIS contact report
Transportation: Vehicle cost/ maintenance and gas costs to transport clients to receive services.	Completion of the following documents: 1. Receipts 2. Invoices
Housing/ Recovery Residence: ¾ way housing for clients in treatment recovery	Completion of the following documents: 1. Referral for recovery residence by Homeless Outreach Services Team 2. Bi-Weekly bed roster report 3. HMIS report on service 4. Monthly Progress updates
Treatment Beds: Pre-treatment and Level 2 residential (voluntary and/or involuntary) treatment beds for individuals diagnosed with Substance Use and Disorder or Co-occurring disorders	Completion of the following documents: 1. Referral for involuntary Police-Marchman clients seeking treatment or Referral for voluntary pre-treatment or treatment beds by Homeless Outreach Services Team or New Hope Contracted team. 2. HMIS report on service 3. Daily bed roster report

	4. Monthly Progress Updates

Service Deliverables

Services must be delivered as follows:

Service	Unit of Service	Service Location	Timeframe
Supervision: Street Outreach Supervisor. Provides on-call supervision to contracted outreach team.	• On call supervision as needed by contracted outreach staff. • Monthly staffing with Homeless Outreach team of clients in residential and recovery residences.	City of Miami Beach	Upon execution of agreement and provided through September 30, 2023.
Street Outreach Staff: Four (4) full-time employees who will provide services to homeless individuals in Miami Beach	Two (2) outreach teams composed of two (2) outreach team members to cover afterhours services Monday thru Sunday from 7pm-3am including holidays.	City of Miami Beach	Upon execution of agreement and provided through September 30, 2023
Housing/ Recovery Residence: ¾ way housing for clients in treatment recovery	Minimum of one three (3) bedroom property to be occupied by a minimum of 6 individuals with wraparound services to address substance use and co-occurring disorders.	The ¾ house will be in Miami-Dade County	Upon execution of agreement and provided through September 30, 2023
Treatment Beds: Pre-treatment and Level 2 residential treatment beds for individuals diagnosed with Substance Use and Disorder or Co-occurring disorders	• Up to three (3) pre-treatment shelter beds to prepare clients to transition to voluntary or involuntary treatment. • Two (2) Level 2 Residential treatment beds funded for 365 days • One (1) Level 2 Residential Treatment bed for 270 days only billed when utilized. The per-diem rate of the treatment bed is $177 a day for City of Miami Beach clients seeking voluntary or involuntary treatment services.	Miami-Dade County	Upon execution of agreement and provided through September 30, 2023

Penalties for Failure to Perform

If the contractor fails on three occasions to submit required, accurate documentation in the timeframe allotted, including the notification of absence email, the Contractor will forfeit two (2%) percent of the combined billed total for the months in which inaccuracies took place. Documents submitted within the required timeframe and found to be insufficient are subject to penalties for failure to perform.

If the contractor fails on three occasions to submit required, accurate documentation in the timeframe allotted within the contract Term, the Contractor is subject to termination of any further service referrals, but Contractor will be allowed to complete the service units allotted to existing clients. The decision to cease additional referrals rests is the sole discretion of the City.

“Required, accurate documentation” may refer to:

- Monthly invoices
- Monthly receipts
- Monthly client lists
- HMIS reports
- Any document required by this Agreement

If any individual employed by or independently contracted with the Contractor fails, on more than one occasion, to attend a scheduled outreach without notifying the City of an impending absence, the City reserves the right to remove that individual from the Contractor’s staff roster for the purposes of this Contract.

If the Contractor is unable to fulfill the contracted service level within the allocated timeframe for each service component, the City reserves the right to reduce service levels accordingly across the funded service spectrum and terminate this Agreement at its discretion.

If the Contractor is unable to fulfill the contracted service level and the City subsequently reduces service and funding levels, the City reserves the right to select another vendor to fulfill the remaining service units. The City will select the alternate vendor at its sole discretion.

Employee/ Contractor File Review

The following documentation must be included in the employee/contractor file for all employees/contractors providing services under this contract.

The following must be included in the employee files:

- Employment Application
- Job Description Signed by Employee
- Confidentiality Agreement Re: Client Information
- Authorized time sheets, records, and attendance sheets to document the staff time billed to provide Services pursuant to this Agreement
- Daily activity logs and monthly calendars of the provision of Services pursuant to this Agreement
- I-9 Verification on File
- Social Security Card

- Employee background screening

Monitoring visits shall take place within thirty (30) days of the commencement of services. The City will provide the Contractor a minimum of two (2) business days' notice prior to a monitoring visit.

The City reserves the right to inspect employee/contractor files with due notice (at least forty-eight (48) hours in advance of planned site visit) to ensure adherence to contractual expectations.

Evaluation

The City will conduct intermittent performance evaluations for the purpose of monitoring the Contractor's performance. The City will conduct said evaluations utilizing a tool of its choice and at its sole discretion.

Reporting Requirements

Daily Summary Report: Contractor will complete and submit an end of service day report **(Exhibit "C")** to the City's designated staff member via email daily. This report will include a summary of the following: afterhours daily contacts, placements or services provided, and challenges encountered. This report must be submitted no later than 8:30am.

Monthly Progress/ Reimbursement Report: Each month, the Contractor will provide the City with a monthly progress report and reimbursement request utilizing the City's *Reporting and Reimbursement* Forms (**Exhibit "B"**) by 5:00 PM on the tenth (10th) of the following month. In the event that the tenth of the month lands on a Saturday, Sunday or holiday, the report must be submitted the following business day.

Monthly reports and reimbursement requests may be submitted via any of the following methods:

- Electronic mail
- Standard mail
- Hand delivery

Monthly reports will not be considered acceptable unless the following is met:

- Forms are completely and accurately filled
- Necessary back-up materials are included (service documentation, sign-in sheets, etc.)
- Reports bear the signature of the authorized agency representative submitting the report on behalf of the Contractor

Monitoring & Performance Reviews

The City reserves the right to inspect, monitor and/or audit the Contractor to ensure contractual compliance. This includes, but is not limited to:

- Review of on-site service delivery
- Inspection and review of budgetary and employee files (for those employees providing services under this Agreement)

Promotion & Public Relations Requirements

The Contractor agrees to receive City of Miami Beach Homeless Outreach Program Brochures and make them available to clients during all in-person client interactions.

Client Termination

Contractor staff must notify the Homeless Outreach Services Program Coordinator of any termination of shelter bed, treatment bed, or service interruption within 24 hours via email.

Additional Documentation

The following documentation must be submitted with this executed agreement:

- All required insurance certificates
- Copy of most recent financial audit, as appropriate
- Copy of required business licenses and permits
- List of all members of Contractor's Board of Directors, if applicable
- Contractor's Board of Directors by-laws, if applicable
- Conflict of Interest policy
- Agency 990 Form
- Agency W-9 Form

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

EXHIBIT "B"

INVOICING

The Contractor agrees to provide the invoicing and services documentation as indicated utilizing the following forms attached herein:

- *Monthly Service Summary Report, and*
- *Monthly Reimbursement Request*
- *HMIS report*

EXHIBIT “C”

ATTACHMENTS

The following reference documents are attached:

- End of Service Day Report