

AGREEMENT

Between

CITY OF LAUDERHILL

And

GIANCOLI CONSULTING, INC.

This is an Agreement between the CITY OF LAUDERHILL, a political subdivision of the State of Florida, its successors and assigns, hereinafter referred to as "CITY," located at 5581 W. Oakland Park Boulevard, Lauderhill, Florida,

AND

GIANCOLI CONSULTING, INC, a Florida corporation, whose address is 303 N. Riverside Dr. #803 Pompano Beach, FL 33062, hereinafter referred to as CONSULTANT".

WITNESSETH, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and CONSULTANT agree as follows:

ARTICLE 1 – DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the parties.

1.1 Agreement: means this document, Articles 1 through 5, inclusive. Other terms and conditions are included in the exhibits and documents that are expressly incorporated by reference.

1.2 Consultant: GIANCOLI CONSULTING, INC., selected to perform services pursuant to this Agreement.

1.3 City: CITY, a body corporate and politic and a political subdivision of the State of Florida.

1.4 Time for Performance: Monthly.

ARTICLE 2 – SCOPE OF SERVICES

2.1 CONSULTANT’S Scope of Services shall consist of attending monthly General Obligation (“GO”) Bond update meetings, completion of the monthly GO Bond report, working with Finance staff on maintaining the residential Certificate of Use database including identification of new properties and collections and liens for existing Certificates of Use, completing Lien Search Requests, and any other report or project as directed by the City Manager, Assistant City Manager or their designee. CONSULTANT shall provide all services including all necessary, incidental and related activities and services required by the Scope of Services and contemplated in CONSULTANT’S level of effort.

2.2 CONSULTANT and CITY acknowledge that this Scope of Services does not delineate every detail and minor work task required to be performed by CONSULTANT to complete the Project. If, during the course of the performance of the services included in this Agreement, CONSULTANT determines that work should be performed to complete the Project which is in the CONSULTANT’S opinion outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, CONSULTANT shall notify the CITY in writing in a timely manner before proceeding with the work. If CONSULTANT proceeds with said work without notifying the CITY, said work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Scope of Services. Notice to CITY does not constitute authorization or approval by CITY to perform the work. Performance of work by CONSULTANT outside the originally anticipated level of effort without prior written CITY approval is at CONSULTANT’S sole risk.

ARTICLE 3 – TIME FOR PERFORMANCE

3.1 CONSULTANT shall perform the services described in the Scope of Services on a monthly basis beginning May 1, 2024 and shall continue for a term of one (1) year.

ARTICLE 4 – COMPENSATION AND METHOD OF PAYMENT

4.1 AMOUNT AND METHOD OF COMPENSATION

CITY agrees to pay CONSULTANT as compensation for performance of all services as related to this Agreement at the rate of ONE HUNDRED DOLLARS AND NO CENTS per hour (\$100.00/hr). CONSULTANTS total compensation shall not exceed ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$100,000.00). CONSULTANT shall be responsible for the payment of all federal and state taxes. CONSULTANT shall not be entitled to any insurance or benefits.

4.2 METHOD OF PAYMENT

CITY shall pay CONSULTANT for the prior month’s services no later than the 15th day of the month.

Payment will be made to CONSULTANT at:

GIANCOLI CONSULTING, INC.
303 N. Riverside Dr., #803
Pompano Beach, FL 33062

ARTICLE 5 – MISCELLANEOUS

5.1 TERMINATION. This Agreement may be terminated for cause by action of CITY or by CONSULTANT upon three (3) days written notice by the party that elected to terminate, or for convenience by action of CITY upon not less than fourteen (14) days' written notice.

5.2 Termination of this Agreement for cause shall include, but not be limited to, failure to suitably perform the work, failure to continuously perform the work in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement, or multiple breach of the provisions of this Agreement, notwithstanding whether any such breach was previously waived or cured.

5.3 Notice of termination shall be provided in accordance with the "NOTICES" Section 5.12 of this Agreement except that notice of termination by the CITY if the CITY deems it necessary to protect the public health, safety, or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" Section 5.12 of this Agreement.

5.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed up until the date the Agreement is terminated. Upon being notified of CITY'S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall CITY make payment for services which have not been performed.

5.5 NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT. CONSULTANT shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement.

5.6 PUBLIC ENTITY CRIMES ACT. CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on

leases of real property to CITY, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY'S competitive procurement activities. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

5.7 ASSIGNMENT AND PERFORMANCE. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party and CONSULTANT shall not subcontract any portion of the work required by this Agreement except as authorized in writing by CITY.

5.7.1 CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to CITY'S satisfaction for the agreed compensation.

5.7.2 CONSULTANT shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner.

5.7.3 Except upon express written permission of the CITY, CONSULTANT may not incur obligations on behalf of, or in the name of, the CITY.

5.8 INDEMNIFICATION OF CITY. CONSULTANT shall indemnify, hold harmless and release the CITY, its officers and employees, from and against any and all liabilities, claims, demands, suits, causes of action, debts, obligations, expenditures, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, arising out of any claim sustained either directly or indirectly, arising out of, or in connection with, the services subject to this Agreement to the extent that they were caused by the negligence, recklessness or intentional wrongful conduct of CONSULTANT, and other persons employed or utilized by CONSULTANT in the performance of this Agreement. In the event that any action or proceeding is brought against CITY, by reason of any such claim or demand, CONSULTANT shall, upon written notice from CITY, resist and defend such action or proceeding by counsel satisfactory to CITY. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest

by CITY. This provision is subject to the limitations of liability as provided in Florida Statutes, Section 768.28 and does not act as a waiver of the CITY's entitlement to sovereign immunity as a matter of statutory and common law.

5.9 REPRESENTATIVE OF CITY AND CONSULTANT

5.9.1 The parties recognize that questions in the day-to-day conduct of the Project will arise. CITY, upon CONSULTANT'S request, shall advise CONSULTANT in writing of one (1) or more CITY employees to whom all communications pertaining to the day-to-day conduct of the Project shall be addressed.

5.9.2 CONSULTANT shall inform the CITY in writing of CONSULTANT'S representative to whom matters involving the conduct of the Project shall be addressed.

5.10 ALL PRIOR AGREEMENTS SUPERSEDED. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree 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 no modification, amendment or alteration in 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.

5.11 NOTICES. Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

FOR CITY:

Desorae Giles-Smith
City Manager
City of Lauderdale
5581 W. Oakland Park Boulevard
Lauderhill, FL 33313

FOR CONSULTANT:

Donald Giancoli
President – Giancoli Consulting, Inc.
303 N. Riverside Dr., #803

5.12 INTERPRETATION. The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as “herein”, “hereof”, “hereunder”, and “hereinafter” refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section or Article of this Agreement, such reference is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article.

5.13 INDEPENDENT CONTRACTOR STATUS. CONSULTANT, its officers, employees and agents, are an independent contractor at all times under this Agreement. Services provided by CONSULTANT, its officers, employees or agents shall be subject to the supervision of CONSULTANT. In providing the services, CONSULTANT, its officers, employees or agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the CITY. CONSULTANT, its officers, employees, agents or other persons under its control agree at no time to represent, or cause to be represented, that they are officers, employees or agents of the CITY. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

5.14 THIRD PARTY BENEFICIARIES. Neither CONSULTANT nor CITY intend to directly or substantially benefit a third party by this Agreement. Therefore, the 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.

5.15 CONFLICTS. Neither CONSULTANT nor its officers, agents or employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT’S loyal and conscientious exercise of judgment related to its performance under this Agreement.

5.15.1 CONSULTANT agrees that none of its officers, employees or agents shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such person from representing themselves in any action or in any administrative or legal proceeding.

5.15.2 In the event CONSULTANT is permitted to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subcontractors, by written contract, from having any conflicts as within the meaning of this section.

5.16 WAIVER OF BREACH AND MATERIALITY. Failure by CITY to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A 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. CITY and CONSULTANT agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

5.17 COMPLIANCE WITH LAWS. CONSULTANT shall comply with all federal, state, and local laws, codes, ordinances, rules and regulations in performing its duties, responsibilities and obligations related to this Agreement.

5.18 SEVERANCE. In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

5.19 JOINT PREPARATION. Preparation of this Agreement has been a joint effort of CITY and CONSULTANT and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

5.21 PRIORITY OF PROVISIONS. If there is a conflict or inconsistency between any terms, statement, requirement or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the terms, statement, requirement, or provision contained in Articles 1 through 5 of this Agreement shall prevail and be given effect.

5.22 APPLICABLE LAW AND VENUE. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue situs, and shall be governed by the laws of the State of Florida. To encourage prompt and equitable resolution of any litigation that may arise hereunder, each party hereby waives any rights it may have to a trial by jury of any such litigation.

5.23 RECORDS AND AUDIT

5.23.1 CITY reserves the right to audit the records of CONTRACTOR relating to this Agreement any time during the performance and term of the Agreement and for a period of three (3) years after completion and acceptance by CITY. If required by CITY, CONTRACTOR shall agree to submit to an audit by an independent certified public accountant selected by CITY. CONTRACTOR shall allow CITY to inspect, examine and review the records of CONTRACTOR at any and all times during normal business hours during the term of this Agreement.

5.23.2 CONTRACTOR agrees that it shall keep and maintain accurate and complete records with regard to all services as proposed hereunder. All original records related to the services provided under the terms of this Agreement are the property of CITY and accordingly those records are subject to the Florida Public Records Law. CONTRACTOR shall not release any CITY records without written permission from CITY except as necessary and appropriate in the performance of the duties and responsibilities required to comply with the terms of any Agreement between the parties.

5.23.3 CONTRACTOR shall not disclose any public records that are exempt or confidential and exempt from public records disclosure requirements except as authorized in writing by CITY and authorized by law.

5.23.4 CONTRACTOR shall preserve and make available for inspection by CITY personnel, or by personnel duly authorized by CITY, computer data and other records related to the services provided under this Agreement. The records will be made available during normal business hours upon twenty-four hours notice by the CITY. Contractor shall retain all public records and transfer, at no cost, to the CITY all records in possession of the CONTRACTOR upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the CITY in a format that is compatible with the information technology systems of the CITY.

5.24 INCORPORATION BY REFERENCE. The attached exhibits are incorporated into and made a part of this Agreement.

5.25 COUNTERPARTS. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original.

5.26 MODIFICATIONS AND AMENDMENTS. No modification, amendment or change hereto shall be valid unless agreed upon in writing by both parties.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature.

CITY OF LAUDERHILL

DESORAE GILES-SMITH
City Manager

_____ day of _____, 2024

CONSULTANT

DON GIANCOLI, President
GIANCOLI CONSULTING, INC.

_____ day of _____, 2024