

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF DORAL
AND
BusinessFlare, LLC
FOR
Economic Development Services**

THIS AGREEMENT is made between **BusinessFlare, LLC.**, an active, for-profit Florida corporation, (hereinafter the “Provider”), and the **CITY OF DORAL, FLORIDA**, a Florida municipal corporation, (hereinafter the “City”).

WHEREAS, the Provider and City, through mutual negotiation, have agreed upon a scope of services, schedule, and fee to ANALYZE OUR CURRENT ECONOMIC DEVELOPMENT PROGRAMS, ADVISE ON IMPLEMENTATION STRATEGIES TO RESTART THE ECONOMY POST CORONAVIRUS AND STRATEGIES TO IMPROVE OUR EXISTING ECONOMIC EFFORTS THAT INCLUDE STRATEGIC REDEVELOPMENT AREAS, GRANTS, AND OTHER SUGGESTED MODIFICATIONS. (the “Project”); and

WHEREAS, the Project would commence upon approval of the agreement at the May 13, 2020 City Council Meeting and the Project would be completed within 120 days with a presentation before the Mayor and City Council-members at a monthly City Council meeting; and

WHEREAS, Section 2-321 of the City of Doral Code of Ordinances authorizes the wavier of the City’s competitive bidding process, upon the recommendation of the City Manager that is in the City’s best interest to do so due to the nature of the good and/or services; and

WHEREAS, the City Council approved staff’s recommendation during its May 13, 2020 Regular Council Meeting via Resolution No. 20-86 and authorized the City Manager to enter into an agreement on behalf of the City with BusinessFlare, LLC.

WHEREAS, the Provider and City, through mutual negotiation, have agreed on the terms and conditions in this Agreement for the provision of services.

WHEREAS, the City desires to engage the Contractor to perform the services specified below.

1. Scope of Services/Deliverables.

- 1.1 The Provider shall furnish professional services to the City as set forth in the Scope of Services, attached hereto as **Exhibit “A”**, which is incorporated herein and made a part hereof by this reference.
- 1.2 The “Scope of Services” includes a Schedule for the Service which includes a breakdown of tasks, timeline and deliverables to the City.

2. Term/Commencement Date.

- 2.1 This Agreement shall become effective upon execution unless earlier terminated in accordance with Paragraph 8.

2.2 Provider agrees that time is of the essence and Provider shall complete each deliverable for the Service within the timeframes set forth in the Schedule, unless extended by the City Manager.

3. **Compensation and Payment.**

3.1 The Provider shall be compensated in the following manner:

- Upon execution of this agreement, the City will be invoiced a first invoice of \$4,000, as provided in the Scope of Services.
- For Task 1 of the Scope of Service, an amount of \$6,000 regardless of the number of hours or length of time necessary for Contractor to complete the Scope of Services. Contractor shall not be entitled to any additional payment for any expenses incurred in completion of the Scope of Services. Upon completion of the work, Provider shall submit its bill[s] for payment in a form approved by the City. The bill[s] shall identify the services completed and the amount charged.
- For Task 2 of the Scope of Service, an amount of \$10,000 regardless of the number of hours or length of time necessary for Contractor to complete the Scope of Services. Contractor shall not be entitled to any additional payment for any fees or expenses incurred in completion of the Scope of Services. Upon completion of the work, and presentation of report to the Mayor and the City Council, Provider shall submit its bill[s] for payment in a form approved by the City. The bill[s] shall identify the services completed and the amount charged.

3.2 The City shall pay Provider in accordance with the Florida Prompt Payment Act.

3.3 If a dispute should occur regarding an invoice submitted, the City Manager may withhold payment of the disputed amount and may pay the Consultant the undisputed portion of the invoice. Upon written request of the Finance Director, the Consultant shall provide written documentation to justify the invoice. Any compensation disputes shall be decided by the City Manager whose decision shall be final.

4. **Sub-providers.**

- 4.1 The Provider shall be responsible for all payments to any sub-providers and shall maintain responsibility for all work related to the Service.
- 4.2 Any sub-providers used on the Service must have the prior written approval of the City Manager or his designee.

5. **Provider's Responsibilities.**

- 5.1 The Provider shall exercise the same degree of care, skill and diligence in the performance of the Service as is ordinarily provided by the provider under similar circumstances. The City in no way assumes or shares any responsibility or liability of the Provider or Sub Provider under this agreement.

6. **Conflict of Interest.**

- 6.1 To avoid any conflict of interest or any appearance thereof, Provider shall not, for the term of this Agreement, represent any private sector entities (developers, corporations, real estate investors, etc.), with regard to any City related matter.

7. **Termination.**

- 7.1 The City Manager for any reason may terminate this Agreement upon thirty (30) days written notice to the Provider, or immediately with cause, with cause. Cause for purposes of this Agreement shall be defined as: a material breach of this Agreement which Provider fails to cure within five (5) days of receiving notice from the City of such breach; a failure on the part of Provider to adhere to the City's reasonable requests regarding the objectives of this Agreement; and/or any act or omission of Provider that constitutes a violation of Federal, State, County, or City Law.
- 7.2 Upon receipt of the City's written notice of termination, Provider shall stop work on the project.
- 7.3 In the event of termination by the City, the Provider shall be paid for all work accepted by the City Manager up to the date of termination, provided that the Provider has first complied with the provisions of Paragraph 7.4.
- 7.4 The Provider shall transfer all books, records, reports, working drafts, documents, and data pertaining to the Project to the City, in a hard copy and electronic format specified by the City within 14 days from the date of the written notice of termination or the date of expiration of this Agreement.

7.5 If the Provider wishes to terminate this Agreement, it must provide the City with sixty (60) days written notice. Failure to provide the City with such days written notice may result in the Provider being unable to do business with the City in the future.

8. **Insurance.**

8.1 The Provider shall secure and maintain insurance throughout the duration of this Agreement professional liability, medical and/or commercial insurance of such type and in such amounts as required by Exhibit "B". The insurance carrier shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida.

8.2 Certificates of Insurance shall be provided to the City at the time of execution of this Agreement and certified copies provided if requested. The City further reserves the right to solicit additional coverage, or require higher limits of liability as needed, and depending on the nature of scope, or level of exposure.

9. **Nondiscrimination.**

9.1 During the term of this Agreement, Provider shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal and State laws regarding nondiscrimination

10. **Attorneys' Fees and Waiver of Jury Trial.**

10.1 In the event of any litigation arising out of this Agreement, each party shall be responsible for their attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

10.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

11. **Indemnification.**

11.1 Provider shall defend, indemnify, and hold harmless the City, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising out of, related to, or any way connected with Provider's performance or non-performance of any provision of this Agreement including, but not limited to, liabilities arising from contracts between the Provider and third parties made pursuant to this Agreement. Provider shall reimburse the City for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising out of, related to, or in any

way connected with Provider's performance or non-performance of this Agreement. This section shall be interpreted and construed in a manner to comply with any applicable Florida Statutes, including without limitation Sections 725.06 and 725.08, Fla. Stat., if applicable.

11.2 The provisions of this section shall survive termination of this Agreement.

11.3 Ten dollars (\$10) of the payments made by the City constitute separate, distinct, and independent consideration for the granting of this indemnification, the receipt and sufficiency of which is voluntary and knowingly acknowledged by the Provider.

12. **Notices/Authorized Representatives.**

12.1 Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

For the City: Albert P. Childress
 City Manager
 City of Doral, Florida
 8401 NW 53rd Terrace
 Doral, Florida 33166

With a Copy to: Luis Figueredo, ESQ.
 City Attorney
 City of Doral, Florida
 8401 NW 53rd Terrace
 Doral, FL 33166

For the Provider: Kevin S. Crowder, CEcD
 Owner
 BusinessFlare Economic Development Solutions
 1175 NE 125th Street, Suite 601
 North Miami, FL 33161

13. **Governing Law.**

13.1 This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation arising out of this Agreement shall be in Miami-Dade County, Florida.

14. **Entire Agreement/Modification/Amendment.**

14.1 This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

14.2 No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

15. **Ownership and Access to Records and Audits.**

15.1 All records, books, documents, maps, data, deliverables, papers and financial information (the "Records") that result from the Provider providing services to the City under this Agreement shall be the property of the City.

15.2 The City Manager or his designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any Records of the Provider involving transactions related to this Agreement.

15.3 The City may cancel this Agreement for refusal by the Provider to allow access by the City Manager or his designee to any Records pertaining to work performed under this Agreement that are subject to the provisions of Chapter 119, Florida Statutes.

16. **Nonassignability.**

16.1 This Agreement shall not be assignable by Provider. The City is relying upon the apparent qualifications and personal expertise of the Provider, and such firm's familiarity with the City's area, circumstances and desires.

17. **Severability.**

17.1 If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law, provided the severance of any term does not result in interest on any Bonds issued to finance the Fields being includable in gross income for federal tax purposes.

18. **Independent Contractor.**

18.1 The Provider and its employees, volunteers and agents shall be and remain independent contractors and not agents or employees of the City with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership,

association or any other kind of joint undertaking, enterprise or venture between the parties.

18.2 The Provider agrees that it will not take any Federal tax position inconsistent with it being a service provider.

19. **Compliance with Laws.**

19.1 The Provider shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Service.

20. **Waiver**

20.1 The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

21. **Survival of Provisions**

21.1 Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

22. **Prohibition of Contingency Fees.**

22.1 The Provider warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Provider, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

23. **Counterparts**

23.1 This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterpart shall constitute one and the same instrument.

24. **Interpretation.**

24.1 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.

24.2 Preparation of this Agreement has been a joint effort of the City and Provider 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.

25. **Discretion of City Manager.**

25.1 Any matter not expressly provided for herein dealing with the City or decisions of the City shall be within the exercise of the reasonable professional discretion of the City Manager.

26. **Third Party Beneficiary**

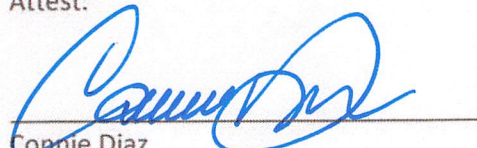
26.1 Provider and the City agree that it is not intended that any provision of this Agreement establishes a third-party beneficiary giving or allowing any claim or right of action whatsoever by any third party under this Agreement.

27. **No Estoppel**

27.1 Neither the City's review, approval and/or acceptance of, or payment for services performed under this Agreement shall be construed to operate as a waiver of any rights under this Agreement of any cause of action arising out of the performance of this Agreement, and Provider shall be and remain liable to the City in accordance with applicable laws for all damages to the City caused by Provider's negligent performance of any of the services under this Agreement. The rights and remedies provided for under this Agreement are in addition to any other rights and remedies provided by law.


IN WITNESS WHEREOF, the parties execute this Agreement on the respective dates under each signature: The City, signing by and through its City Manager, attested to by its City Clerk, duly authorized to execute same and by Provider by and through its Owner, whose representative has been duly authorized to execute same.

Attest:



Connie Diaz
City Clerk

CITY OF DORAL

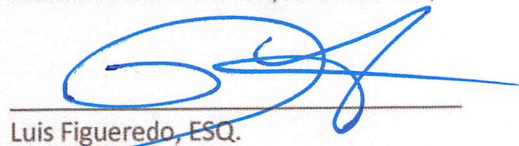
By: 

Albert P. Childress
City Manager

Date: June 11, 2020

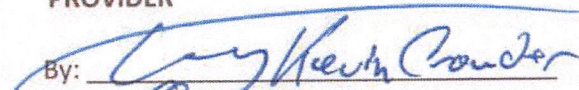
Approved As To Form and Legal Sufficiency for the Use

And Reliance of the City of Doral Only:



Luis Figueredo, ESQ.

PROVIDER

By: 
Its: Owner
Date: 6/10/20

“EXHIBIT A”

Scope of Services

Task 1:

BusinessFlare will review current economic recovery strategies and redevelopment/reuse economic conditions and advise the City on enhancements.

Deliverables:

- Bi-weekly check-in calls with City Staff
- Economic Recovery Strategy post-COVID-19
- Review and report with comments on current redevelopment initiatives with an effort to retain industrial business areas, reuse areas without “pricing out” existing businesses, and suggest complimentary uses.

Task 2:

This task includes economic development and redevelopment consulting in the following areas:

Deliverables:

- Bi-weekly check-in calls with City Staff
- A review of the city’s current economic strategies, programs, plans, and comprehensive plan economic element, advising about real estate, marketing and regulatory influences with recommendations on increasing the city’s competitiveness.
- Review and report on Best Practices regarding economic development management, adaptive reuse and central business area development strategies.

Total Fee **\$20,000**

- Task 1 \$10,000
- Task 2 \$10,000

BusinessFlare will invoice the City \$4,000 upon execution of the agreement. Following invoices will be submitted on a monthly basis based on percent complete.

RESOLUTION No. 20-86

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, WAIVING THE COMPETITIVE BID PROCESS PURSUANT TO SECTION 2-321 OF THE CITY'S CODE OF ORDINANCES, APPROVING AN AGREEMENT WITH BUSINESS FLARE ECONOMIC DEVELOPMENT CONSULTANT TO ANALYZE OUR CURRENT ECONOMIC DEVELOPMENT PROGRAMS AND ADVISE ON IMPLEMENTATION STRATEGIES TO RESTART THE ECONOMY POST COVID-19; IN AN AMOUNT NOT TO EXCEED \$20,000.00; AUTHORIZING THE CITY MANAGER TO APPROVE A BUDGET TRANSFER FROM ACCOUNT No. 001.40005.500482 TO ACCOUNT No. 001.4000.515.500310; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY, PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, On March 6th and 7th, 2020, the City of Doral Mayor and Council and City Administration participated in Strategic Planning sessions to discuss priorities and implementation of the city's strategic goals. Among the strategic priorities identified were 'Growth and Redevelopment' and 'Growing the Tax and Revenue Base'; and

WHEREAS, On March 12, Miami-Dade County and the City of Doral implemented a State of Emergency order to contain the spread off the COVID-19, immediately shutting down all major events, implementing social distancing regulations, closing non-essential businesses and limiting many businesses uses in the city; and

WHEREAS, the economic impact was immediate, with restaurants, hotels and retail establishments discontinuing or severely reducing their operations within the city. While the economic repercussions are still being felt, current economic data on the impact of the shutdown remains elusive; and

WHEREAS, the City of Doral Economic Development division is contacting businesses individually to advise them about possible government economic incentives

and coordinate local promotions among small businesses, these strategies are only temporary and small scale compared to the overall economic health; and

WHEREAS, the city seeks to create both short term and long term economic development plans by engaging an economic development consultant to study our current programs and suggest implementation strategies responding to the current economic downturn and taking action to diversify redevelopment projects on a strategic project based approach utilizing local data to be obtained of Doral seeks to engage consultants to study and present current economic data, and offer recommendations on how to implement efficient net positive growth through policy decisions; and, as well as position the city to adapt, rapidly recover and thrive in the near future; and

WHEREAS, staff as identified Business Flare as being a well-respected South Florida based small business that has a team of professionals that have worked for municipalities and advised municipalities on implementation strategies; and

WHEREAS, staff respectfully requests that the Mayor and the City Council-Members approve the agreement/proposal with Business Flare Development Consultant, and the reallocation of Economic Development funds within the Planning and Zoning Department's currently funded 2019-2020 budget, in order to study available economic data and present implementation strategies back to this City Council on how to mitigate the negative economic impact of the COVID-19 shutdown on Doral's economy, as well as position the city to adapt, rapidly recover and thrive in the near future; and

WHEREAS, The City of Doral Planning and Zoning Department seeks to transfer funds to study strategies for economic redevelopment and provide a net positive tax and revenue base; and

WHEREAS, funds for this service will be available in the Planning and Zoning Professional Services account, # 001.40005.500310.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DORAL AS FOLLOWS:

Section 1. The above recitals are confirmed, adopted, and incorporated herein and made part hereof by this reference.

Section 2. The agreement/proposal with Business Flare Economic Development Consultant, and the transfer of funds necessary to complete the services agreement as presented, and to implement policy strategies into the City of Doral Comprehensive Plan, Code of Ordinances, and/or internal programs/ grants/ services post COVID-19 shutdown on Doral's economy, positioning the city to rapidly adapt, recover, and thrive in the future, is hereby approved.

Section 3. The City Manager is authorized to the City to enter into the agreement, for the term of the contract and any necessary extension periods to study and present current economic data, create implementation strategies and make changes to the Economic Development programs offered by the city to mitigate the negative economic impact of the COVID-19 shutdown on Doral's economy, as well as position the city to adapt, rapidly recover and thrive in the near future for an amount not to exceed \$20,000.00 per the contract's terms of service.

Section 4. The City Council of the City of Doral, Florida hereby authorizes the City Manager to transfer funds from (Economic Development) Promotional Activities Account, #001.40005.500482 in the amount of \$20,0000.00 to professional Services Account, # 001.40005.500310.


Section 5. The City Manager and the City Attorney are hereby authorized to take such further action as may be necessary to implement the purpose and the provisions of this Resolution.

Section 6. This Resolution shall take effect immediately upon adoption.

The foregoing Resolution was offered by Councilmember Mariaca who moved its adoption. The motion was seconded by Councilmember Cabrera and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Christi Fraga	Yes
Councilwoman Digna Cabral	Yes
Councilman Pete Cabrera	Yes
Councilwoman Claudia Mariaca	Yes

PASSED AND ADOPTED this 13 day of May, 2020.



JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



CONNIE DIAZ, MMG
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:



LUIS FIGUEREDO, ESQ.
CITY ATTORNEY