

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF DORAL
AND
BIOTECH CLINICAL LABORATORIES, INC.
FOR
COVID-19 RT-PCR (SWAB) TESTING FOR CITY RESIDENTS**

THIS AGREEMENT is made between **BIOTECH**, a Florida corporation, (hereinafter the "Provider"), and the **CITY OF DORAL, FLORIDA**, a Florida municipal corporation, (hereinafter the "City").

WHEREAS, the City desires to have the provider conduct off-site and on-site COVID-19 testing of its employees and residents.

WHEREAS, the Provider has particular expertise in the subject matter of testing for COVID-19, and is ready and able to provide COVID-19 RT-PCR (SWAB) testing for city residents in the manner desired by the City; and

WHEREAS, the Provider and City, through mutual negotiation, have agreed on the terms and conditions in this Agreement for the provision of COVID-19 PCR testing.

1. Scope of Services/Deliverables.

1.1 Provider will provide COVID-19, novel coronavirus testing services ("Services"). The Services are more specifically described in Exhibit A, attached and fully incorporated herein.

1.2 Provider shall ensure the site is staffed by personnel with appropriate clinical training.

1.3 The standard of care for all services performed or furnished by Provider under this agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances. All personnel shall wear protective equipment.

1.4 Provider shall comply with federal and state regulations concerning the management and disposal of medical waste. Provider shall provide the City with a copy of the medical waste collection and disposal agreement.

1.5 Provider shall comply with Health Insurance Portability and Accountability Act (HIPAA) Rules.

2. **Term/Commencement Date.**

- 2.1 This Agreement shall become effective upon execution by both parties and shall remain in effect until December 31, 2021, unless earlier terminated in accordance with Paragraph 8. The City Manager may extend the term of this Agreement by written notice to the Provider.
- 2.2 Provider agrees that time is of the essence to ensure the safety of City employees and shall provide COVID-19 PCR test results within 48 hours.
- 2.3 The initiation of the COVID-19 testing shall commence upon execution of this agreement.

3. **Compensation and Payment.**

- 3.1 The Provider shall be compensated in the following manner:

As compensation for the services contemplated herein and for performance rendered **BIOTECH CLINICAL LABORATORIES, INC.**, of its duties and obligations hereunder, the City shall pay to **BIOTECH CLINICAL LABORATORIES, INC.**, an aggregate fee not to exceed \$115 per PCR testing, as indicated in Exhibit A (The "testing Fee"), in accordance with the pay schedule. In no event shall the fees due under this Agreement exceed the expressed budgeted amount.

- 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 Provider the undisputed portion of the invoice. Upon written request from the City's Finance Director, the Provider shall submit written documentation to justify an invoice. Any compensation disputes shall be decided by the City Manager whose decision shall be final.

4. **Provider's Responsibilities.**

- 4.1 The Provider shall exercise the same degree of care, skill and diligence in the performance of the Service as has ordinarily been provided by Medical testing providers. The City in no way assumes or shares any responsibility or liability of the Provider under this Agreement.

5. **Termination.**

- 5.1 The City Manager for any reason may terminate this Agreement upon five (5) days written notice to the Provider, or immediately 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.
- 5.2 Upon receipt of the City's written notice of termination, Provider shall stop work on the project.
- 5.3 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 8.4.
- 5.4 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.
- 5.5 If the Provider wishes to terminate this Agreement, it must provide the City with thirty (30) 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.

6. **Insurance.**

- 6.1 Provider shall furnish the City with a certificate of insurance reflecting insurance coverage to be in effect at all times during, with no less than terms specified below. All policies or certificates of insurance are subject to review and verification by Risk Management. The insurance provider selected by Vendor must be authorized to do business in the State of Florida and rated no less than "A-" as to management and no less than "Class V" as to financial strength, by the latest edition of Best Insurance Guide published by A.M. best Company, or its equivalent. The City reserves the right to solicit additional insurance requirements as needed, and request copies of all insurance policies including any and all applicable endorsements. The Vendor shall provide the City with written notice of any cancellation and/or material change that deviates coverage from the following requirements.

I. Commercial General Liability

A. Limits of Liability

Bodily Injury & Property Damage Liability

Each Occurrence	\$2,000,000.00
Policy Aggregate	\$2,000,000.00
Personal & Adv. Injury Liability	\$1,000,000.00
Products/Completed Operations	\$2,000,000.00

B. Endorsements Required

City of Doral listed as an additional insured

II. Automobile Liability (Required) \$1,000,000.00

- Owned, Scheduled Autos, including
- Hired, Non-Owned Autos
- City of Doral listed as an additional insured

II. Workers Compensation

A. Statutory Limits

B. Employer's Liability Limits

Bodily injury caused by an accident, each accident	\$100,000.00
Bodily injury caused by disease, each employee	\$100,000.00
Bodily injury caused by disease, policy limit	\$500,000.00

Workers Compensation insurance is required for all persons fulfilling this contract, whether employed, contracted, temporary or subcontracted.

Waiver of Subrogation in favor of City.

III. Medical Malpractice/Professional Liability Limits of Liability

Each Claim \$2,000,000

If claims made, retro Date applies prior to contract inception.

Coverage is to be maintained and applicable for a minimum of 3 years following contract completion.

Subcontractors' Compliance: It is the responsibility of the contractor to ensure that all subcontractors comply with all insurance requirements.

All above coverage must remain in force and Certificate of Insurance on file with City without interruption for the duration of this agreement. Policies shall provide the City of Doral with 30 days' written notice of cancellation or material change from the insurer. If the insurance policies do not contain such a provision, it is the responsibility of the Contractor to provide such written notice within 10 days of the change or cancellation.

Certificate Holder: City of Doral, Florida
8401 NW 53rd Terrace
Doral, FL 33166

Certificates/Evidence of Property Insurance forms must confirm insurance provisions required herein. Certificates shall include Agreement, Bid/Contract number, dates, and other identifying references as appropriate.

Insurance Companies must be authorized to do business in the State of Florida, and must be rated no less than "A-" as to management, and no less than "Class V" as to financial strength, by the latest edition of AM Best's Insurance Guide, or its equivalent.

Coverage and Certificates of Insurance are subject to review and verification by City of Doral Risk Management. City reserves the right but not the obligation to reject any insurer providing coverage due to poor or deteriorating financial condition. The City reserves the right to amend insurance requirements in order to sufficiently address the scope of services. These insurance requirements shall not limit the liability of the Contractor/Vendor. The City does not represent these types or amounts of insurance to be sufficient or adequate to protect the Contractor/Vendor's interests or liabilities, but are merely minimums.

- 6.2 The City may require proof of the aforementioned insurance prior to the commencement of the Services. 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.

7. **Nondiscrimination.**

- 7.1 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

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

- 8.1 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.
- 8.2 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.

9. **Indemnification.**

- 9.1 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.
- 9.2 The provisions of this section shall survive termination of this Agreement.
- 9.3 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.

10. **Notices/Authorized Representatives.**

- 10.1 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: Claudia Villanueva
President
Biotech Clinical Laboratories, Inc.
9000 NW 16 Street
Doral, FL 33172

11. **Governing Law.**

11.1 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.

12. **Entire Agreement/Modification/Amendment.**

12.1 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.

12.2 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.

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

13.1 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.

13.2 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.

13.3 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.

14. **Nonassignability.**

14.1 This Agreement shall not be assignable by Provider unless such assignment is first approved by the City Manager. 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.

15. **Severability.**

15.1 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.

16. **Independent Contractor.**

16.1 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.

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

17. **Compliance with Laws.**

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

18. **Waiver**

18.1 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.

19. **Survival of Provisions**

19.1 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.

20. **Prohibition of Contingency Fees.**

20.1 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.

21. **Counterparts**

21.1 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.

22. **Removal of Unsatisfactory Personnel**

22.1 The City may make written request to Provider for the prompt removal and replacement of any personnel employed or retained by Provider or any sub provider. The Provider shall respond to the City within fourteen calendar days of receipt of such request with either the removal and replacement

of such personnel or with written justification as to why removal is not warranted. All decisions involving personnel will be made by Provider. Such request shall solely relate to said employees work under this agreement. In the event the City Manager disagrees with the justification offered by Provider, the City Manager's decision to replace the employee shall be final.

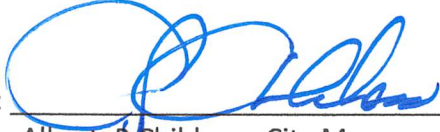
IN WITNESS WHEREOF, the parties execute this Agreement on the respective dates under each signature: The City, signing by and through its City Manager, attested to by its City Clerk, duly authorized to execute same and by Provider by and through its _____, whose representative has been duly authorized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

Attest:




Connie Diaz, City Clerk

CITY OF DORAL



By: _____
Albert P. Childress, City Manager
Date: Jan. 5, 2021

Approved As To Form and Legal Sufficiency for the Use
And Reliance of the City of Doral Only:



Luis Figueredo, ESQ.
City Attorney

PROVIDER


By: Claudio Villanueva
Its: President
Date: 01/05/21

“EXHIBIT A”

The provider agrees to administer COVID-19 PCR testing for City of Doral residents starting on Monday, December 7, 2020, from 9 a.m. to 1 p.m. in accordance with the schedule and work plan outlined below. The vendor agrees to continue testing on each consecutive Monday, Wednesday, and Friday, ending on Wednesday, June 30, 2021.

START DATE	FREQUENCY	DURATION	TIME	# OF TESTS PER DAY	COST
12/07/2020	3 X per week Mon/Wed/Fri	4 hours each day for	9 a.m. – 1 p.m.	Approximately 50 exams scheduled each day	\$115 per test
COMMUNICATIONS	<ul style="list-style-type: none"> Advertise through flyers, Mailouts, and posting on CityWeb 				
POLICE	<ul style="list-style-type: none"> Provide PSA to assist with traffic flow into and out of the parking lot 				
PARKS	<ul style="list-style-type: none"> Provide 1 Tent, 2 tables, 3 chairs Assist with onsite logistics 				
PUBLIC WORKS	<ul style="list-style-type: none"> Assist with logistics and traffic cones 				
HUMAN RESOURCES	<ul style="list-style-type: none"> Planning; Organization; set-up; logistics, administration of payment 				
BIOTECH	<ol style="list-style-type: none"> Provide a link to be placed on City Website for residents to sign up Administer tests Ensure person to be tested is a resident of Doral Ensure that resident provides a City of Doral home address Ensure that each resident signs the test form, which includes: <ul style="list-style-type: none"> Date Address Phone Number Name Driver License Information Provide backup with names and addresses for verification along with invoice (for City records) 				

RESOLUTION No. 20-242

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING THE CONTINUATION OF ONSITE COVID-19 POLYMERASE CHAIN REACTION (PCR) TESTING FOR CITY OF DORAL RESIDENTS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, it has been deemed prudent and responsible to continue to test City of Doral residents to sustain the intended efforts of Emergency Orders issued at the State, County, and City level to promote and maintain health and welfare throughout the City of Doral, especially as we continue to vigilantly enforce COVID-19 safety measures and prepare for the expected increased activity as we enter the flu season; and

WHEREAS, The City's Code Section 2.321 authorizes the City Council to waive the competitive bidding process upon the recommendation of the City Manager that it is in the best interest to do so, to obtain goods and services which cannot be acquired through the normal purchasing process due to insufficient time, the nature of the goods or services or other factors; and

WHEREAS, the Human Resources Department has reached out to several testing laboratories and related vendors to ascertain their ability to conduct polymerase chain reaction (PCR) onsite testing at City Hall with the capability of providing quick turnaround results within 48 hours; and

WHEREAS, Staff has identified and established a viable and professional working relationship with One Milo Inc, which began onsite testing at City Hall on Friday, July 24, 2020, and Bio-Tech Clinical Laboratory (a local business in the City of Doral) that is currently providing COVID-19 testing to Doral residents since September 14, 2020, as responsible laboratories able to comply with the City's needs; and

WHEREAS, The City's goal is to continue weekly onsite testing for residents through June 30, 2021, at the Police Training Center, so that residents may have local access to receive COVID-19 testing as an added benefit of residing in our City. The average cost for COVID-19 testing ranges from \$120 - \$145 per person, depending on the vendor.

WHEREAS, The City of Doral plans to continue to offer onsite testing to approximately 50 residents each day, on Mondays, Wednesdays, and Fridays, from December 5, through June 30, 2021 approximately 89 test dates, at a cost of \$120 per test and approximately 50 persons per day, for an approximate total cost of \$534,000, not to exceed \$600,000; and

WHEREAS, The Coronavirus Aid, Relief, and Economic Security (CARES) Act will only fund testing from September 14, 2020, through December 30, 2020; funding for expanded testing approved through this resolution from January 01, 2021, through June 30, 2021, will be made available from the General Fund, Contingent Reserve account #001.50005.500492; and

WHEREAS, Staff has recommended waiving competitive bidding and authorizing the City Manager to continue to expend funds on behalf of the City, pursuant to section 2-321 of the City of Doral Code of Ordinances, and to enter into a new agreement or extend the existing agreement for residential testing with the aforementioned vendor, as well as any additional vendor that may be identified in the future as having the capabilities to meet our needs, as provided in the December 16, 2020, memorandum from the Human Resources Director, which is attached hereto as Exhibit "A" and incorporated herein and made a part hereof by this reference;

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL
OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:**

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

Section 2. Waiver. Pursuant to Section 2-321 of the City Code, and upon the recommendation of the City Manager, the competitive bid process is hereby waived in favor of One Milo Inc, and Bio-Tech Clinical Laboratory, and any other suitable vendor that may be identified in the coming months. This waiver in and of itself, absent an agreement, does not vest One Milo Inc., and Bio-Tech Clinical Laboratory with any contractual rights.

Section 3. Approval. The City Manager is hereby authorized to negotiate and enter into an agreement or extend the current agreement on behalf of the City of Doral with One Milo Inc., and Bio-Tech Clinical Laboratory, and any other vendor deemed capable of performing COVID-19 onsite testing within the established parameters for an amount not to exceed \$600,000 through June 30, 2021.

Section 4. Authorization. The City Manager is authorized to execute contracts and expend funds on behalf of the City.

Section 5. Implementation. 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. Effective Date. 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 Puig-Corve and upon being put to a vote, the vote was as follows:


Mayor Juan Carlos Bermudez	Yes
Vice Mayor Pete Cabrera	Yes
Councilwoman Digna Cabral	Yes
Councilwoman Claudia Mariaca	Yes
Councilman Oscar Puig-Corve	Yes

PASSED AND ADOPTED this 16 day of December, 2020.



JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



CONNIE DIAZ, MMC
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