

**PROFESSIONAL SERVICES AGREEMENT
FOR THE CITY OF COLLEGE PARK, GEORGIA**

This Professional Service Agreement (“Agreement”) is made and entered into this _____ day of MARCH, 11, 2024, by and between **the CITY OF COLLEGE PARK, GEORGIA**, a Georgia municipal corporation (the “City”) and **ROSE STEWART** (the “Contractor”), who together may also be collectively referred to as the “Parties,” do hereby agree as follows:

WHEREAS, the City desires to engage Contractor, and Contractor agrees to render certain services as referenced in **Exhibit A** attached to this Agreement.

NOW THEREFORE, in consideration of the mutual terms, conditions, and covenants set forth herein, the Parties hereto agree as follows:

1. **SERVICES.** Contractor agrees to provide professional services to the City as detailed in **Exhibit A** (“Services”). If any services to be performed are not specifically listed in Exhibit A or herein but are reasonably necessary to accomplish the purpose of this Agreement, Contractor agrees to perform such services at the direction and approval of the City Manager or his/her designee. In the event of any conflict between the terms of Exhibit A and this Agreement, the terms of this Agreement shall control.
2. **COMPENSATION.** In consideration for Services, the City shall pay to Contractor a fee not to exceed the amounts indicated in **Exhibit B** (“Fee Schedule”). The City agrees to pay Contractor’s invoices within thirty (30) days of receiving same. As the City is a local government entity and thus exempt from sales taxation, notwithstanding the terms of the proposal, Contractor acknowledges the City shall not be responsible for payment of any sales taxes on any invoices submitted for the Services provided under this Agreement.
3. **TERM.** Unless otherwise terminated by operation of and in accordance with this Agreement, this agreement shall commence on February 6, 2024, and shall continue in full force and effect through April 30, 2024, at which time this Agreement shall terminate without further obligation on behalf of the City. The Agreement may only be extended thereafter by written agreement, unless terminated earlier by operation of and in accordance with this Agreement.
4. **RELATIONSHIP OF THE PARTIES.**
 - (a) **Independent Contractors.** Nothing contained herein shall be deemed to create any relationship other than that of independent contractor between the City and Contractor. This Agreement shall not constitute, create, or otherwise imply an employment, joint venture, partnership, agency or similar arrangement between the City and Contractor. It is expressly agreed that Contractor is acting as an independent contractor and not as an employee in providing the Services under this Agreement.
 - (b) **Employee Benefits.** Contractor shall not be eligible for any benefit available to

- (b) Employee Benefits. Contractor shall not be eligible for any benefit available to employees of the City including, but not limited to, workers' compensation insurance, state disability insurance, unemployment insurance, group health and life insurance, vacation pay, sick pay, severance pay, bonus plans, pension plans, or savings plans.
 - (c) Payroll Taxes. No income, social security, state disability or other federal or state payroll tax will be deducted from payments made to Contractor under this Agreement. Contractor shall be responsible for all FICA, federal and state withholding taxes and workers' compensation coverage for any individuals assigned to perform the Services for the City.
5. **TAXES.** The Contractor hereby represents that the Contractor has maintained and at all times will maintain timely payments of all taxes due to the Internal Revenue Service and all other government agencies, including withholding and all other taxes. The Contractor understands that any and all payments made to the Contractor by the City will be reported on a Form 1099, and that the Contractor is responsible for any and all federal, state, and local taxes due on such amounts. The Contractor must provide a W-9 to the City to receive payment. The Contractor agrees to hold harmless and indemnify the City and its officials, officers, employees and agents against any loss or damage (including reasonable attorneys' fees) that may be sustained by reason of the failure of the Contractor to comply with such laws, ordinances, regulations, or codes.
6. **TERMINATION FOR CONVENIENCE.** The City may at any time by written notice terminate all or any part of this Agreement for the City's convenience. If this Agreement is terminated, in whole or in part, for the City's convenience, the Contractor shall be paid an amount, to be mutually agreed upon, which shall be adequate to cover the actual and reasonable cost paid by the Contractor for the actual goods and labor reasonably used by the Contractor to perform the work under this Agreement to the effective date of termination, plus a reasonable profit thereon; provided that no amount shall be paid to the Contractor for (i) any anticipatory profits related to work under this Agreement not yet performed, or (ii) costs incurred due to the Contractor's failure to terminate work as ordered on the effective date of termination. In no event shall the total amount paid under the provisions of this paragraph exceed the prices set forth in this Agreement for the work terminated. Contractor reserves the unilateral right to terminate this Agreement with advance notice of such termination to the City.
7. **DISPUTES.** Pending resolution of any dispute hereunder, the Contractor shall proceed diligently with the performance of work in accordance with the City's direction.
8. **INDEMNIFICATION.** To the fullest extent permitted by law, Contractor hereby waives, releases, relinquishes, discharges and agrees to indemnify, protect and save harmless the City, its officers, employees, (collectively, "Releasee"), from any and all claims demand, liabilities, penalties, losses, costs or expenses, including attorneys' fees and litigation expenses, for injury to any person, loss or damage to any property caused by, growing out of, or otherwise happening in connection with this Agreement, due to any act or omission, including violations

of applicable laws, on the part of Contractor, its agents, employees, subcontractors, or others working at the direction of or on behalf of Contractor. Contractor's obligation to indemnify any Release shall survive the expiration or termination of this Agreement by either Party for any reason.

9. **FEDERAL WORK AUTHORIZATION PROGRAM.** Contractor shall participate in the federal work authorization program throughout the contract period, as provided in O.C.G.A. & 13-10-91. Contractor shall be required to at the time of the execution of this Agreement, provide a signed, notarized affidavit, attesting that it has registered with, is authorized to use, and uses the federal work authorization program; it will continue to use the federal work authorization program throughout the contract period; and it will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit containing the above information. Further, to the extent that a subcontractor is utilized, the subcontractors federal work authorization program user identification number and the date of authorization shall be included in the affidavit.

10. **STANDARD OF PERFORMANCE AND COMPLIANCE WITH APPLICABLE LAWS.**

(a) Contractor warrants and represents that it possesses the special skill and professional competence, expertise, and experience to undertake the obligations imposed by this Agreement.

(b) Contractor agrees to perform in a diligent, efficient, competent, and skillful manner commensurate with the highest standards of the profession, and to otherwise perform as is necessary to undertake the Services required by this Agreement.

(c) Contractor warrants and represents that it will, at all times, observe and comply with all federal, state, local and municipal laws, ordinances, rules, and regulations, relating to the provision of the Services to be provided by Contractor hereunder or which in any manner affect this Agreement.

11. **THE CITY'S ASSISTANCE AND COOPERATION.** During the Contractor's performance of this Agreement, the City may, but has no obligation to aid, or cooperate with, the Contractor in activities that facilitate the proper performance and completion of this Agreement by the Contractor. Such assistance and cooperation may include without limitation: (i) providing engineering or other analysis or advice on correcting problems; (ii) refraining from strict enforcement of time schedule requirements under this Agreement; (iii) permitting use of test materials or documentation not performed or produced under this Agreement. Such assistance or cooperation by the City shall not be construed, and the Contractor agrees that it will not claim that any such assistance or cooperation operates, to relieve the Contractor from complete, proper, and punctual performance of all the Contractor's obligations under this Agreement.

12. **WORK ON THE CITY'S DESIGNATED PREMISES.** In the event that the Contractor, the Contractor's employees or agents or the Contractor's subcontractors enter the City's

designated premises for any reason in connection with this Agreement, the Contractor and such other parties shall observe all security requirements and all safety regulations.

13. CONFLICTS OF INTEREST. Contractor warrants and represents that:

- (a) The Services to be performed hereunder will not create an actual or apparent conflict of interest with any other work it is currently performing;
- (b) Contractor is not presently subject to any agreement with a competitor or with any other party that will prevent Contractor from performing in full accord with this Agreement; and
- (c) Contractor is not subject to any statute, regulation, ordinance, or rule that will limit its ability to perform its obligations under this Agreement. The Parties agree that Contractor shall be free to accept other work during the term hereof; provided, however, that such other work shall not interfere with the provision of Services hereunder.

14. CONFIDENTIAL INFORMATION. Contractor acknowledges that it may have access to and become acquainted with confidential information, including, but not limited to, any information the disclosure of which is limited by state or federal law. Unless approved in advance in writing or is required to be disclosed by court order, subpoena or by law, neither Contractor nor any of its employees, will disclose, transfer, distribute or allow access to any confidential information of the other party to third parties. These obligations shall survive termination.

15. ASSIGNMENT AND SUBCONTRACTING. The Contractor shall not assign this Agreement or any portion of this Agreement, nor shall the Contractor subcontract for goods or completed or substantially completed services purchased hereunder without the prior express written consent of the City. No assignment or subcontract by the Contractor, including any assignment or subcontract to which the City consents, shall in any way relieve the Contractor from complete and punctual performance of this Agreement, including without limitation all of the Contractor's obligations under the warranty provisions of this Agreement.

16. ATTORNEYS' FEES. The Parties agree to pay reasonable attorneys' fees to the other party should either party be required to incur attorneys' fees in enforcing the provisions of this Agreement or in the collection of any monies herein required to be paid by the other party.

17. GOVERNING LAW AND CONSENT TO JURISDICTION. This Agreement is made and entered into in the State of Georgia, and this Agreement and the rights and obligations of the Parties hereto shall be governed by and construed according to the laws of the State of Georgia without giving effect to the principles of conflicts of laws. The jurisdiction for resolution of any disputes arising from this Agreement shall be in the State Courts of Fulton County, Georgia.

18. NOTICES. All notices or other communications required or permitted to be given under this Agreement (the "Notice") shall be in writing and shall be deemed to have been duly given when (a) hand delivered by the sender and properly receipted for by a responsible person of the receiving party, (b) deposited in the United States Mail, properly addressed, with sufficient postage affixed, via first class mail, return receipt requested, or (c) via Federal Express, UPS or similar national overnight courier service with delivery charges prepaid with a copy sent that same day via (a), (b), or (c). All Notices shall be addressed as follows:

For the City:

City of College Park
Attention: Interim City Manager
3667 Main Street
College Park, Georgia 30337

With Copies to:

City Attorney
Denmark Ashby, LLC
100 Hartsfield Centre Pkwy, Suite 400
Atlanta, Georgia 30354

For the Contractor:

Rose Stewart
2453 Odell Way
College Park, Georgia 30337

- 19. NON-WAIVER.** The failure by either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict performance with every provision of this Agreement.
- 20. SEVERABILITY.** If any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect, and enforceable in accordance with its terms.
- 21. INTERPRETATION.** The Parties acknowledge that this Agreement and all the terms and conditions herein have been fully reviewed and negotiated by the Parties. Having acknowledged the foregoing, the Parties agree that any principle of construction or rule of law that provides that, in the event of any inconsistency or ambiguity, an agreement shall be construed against the drafter of the agreement shall have no application to the terms and conditions of this Agreement.
- 22. AMENDMENTS.** The Agreement may be amended at any time by the mutual consent of the Parties hereto, provided that no such amendment shall be effective unless reduced to writing and signed by all Parties.
- 23. COUNTERPARTS.** This Agreement may be executed in multiple counterparts, each of which shall constitute the original, but all of which taken together shall constitute one and the same Agreement. PDF signatures shall constitute original signatures.
- 24. ENTIRE AGREEMENT.** This Agreement, which includes the exhibits attached hereto, contains the entire agreement and understanding of the Parties with respect to the subject

matter hereof, and supersedes and replaces any and all prior discussions, representations, and understandings, whether oral or written. In case of conflict between any term of the Contractor's Bid/Proposal and this Agreement, the terms of this Agreement shall control unless otherwise stated herein.

25. **CAPTIONS.** The captions appearing herein are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement or any clause or provision hereof.

26. **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT ("HIPAA") RESPECTS WITH FAMILY AND MEDICAL LEAVE ACT ("FMLA") REQUESTS.**

Contractor and City hereby agree to act and conform within the legal rules, regulations, and boundaries of HIPAA regarding all present and future FMLA requests.

- (a) HIPAA Privacy Rule. The HIPAA Privacy Rule governs the privacy of individually-identifiable health information. HIPAA places restrictions on the use and disclosure of an individual's protected health information by covered entities. The requirements of HIPAA must be satisfied for a HIPAA-covered health care provider to share individually-identifiable health information with an employer. *45 CFR 160 and 164.*
- (b) Authentication and clarification of medical certification for leave taken because of an employee's own serious health condition or the serious health condition of a family member. If an employee submits a complete and sufficient certification signed by the health care provider, the employer may not request additional information from the health care provider. However, the employer may contact the health care provider for purposes of *clarification and authentication of the medical certification* (whether initial certification or recertification) after the employer has given the employee an opportunity to cure any deficiencies. To make such contact, the employer must use a health care provider or a human resource professional. Under no circumstances, however, may the employee's direct supervisor contact the employee's health care provider. *29 CFR 825.307 (a).*
- (c) For purposes of these provisions, *authentication* means providing the health care provider with a copy of the certification and requesting verification that the information contained on the certification form was completed and/or authorized by the health care provider who signed the document; *no additional medical information may be requested.* *Clarification* means contacting the health care provider to understand the handwriting on the medical certification or to understand the meaning of a response. Employers may not ask health care providers for additional information beyond that required by the certification form. The requirements of the HIPAA Privacy Rule, which governs the privacy of individually-identifiable health information created or held by HIPAA-covered entities, must be satisfied when individually-identifiable health information of an employee is shared with an employer by a HIPAA-covered health care provider. If an employee chooses not to provide the employer with authorization allowing the employer to clarify the certification with the health care provider, and does not


otherwise clarify the certification, the employer may deny the taking of FMLA leave if the certification is unclear. It is the employee's responsibility to provide employer with a complete and sufficient certification and to clarify the certification if necessary. *29 CFR 825.307 (a)*.

[SIGNATURES ON THE NEXT PAGE]

IN WITNESS WHEREOF, said Parties have hereunto set their seals the day and year written below.

Executed on behalf of:

CITY OF COLLEGE PARK, GEORGIA BY:

O.C.P.A.
Adediran


Emmanuel O. Adediran, Interim City Manager

ATTEST (sign here):

Name (print):

DATE:

[SIGNATURES CONTINUED ON THE NEXT PAGE]

Executed on behalf of:

CONTRACTOR:

BY (sign here):

Name (print):



Rose Stewart

[Seal]

EXHIBIT A
Professional Services Agreement Addendum

Contractor agrees to work as an independent contractor, providing services described below starting on or about February 6, 2024, and until Contractor's services are no longer needed by City. Contractor agrees to devote the necessary amount of time, energy and attention required to satisfactorily complete, conclude or achieve the following responsibilities and provide reports of findings:

- Follow up on recommendations provided in the Forensic Payroll Audit. Will review and confirm that processes and controls are in place to prevent errors in recording and inputting payroll data.
- Audit sick and vacation leave usage and how it aligns with current Human Resource Policies and Procedures.
- Audit employee files from various departments, with focus on new hire compensation, employee evaluations and merit pay and the promotion process.
- Audit Family Medical Leave files.
- Audit on job descriptions and how they align with the compensation plan.
- Adhere to all HIPAA rules and regulations with concerns to all FMLA requests.

**EXHIBIT B
FEE SCHEDULE**

Service	Monthly Fee	Hourly Fee
		\$90.00