

EXHIBIT 2

AGREEMENT

Between

CITY of HALLANDALE BEACH, FLORIDA

and

ACAI Associates, Inc.

for

**RFP # FY 2015-2016-010 CCNA ARCHITECTURAL ENGINEERING SERVICES
FOR GOLDEN ISLES TENNIS CENTER AND PARK**

This is an Agreement, made and entered into by and between: the CITY OF HALLANDALE BEACH (the "CITY"), a Florida municipal corporation,

AND

ACAI Associates, Inc., a Florida corporation, hereinafter referred to as "CONSULTANT."

WHEREAS, At the, June 15, 2016 , City Commission Meeting the City Commission adopted Resolution # 2016-90 awarded through RFP # FY 2015-2016-010 Architectural and Engineering Services Golden Isles Tennis Center and Park; authorizing the City Manager to execute an agreement with ACAI Associates, Inc. for the services stipulated in the RFP; and

IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, CITY and CONSULTANT agree as follows:

ARTICLE 1

TERM

1. The term of this Agreement shall begin on the date it is fully executed by last signing party and shall end 365 days after receipt of substantial completion of the construction phase of the project (See attached Exhibit C); provided, however, if the term of this Agreement extends beyond a single fiscal year of CITY, the continuation of this Agreement beyond the end of any fiscal year shall be subject to both the appropriation and the availability of funds in accordance with Florida law.

ARTICLE 2

SCOPE OF SERVICES TO BE PROVIDED TO THE CITY

The CITY has employed the CONSULTANT to provide the scope of services as set forth in the attached Exhibit A. The services to be provided include the scope of work in RFP # FY 2015-2016-010 Architectural and Engineering Services for Golden Isles Tennis Center and Park, which is hereby incorporated and made part of the is agreement by reference and the Proposal submitted by CONSULTANT, which is hereby incorporated and made part of this Agreement by reference.

Community Benefit Plan

Per your firm's proposal in response to the Community Benefit Plan your firm is to provide on an annual basis by no later than January 1st of each contract year, the following information as follows:

- 1) Information to be provided to George Rich, Hallandale Opportunity Project, via email at grich@cohb.org with copy to the City's Project Manager.
- 2) List of Community Benefit Plan accomplishments for the year by providing the following:
 - a) Purchase Order Number for the Project; b) Project Name; c) Purchase Order Amount for the Project; d) detailed Community Benefit Plan accomplishment.

Community Benefit Plan

CONSULTANT has submitted a Community Benefit Plan as per Proposal submitted Exhibit B. CONSULTANT includes in the attached Exhibit B will be responsible for performing with a maximum percentage of 5.2 % based on the attached Community benefit Plan total value amount of the plan is \$41,850.00 and a Basic Services fee in the amount of \$795,644.00

ARTICLE 3**INDEMNIFICATION**

To the fullest extent permitted by law, the CONSULTANT agrees to indemnify and hold-harmless the City, its officers and employees from any claims, liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney fees to the extent caused, by the professional negligence, error or omission of the CONSULTANT or persons employed or utilized by the CONSULTANT in performance of the Agreement.

To the fullest extent permitted by law, the CONSULTANT agrees to indemnify and hold-harmless the City, its officers and employees from any claims, liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney fees to the extent caused, in whole or in part, by the recklessness or intentionally wrongful conduct, of the CONSULTANT or persons employed or utilized by the CONSULTANT in performance of the Agreement.

CONSULTANT agrees to indemnify, and save harmless and, at the City Attorney's option, defend or pay for an attorney selected by the City Attorney to defend the CITY, their officers, agents, servants and employees against any and all claims, losses, liabilities and expenditures of any kind, including attorney's fees, court costs, and other expenses, caused by negligent act or omission of CONSULTANT, any sub-contractors, their employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, demands, or causes of action of any nature, whatsoever, resulting from injuries or damages sustained by any person or property. In the event that any action or proceeding is brought against CITY by reason of any such claim or demand, CONSULTANT, upon written notice from CITY, shall defend such action or proceeding.

To the extent considered necessary by the City Attorney, any sums due to 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.

In the event that any action or proceeding is brought by CONSULTANT against CITY, CONSULTANT hereby waives the right to a jury trial. Venue shall be Broward County, Florida. The provisions of this Article shall survive the expiration or early termination of this Agreement.

CONSULTANT acknowledges that it has received adequate consideration concerning the monetary limitation on the indemnification provided to City, which shall not be less than \$1 million per occurrence

Nothing in this Agreement is intended to serve as a waiver of sovereign immunity, or of any other immunity, defense, or privilege enjoyed by the City pursuant to Section 768.28 Florida Statutes.

ARTICLE 4

PERSONNEL

4.1 Competence of Staff. The CONSULTANT agrees to provide and assign the following employee(s) to this Agreement; Donald Wilkins.

In the event that any of CONSULTANT's employee is found to be unacceptable to the CITY, including, but not limited to, demonstration that he or she is not qualified, the CITY shall notify the CONSULTANT in writing of such fact and the CONSULTANT shall immediately remove said employee unless otherwise agreed and, if requested by the CITY, promptly provide a replacement acceptable to the CITY.

ARTICLE 5

INSURANCE REQUIREMENTS

PROFESSIONAL SERVICES AGREEMENT

CONSULTANT agrees to maintain, on a primary basis and at its sole expense, at all times during the life of any resulting contract the following insurance coverages, limits, including endorsements described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by Consultant is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Consultant under any resulting contract.

Professional Liability: CONSULTANT agrees to maintain Professional (Errors & Omissions) Liability at a limit of liability not less than **\$1,000,000** Per Claim, **\$1,000,000** Annual Aggregate, or a **\$1,000,000** Combined Single Limit. When a self-insured retention (SIR) or deductible exceeds **\$25,000**, the City reserves the right, but not the obligation, to review and request a copy of the CONSULTANT's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, CONSULTANT agrees to maintain a Retroactive Date prior to or equal to the effective date of any resulting contract. In the event the policy is cancelled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of any resulting contract, CONSULTANT agrees to purchase a SERP with a minimum reporting period not less than **two (2)** years. The requirement to purchase a SERP shall not relieve the CONSULTANT of the obligation to provide replacement coverage.

Waiver of Subrogation: CONSULTANT agrees by entering into this contract to a Waiver of Subrogation for each required policy herein. When required by the insurer, or should a policy condition not permit CONSULTANT to enter into a pre-loss agreement to waive subrogation without an endorsement, then Consultant agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should CONSULTANT enter into such an agreement on a pre-loss basis.

Certificate(s) of Insurance: CONSULTANT agrees to provide City a Certificate(s) of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect. Said Certificate(s) of Insurance shall include a minimum of thirty **(30)** day endeavor to notify due to cancellation or non-renewal of coverage. The Certificate Holder address shall read:

City of Hallandale Beach
Attn: Risk Management Department
400 S. Federal Highway
Hallandale Beach, FL 33009

Right to Revise or Reject: CITY reserves the right, but not the obligation, to revise any insurance requirement, not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the criteria stated herein. Additionally, City reserves the right, but not the obligation, to review and reject any insurer providing coverage due of its poor financial condition or failure to operate legally.

ARTICLE 6

COMPENSATION

6.1 CITY agrees to pay CONSULTANT, in the manner specified in Section 6.2, the total amount of Nine Hundred Two Thousand Eight Hundred and Forty Four and no cents, (\$902,844.00) as identified in Exhibit A including \$795,644.00 for Basic Services, **Not to exceed \$65,250.00** for those items identified as Additional Services as per Exhibit 'A' and up to \$20,000.00 for Reimbursable Expenses. In addition, the City will have the option to pursue a conceptual site plan design for the nature area adjacent to the park for an amount not to exceed \$21,950.00

It is acknowledged and agreed by CONSULTANT that this amount is the maximum payable and constitutes a limitation upon CITY's obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation, of any sort, upon CONSULTANT's obligation to perform all items of work required by the Scope of Services. Authorized reimbursable expenses shall be paid to the CONSULTANT. CONSULTANT shall submit its potential reimbursable expenses for preapproval in writing by the City. CONSULTANT waives any possible reimbursement of unauthorized expenses if CONSULTANT does not so obtain such preapproval. CITY reserves the right to reject any expenses it deems not to be reimbursable during this preapproval process. Consultant is not obligated to proceed with incurring the cost of any items not authorized by the City Reimbursable expenses shall include but not be limited to printing, courier services, photography, mileage and travel outside Palm Beach, Broward and Miami-Dade County, parking expenses. Consultants shall not proceed with any Additional Services unless notified in writing by the City. Additive Alternate Allowances shall be invoiced at 1.15 times the actual cost of any Sub Consultants related to that allowance item. **Total billing for those allowances shall not exceed \$65,250.00**

CONSULTANT shall provide and pay a livable wage for competent, suitably qualified personnel to perform the work as required by the Contract Documents. CONSULTANT shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. CONSULTANT shall at all times maintain good discipline and order at the site.

6.2 **METHOD OF BILLING AND PAYMENT** –The City of Hallandale Beach requires the acceptance of the following e-payable method for all work/services rendered as a result of the award of this solicitation.

6.2. E-payables- It is an electronic method of payment. Vendors are provided a credit card by the City's bank, Suntrust. Invoice payments will be transferred/deposited to the credit card and the vendor will receive a remittance via-e-mail. The Vendor is required to swipe the card to receive the funds. Invoice payments will be processed and issued upon invoice receipt and approval.

6.3 Payment shall be due within thirty (30) days of date stipulated on the invoice, provided, invoice is accepted for payment. Payment shall be made only for approved invoices. The CITY shall notify the CONSULTANT if the invoice is unacceptable seven (7) days of receipt. The CITY retains the right to delay or withhold payment for services which have not been accepted by the CITY. All invoice/pay applications shall be submitted electronically to the assigned Project Manager.

Payment will not be issued earlier than 30 days from invoice receipt date. Payment will be mailed to the below identified in 6.4.

Notwithstanding any provision of this Agreement to the contrary, CITY may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work which has not been remedied or resolved in a manner satisfactory to the City's Contract Administrator or failure to comply with this Agreement. The amount withheld shall not be subject to payment of interest by CITY.

6.4 Payment shall be made to CONSULTANT at:

ACAI Associates, Inc.
2937 W. Cypress Creek Road
Suite 200
Ft Lauderdale, Florida 33309

ARTICLE 7

TERMINATION

7.1 This Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within ten (10) days after written notice from the aggrieved party identifying the breach. All Articles in this contract are material and a breach of any Article shall be grounds for termination for cause. This Agreement may also be terminated for convenience by the CITY. Termination for convenience by the CITY shall be effective on the termination date stated in the written notice provided by the CITY, which termination date shall be not less than thirty (30) days after the date of such written notice. This Agreement may also be terminated by the CITY Manager upon such notice as the CITY Manager deems appropriate under

the circumstances in the event the CITY Manager determines that termination is necessary to protect the public health or safety. The parties agree that if the CITY erroneously, improperly or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

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

7.3 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services properly performed under the Agreement through the termination date specified in the written notice of termination. CONSULTANT acknowledges and agrees that it has received good, valuable and sufficient consideration the CITY the receipt and adequacy of which are, hereby acknowledged by CONSULTANT, for CITY'S to terminate this Agreement for convenience, and that CONSULTANT shall not be entitled to any consequential damages or loss of profits.

7.4 If CONSULTANT fails to begin work within fifteen (15) calendar days from receipt of written notification to proceed from the City, or fails to perform the work based on industry standards, or shall discontinue the prosecution of the work pursuant to the accepted schedule through no fault of their own and without written notification to the City or if CONSULTANT shall fail to perform any material term set forth in this agreement or if CONSULTANT shall become insolvent or be declared bankrupt, or commit any act of bankruptcy or insolvency, or shall make an assignment for the benefit of creditors, or shall not carry on the work in an acceptable manner CITY may give notice in writing to CONSULTANT of such delay, neglect or default, specifying the same. If CONSULTANT, within a period of ten (10) calendar days after such notice, shall not proceed in accordance therewith or notify the City of the reason for not proceeding, then CITY upon written notification may neglect or default the CONSULTANT and CONSULTANT's failure to comply with such notice, terminate the services of CONSULTANT, exclude CONSULTANT from the work site and take the prosecution of the work out of the hands of CONSULTANT. In such case, CONSULTANT

shall be compensated for the work completed up to the notification date. In addition, CITY may enter into an agreement for the completion of the work according to the terms and provisions of this agreement, or use such other methods as in City's sole opinion shall be required for the completion of the work according to the terms and provisions of this agreement, or use such other methods as in City's sole opinion shall be required for the completion of the work in an acceptable manner that are consistent with the terms and provisions of this agreement. All damages, costs and charges incurred by CITY in completing the work shall be deducted from any monies due or which may become due to CONSULTANT. In case the damages and expenses so incurred by CITY shall exceed the unpaid balance, then CONSULTANT shall be liable and shall pay to CITY the amount of said excess.

If after notice of termination of CONSULTANT's right to proceed, it is determined for any reason that CONSULTANT was not in default, the rights and obligations of CITY and CONSULTANT shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience.

ARTICLE 8

MISCELLANEOUS

8.1 RIGHTS IN DOCUMENTS AND WORK

Any and all reports, photographs, Computer Aided Drafting (CAD) and .pdf drawings and plans surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY; and, if a copyright is claimed, CONSULTANT grants to CITY a non-exclusive license to use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. In the event of termination of this Agreement, any reports, photographs, Computer Aided Drafting (CAD) and .pdf drawings and plans, surveys, and other data and documents prepared by CONSULTANT, whether finished or unfinished, upon payment in full to the CONSULTANT for Services and Reimbursable expenses completed and/or incurred through Notice of Termination, included services and expenses related to the CBP. , shall become the property of CITY and shall be delivered by CONSULTANT to the City's Contract Administrator within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents previously authorized to be completed by the City are received as provided herein

8.2 AUDIT RIGHT AND RETENTION OF RECORDS

CITY shall have the right to audit the books, records, and accounts of CONSULTANT and its subcontractors that are related to this Project. CONSULTANT and its subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project.

All books, records, and accounts of CONSULTANT and its subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, CONSULTANT or its subcontractor, as applicable, shall make same available at no cost to CITY in written form.

CONSULTANT and its subcontractors shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, as may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT's and its subcontractors' records, CONSULTANT and its subcontractors shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT or its subcontractors. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry.

CONSULTANT shall, by written contract, require its subcontractors to agree to the requirements and obligations of this Section.

8.3 PUBLIC ENTITY CRIME ACT

CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act, Section 287.133, Florida Statutes, as may be amended from time to time, which essentially provides that a person or affiliate who is a 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 CONSULTANT, 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, as may be amended from time to time, 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 by CITY pursuant to this Agreement, 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.

8.4 **INDEPENDENT CONSULTANT**

CONSULTANT is an independent CONSULTANT under this Agreement. In providing the services, neither CONSULTANT nor its agents shall act as officers, employees, or agents of CITY. No partnership, joint venture, or other joint relationship is created hereby. CITY does not extend to CONSULTANT or CONSULTANT's agents any authority of any kind to bind CITY in any respect whatsoever.

8.5 **THIRD PARTY BENEFICIARIES**

Neither CONSULTANT nor CITY intends 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 right or claim against either of them based upon this Agreement.

8.6 **NOTICES**

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

City of Hallandale Beach

City Manager

400 South Federal Highway

Hallandale Beach, FL 33009

With Copy to:

Sarita Shamah

Attn: Office of Capital Improvements

400 S. Federal Highway

Hallandale Beach, FL 33009

And:

City Attorney

400 South Federal Highway

Hallandale Beach, FL 33009

Consultant:

ACAI Associates, Inc.

2937 W. Cypress Creek Road

Suite 200

Ft Lauderdale, Florida 33309

8.7 **ASSIGNMENT AND PERFORMANCE**

Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of the other party. CITY may terminate this Agreement, effective immediately, if there is any assignment, or attempted assignment, transfer, or encumbrance, by CONSULTANT of this Agreement or any right or interest herein without CITY's written consent.

CONSULTANT represents that each person who will render services pursuant to this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and that each such person is reasonably experienced and skilled in the area(s) for which he or she will render his or her services.

CONSULTANT shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of CONSULTANT's performance and all interim and final product(s) provided to or on behalf of CITY shall be comparable to the best local and national standards.

8.8 **CONFLICTS**

Neither CONSULTANT nor its 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 and care related to its performance under this Agreement.

In the event CONSULTANT is permitted pursuant to this Agreement to utilize subcontractors to perform any services required by this Agreement, CONSULTANT agrees to require such subcontractors, by written contract, to comply with the provisions of this section to the same extent as CONSULTANT.

8.9 MATERIALITY AND WAIVER OF BREACH

CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein was bargained for at arms-length and is agreed to by the parties in exchange for quid pro quo, that each is substantial and important to the formation of this Agreement and that each is, therefore, a material term hereof.

CITY's failure 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.

8.10 COMPLIANCE WITH LAWS

CONSULTANT shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

8.11 SEVERANCE

In the event 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. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

8.12 JOINT PREPARATION

Each party and its counsel have participated fully in the review and revision of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses 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. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

8.13 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, 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 Articles 1 through 8 of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 8 shall prevail and be given effect.

8.14 JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. BY ENTERING INTO THIS AGREEMENT, CONSULTANT AND CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

Nothing in this Agreement is intended to serve as a waiver of sovereign immunity, or of any other immunity, defense, or privilege enjoyed by the City pursuant to Section 768.28 Florida Statutes.

8.15 AMENDMENTS

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the CITY and CONSULTANT or others delegated authority to or otherwise authorized to execute same on their behalf.

8.16 PRIOR AGREEMENTS

This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

8.17 PAYABLE INTEREST

8.17.1. Payment of Interest. CITY shall not be liable for interest for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof CONSULTANT waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim based on or related to this Agreement.

8.17.2. Rate of Interest. In any instance where the prohibition or limitations of Section 8.17.1 are determined to be invalid or unenforceable, the annual rate of interest payable by CITY under this Agreement, whether as prejudgment interest or for any other purpose, shall be .025 percent simple interest (uncompounded).

8.18 INCORPORATION BY REFERENCE

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated into and made a part of this Agreement. Any terms included in the exhibits are equally as binding as the terms of this contract.

The attached Exhibits are as follows:

Exhibit A: Architectural/Engineering Services for the Design of Golden Isles Tennis Center and Park
Scope of Services and Fee Schedule

Exhibit B: Community benefit Plan

Exhibit C: Design Phase Schedule.

8.19 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

8.20 MULTIPLE ORIGINALS

Multiple copies of this Agreement may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

ARTICLE 9**NONDISCRIMINATION, EQUAL OPPORTUNITY****AND AMERICANS WITH DISABILITIES ACT**

9.1 CONSULTANT shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by CITY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines and standards.

CONSULTANT's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation (Broward County Code, Chapter 16 ½), gender identity, gender expression, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully or appropriately used as a basis for service delivery.

CONSULTANT shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, gender identity, gender expression, national origin, marital status, political affiliation, or physical or mental disability.

In addition, CONSULTANT shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship, and accessibility).

CONSULTANT shall take affirmative action to ensure that applicants are employed and employees are treated without regard to race, age, religion, color, gender, sexual orientation (Broward County Code, Chapter 16 ½), gender identity, gender expression, national origin, marital status, political affiliation, or physical or mental disability during employment. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff; termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

CONSULTANT shall not engage in or commit any discriminatory practice in violation of the Broward County Human Rights Act (Broward County Code, Chapter 16 ½) in performing any services pursuant to this Agreement.

9.2 Domestic Partner Benefits Requirement

CONSULTANT certifies, and has provided the Domestic Partnership Certification Form, that it would provide benefits to Domestic Partners of its employees on the same basis as it provides benefits to employees' spouses.

CONSULTANT shall comply with the applicable provisions of this section.

- (i) The Consultant certifies and represents that it will comply with this section during the entire term of the Contract.
- (ii) The failure of the Consultant to comply with this section shall be deemed to be a material breach of the contract, entitling the City to pursue any remedy stated below or any remedy provided under applicable law.
- (iii) The City may terminate the Contract if the Consultant fails to comply with this section.
- (iv) The City may retain all monies due or to become due until the Consultant complies with this section.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: CITY OF HALLANDALE BEACH through its authorization of the City Manager to execute same by City Commission action on this 21th day of September 2016, and ACAI Associates, Inc. signing by and through its _____ duly authorized to execute same.

{Title}

CITY

ATTEST:

CITY OF HALLANDALE BEACH

CITY CLERK

By _____
Daniel Rosemond, CITY MANAGER

Approved as to legal sufficiency and form by
CITY ATTORNEY

V. Lynn Whitfield, CITY ATTORNEY

CONSULTANT

ATTEST:

ACAI ASSOCIATES INC.

Donald Wilkin, R.A.
Principal

Adolfo J. Cotilla, Jr., AIA
President

(Corporate Seal)

_____ Day of _____, 2016.