

**CONTRACT FOR PUBLIC RELATIONS AND MARKETING SERVICES
BETWEEN RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY
AND
MERCHANT STRATEGY, INC.**

This Contract is made as of the ____ day of February, 2019 by and between the RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY, a body corporate and politic created pursuant to Part III, Chapter 163, Florida Statutes (hereinafter referred to as the CRA), and MERCHANT STRATEGY, INC, a Florida corporation (hereinafter referred to as the CONSULTANT).

In consideration of the mutual promises contained herein, the CRA and the CONSULTANT agree as follows:

ARTICLE 1 – SERVICES AND TERM OF CONTRACT

The CONSULTANT’S responsibility under this Contract is to provide professional/consultation services for marketing and public relations. The term of this agreement shall be for the Effective Date through September 30, 2020 with an option by the agency to renew for two additional one-year terms upon the same terms as this agreement.

The CRA’S representative/liaison during the performance of this Contract shall be Scott Evans, Interim Executive Director, telephone no. (561) 844-3408.

ARTICLE 2 - SCHEDULE

The CONSULTANT shall commence services upon delivery of a work order.

ARTICLE 3 – PAYMENTS TO CONSULTANT

- A. The CRA agrees to compensate the CONSULTANT in accordance with the fee proposal set forth in Exhibit A (“Scope of Services”) attached hereto and incorporated by reference herein. The Consultant shall perform the monthly services set forth in the Scope of Services and compensated for a monthly fee of \$6,150.00; the total annual fee shall not exceed \$100,000.00 for monthly services and project work. Other than those services listed as monthly services in the Scope of Services, the Consultant shall not undertake any services unless included in a work order. The total amount of compensation for each work order will be based on the rate schedule attached hereto and the total amount for each work order shall be specified in the work order. Reimbursable expenses, as identified in said fee proposal, incurred during the course of performance of this contract shall be itemized and invoiced individually on the same invoice for the monthly retainer. The CRA shall not reimburse the CONSULTANT for any travel costs incurred as a direct result of the CONSULTANTS providing deliverables to the CRA in pursuance of this Agreement for travel between Consultant’s location or anywhere in the City of West Palm Beach and any destinations in Riviera Beach. If Consultant is required to travel beyond this geographic scope, upon the

Agency's prior approval, vehicle/gas reimbursement will be reimbursed in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes. If Consultant is required to travel with overnight stays, cost of lodging and a per diem meal allowance will be paid by CRA to Consultant.

- B. Invoices received from the CONSULTANT pursuant to this Contract will be reviewed and approved by the CRA'S representative, indicating that services have been rendered in conformity with the Contract. Invoices will be paid within thirty (30) days of the date of the invoice, following the CRA representative's approval.
- C. All requests for payment of expenses eligible for reimbursement under the terms of this Agreement shall include copies of said receipts, invoices, or other documentation acceptable to the CRA, except for photocopies made in house that are tracked manually for the Client. Black-and-white photocopies will be reimbursed at 0.15 cents per page; color copies @ 0.85 cents per page. Bulk copy runs will be affected at a copy center and the receipt will be included when the copies are billed back at cost. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the scope of work described in this Agreement. Any travel, per diem, mileage, meals, or lodging expenses which may be reimbursable under the terms of this Agreement will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.
- D. Final Invoice: In order for both parties herein to close their books and records, the CONSULTANT will clearly state "final invoice" on the CONSULTANT'S final/last billing to the CRA. This certifies that all services have been properly performed and all charges and costs have been invoiced to the CRA. Since this account will thereupon be closed, any and other further charges if not properly included on this final invoice are waived by the CONSULTANT.

ARTICLE 4 – TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Contract by the CONSULTANT shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, overhead charges, and other costs used determined the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract.

ARTICLE 5 – TERMINATION

This Contract may be canceled by the CONSULTANT upon thirty (30) days prior written notice to the CRA'S representative in the event of substantial failure by the CRA to perform in accordance with the terms of this contract through no fault of the CONSULTANT. It may also be terminated, in whole or in part, by the CRA, with or without cause, upon thirty (30) days written notice to the CONSULTANT. Unless the CONSULTANT is in breach of this Contract, the CONSULTANT shall be paid for services rendered to the CRA'S satisfaction through the date of termination. Notice of termination must be made in writing and delivered by any nationwide courier service, such as FedEx or via registered letter that requires a receipt signature from the U.S. Post Office.

After receipt of a Termination Notice and except as otherwise directed by the CRA the CONSULTANT shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in process, completed work, and other materials related to the terminated work to the CRA.
- D. Continue and complete all parts of the work that have not been terminated.

ARTICLE 6 – PERSONNEL

The CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the CRA.

All of the services required hereunder shall be performed by the CONSULTANT or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

The CONSULTANT warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

All of the Company's personnel (and all Subcontractors) while on CRA premises, will comply with all CRA requirements governing conduct, safety and security that have been communicated by a CRA representative to the Marketing Consultant..

ARTICLE 7 – SUBCONTRACTING

The CRA reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Contract. The CONSULTANT is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities. If a subcontractor fails to perform or make progress, as required by this Contract, and it is necessary to replace the subcontractor to complete the work in a timely fashion the CONSULTANT shall promptly do so, subject to acceptance of the new subcontractor by the CRA.

ARTICLE 8 – FEDERAL AND STATE TAX

The CRA is exempt from payment of Florida State Sales and Use Taxes. The CRA will sign an exemption certificate submitted by the CONSULTANT. The CONSULTANT shall not be

exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with CRA, nor is the CONSULTANT authorized to use the CRA'S Tax Exemption Number in securing such materials. In order to take advantage of the CRA's tax exempt status, all printing invoices and other taxable services rendered by Consultant to CRA will be billed directly to the CRA by printers and other similar vendors. At the end of each billing period, Consultant will invoice the standard agency fee of 15% on all printing and similar orders it executed on behalf of the CRA as standard compensation for securing best printing bids and coordinating the press quality controls, proofs, approvals, delivery, special instructions, etc. on each project of this type.

The CONSULTANT shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this contract.

ARTICLE 9 – AVAILABILITY OF FUNDS

The CRA'S performance and obligation to pay under this contract is contingent upon an annual appropriation for its purpose by the COMMISSIONERS OF THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY. The CRA confirms that the obligations of this contract's first year have been included in its current budget and the CRA has approved such budget. The CRA will request adequate appropriations to cover its obligations under the Contract throughout the term and to use reasonable efforts to cause adoption of the necessary Marketing appropriations.

ARTICLE 10 – INSURANCE

- A. Prior to execution of this Contract by the CRA, the CONSULTANT shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the CONSULTANT has obtained insurance of the type, amount, and classification as required for strict compliance with the ARTICLE and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the CRA'S representative. Compliance with the foregoing requirements shall not relieve the CONSULTANT of its liability and obligations under this Contract.

- B. The CONSULTANT shall maintain, during the life of this Contract, commercial general liability, including contractual liability insurance in the amount of \$500,000 per occurrence to protect the CONSULTANT from claims for damages for bodily and person injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the CONSULTANT or by anyone directly employed by or contracting with the CONSULTANT.

- C. The CONSULTANT shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of \$500,000 combined single limit for bodily injury and property damages liability to protect the CONSULTANT from claims for damages for bodily and personal property damages liability to protect the CONSULTANT from claims for damages for bodily and person injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the CONSULTANT or by anyone directly or indirectly employed by the CONSULTANT.
- D. All insurance to be maintained by the CONSULTANT shall specifically include the CRA as an "Additional Insured".

ARTICLE 11 – INDEMNIFICATION

The CONSULTANT shall indemnify and save harmless and defend the CRA, its agents, servants, and employees from and against any and all claims, liability, losses, and/or cause of action which may arise from any negligent act or omission of the CONSULTANT, its agents, servants, or employees in the performance of services under this Contract. The reciprocal indemnification will be provide by CRA to Consultant from any negligent act or omission of the CRA, its agents or employees associated with the administration of the Marketing Services Contract. Nothing contained herein is intended nor shall it be construed to waive the CRA's rights and immunities under the common law or Florida Statute section 768.28, as amended from time to time.

ARTICLE 12 – SUCCESSORS AND ASSIGNS

The CRA and the CONSULTANT each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract and to the partners, successors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the CRA nor the CONSULTANT shall assign, sublet, convey or transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the CRA which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the CRA and the CONSULTANT.

ARTICLE 13 – REMEDIES

This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the contract will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to very other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

ARTICLE 14 – CONFLICT OF INTEREST

The CONSULTANT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Florida Statutes 112.311. The CONSULTANT further represents that no person having any interest shall be employed for said performance.

The CONSULTANT shall promptly notify the CRA'S representative, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONSULTANT'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the CRA as to whether the association, interest or circumstance would, in the opinion of the CRA, constitute a conflict of interest if entered into by the CONSULTANT. The CRA agrees to notify the CONSULTANT of its opinion by certified mail within thirty (30) days of receipt of notification by the CONSULTANT. If, in the opinion of the CRA, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONSULTANT, the CRA shall so state in the notification and the CONSULTANT shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the CRA by the CONSULTANT under the terms of this contract.

ARTICLE 15 – EXCUSABLE DELAYS

The CONSULTANT shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the CONSULTANT or its subcontractors and without their fault or negligence. Such causes include, but are not limited to: acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions.

Upon the CONSULTANT'S request, the CRA shall consider the facts and extent of any failure to perform the work, and if the CONSULTANT'S failure to perform was without it or its subcontractors fault or negligence, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly; subject to the CRA'S rights to change, terminate, or stop any or all of the work at any time, in accordance with the aforementioned 30-day notification.

ARTICLE 16 – ARREARS

The CONSULTANT shall not pledge the CRA's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONSULTANT further warrants and represents that it has no obligations or indebtedness that would impair its ability to fulfill the terms of this Contract.

ARTICLE 17 – DISCLOSURE AND OWNERSHIP DOCUMENTS

The CONSULTANT shall deliver to the CRA'S representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the CRA under this Contract immediately once all Consultant's invoices are paid in full.

All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the CRA or at its expense will be kept confidential by the CONSULTANT and will not be disclosed to any other party, directly or indirectly, without the CRA'S prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the CRA'S expense shall be and remain the CRA'S property and may be reproduced and reused at the discretion of the CRA.

The CRA and the CONSULTANT shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

ARTICLE 18 – INDEPENDENT CONTRACTOR RELATIONSHIP

The CONSULTANT is, and shall be, in the performance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent, or servant of the CRA. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the CONSULTANT'S sole direction, supervision, and control. The CONSULTANT shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONSULTANT'S relationship and the relationship of its employees to the CRA shall be that of an Independent Contractor and not as employees or agents of the CRA.

The CONSULTANT does not have the power or authority to bind the CRA in any promise, agreement or representation other than specifically provided for in this Agreement. Provided, however, the Consultant will have the authority to bind the CRA for eligible reimbursable expenses which have been approved in writing by the CRA.

ARTICLE 19 – CONTINGENT FEES

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONSULTANT, any fee, commission,

percentage, gift, or any other consideration contingent upon or resulting from the aware of making of this Contract.

ARTICLE 20 – ACCESS AND AUDITS

The CONSULTANT shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion of this Contract. The CRA shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the CONSULTANT’S place of business, at the sole cost of the CRA for staff hours required to comply with any such requests and costs of all copies, billed at 0.15 cents per black-and-white copy.

ARTICLE 21 – NONDISCRIMINATION

The CONSULTANT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national original, ancestry, marital status, or sexual orientation.

ARTICLE 22 – ENFORCEMENT COSTS

If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions to this Contract, the successful or prevailing party or parties shall be entitled to recover reasonable attorney’s fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

ARTICLE 23 – AUTHORITY TO PRACTICE

The CONSULTANT hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the CRA’S representative upon request.

ARTICLE 24 – SEVERABILITY

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 25 – PUBLIC ENTITY CRIMES

As provided in F.S. 287.132-133 by entering into this Contract or performing any work in furtherance hereof, the contractor certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list

maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

ARTICLE 26 – MODIFICATIONS OF WORK

The CRA reserves the right to make changes in Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the CONSULTANT of the CRA'S notification of a contemplated change, the CONSULTANT shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the CRA of any estimated change in the completion date and (3) advise the CRA if the contemplated change shall affect the CONSULTANT'S ability to meet the completion dates or schedules of this Contract.

If the CRA so instructs in writing, the CONSULTANT shall suspend work on that portion of the Scope of Work affected by a contemplated change, pending the CRA'S decision to proceed with the change. If the CRA elects to make the change, the CRA shall initiate a Contract Amendment and the CONSULTANT shall not commence work on any such change until such written amendment is signed by the CONSULTANT and approved and executed by the CRA. The CRA is solely liable for any damages resulting from the CRA's modification of the Scope of Work with respect to any existing third-party contracts that cannot be altered due to the work stoppage ordered by the CRA.

ARTICLE 27- FLORIDA PUBLIC RECORDS ACT

The CONSULTANT shall comply with Florida's Public Records Act, and specifically section 119.0701, Florida Statutes, by agreeing to:

- (a) Keep and maintain all public records required by the CRA perform the services under this Agreement.
- (b) Upon request from the CRA's custodian of public records, provide the CRA with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the CRA.
- (d) Upon completion of the contract, transfer, at no cost, to the CRA all said public records in possession of the CONSULTANT or keep and maintain public records required by the CRA to perform the service. If the CONSULTANT transfers all public records to the CRA upon completion of the contract, the CONSULTANT shall destroy any duplicate public records that are exempt or confidential and exempt from public record disclosure requirements. If the CONSULTANT keeps and maintains public records upon completion of the contract, the CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CRA, upon request from the CRA's

custodian of public records, in a format that is compatible with the information technology systems of the CRA.

IF THE CONSULTANT HAS A QUESTION REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, RELATING TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, DARLENE HATCHER AT 561-844-3408, dhatcher@rbkra.com, 2001 Broadway, Suite 300, Riviera Beach, FL 33404.

ARTICLE 27 – NOTICE

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the CRA shall be mailed to:

Executive Director
Riviera Beach Community Redevelopment Agency
2001 Broadway, Suite 300
Riviera Beach, FL 33404

and if sent to the CONSULTANT shall be mailed to:

ARTICLE 28 – ENTIRETY OF CONTRACTUAL AGREEMENT

The CRA and the CONSULTANT agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 26 – Modifications of Work.

IN WITNESS WHEREOF, the RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY has made and executed this Contract and the CONSULTANT has hereunto set its hand the day and year above written.

RIVIERA BEACH COMMUNITY
REDEVELOPMENT AGENCY

ATTEST:

By: _____
TONYA DAVIS JOHNSON

Approved as to form and legal sufficiency:

By: _____
J. Michael Haygood

CONSULTANT:
MERCHANT STRATEGY, INC.

By: _____

Name: _____

Title: _____

Consultant Rate Schedule

Staff:	\$100.00/hour
Senior Staff/Principal:	\$150.00/hour