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CITY OF NORTH MIAMI
PROFESSIONAL SERVICES AGREEMENT
(Miami-Dade County Bid No. 8809-4/13 – Piggyback Agreement)

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this _____ day of 3/24/2014, 2014, by and between the **City of North Miami**, a Florida municipal corporation, having its principal office at 776 NE 125th Street, North Miami, FL 33161 ("City") and **Enterprise Leasing Company of Florida, LLC**, a foreign limited liability company registered and authorized to do business in the State of Florida, having its principal office at 600 Corporate Park Drive, St. Louis, MO 63105 ("Vendor"). The City and Vendor shall collectively be referred to as the "Parties", and each may individually be referred to as a "Party".

RECITALS

WHEREAS, Miami-Dade County, Florida ("County"), issued ***Invitation to Bid No. 8809-4/13 Vehicle Rental Services*** ("IFB") to establish a contract for the purchase of vehicle rental services for various County departments on an as needed, when needed basis, in accordance with the terms, conditions, requirements and specifications contained in the IFB ("Rental Services"); and

WHEREAS, the Vendor was evaluated by the County as one of the lowest priced responsive, responsible vendors whose bid, qualifications and references demonstrated to be the most advantageous to the County; and

WHEREAS, a Contract Award to Vendor was issued for the period commencing February 1, 2013, through July 31, 2014, for the provision of Rental Services to the County; and

WHEREAS, on October 23, 2007, the Mayor and City Council of the City of North Miami, adopted Ordinance 1244, which authorizes the City Manager to approve the purchase of supplies, goods and/or services from purchasing contracts of other governmental entities, such as the County; and

WHEREAS, the City Police Department has identified the need of Rental Services for use as undercover vehicles and for other related law enforcement operational uses; and

WHEREAS, Vendor is willing to provide Rental Services to the City with the same favorable rate and price structure, the Vendor is providing to the County; and

WHEREAS, the City Manager finds the procurement of Rental Services for the operational use of the City Police Department, on an as needed, when needed basis, using the most cost effective means available, is in the City's best interest.

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

ARTICLE 1 - RECITALS

1.1 The recitals are true and correct and are hereby incorporated into and made a part of this Agreement.

ARTICLE 2 - CONTRACT DOCUMENTS

2.1 The following documents, collectively referred to as the "Contract Documents", are incorporated into and made part of this Agreement:

2.1.1 The County's *Invitation to Bid No. 8809-4/13 Vehicle Rental Services*, attached hereto as Exhibit A;

2.1.2 The County's Contract Award to Vendor for the period commencing February 1, 2013, through July 31, 2014, attached hereto as Exhibit B;

2.1.3 The County's Award Summary Primary Vendor price list, attached hereto as Exhibit C;

2.1.4 Any additional documents which are required to be submitted in the provision of Rental Services.

ARTICLE 3 –TERM OF AGREEMENT

3.1 The initial term of this Agreement shall commence on April 1, 2014, through March 31, 2015 ("Initial Term").

3.2 Following the Initial Term, the City shall have four (4) options to renew this Agreement in writing, on a year-by-year basis.

3.3 When, in the opinion of the City, reasonable grounds for uncertainty exist with respect to the Vendor's ability to perform Rental Services or any portion thereof, the City may request that the Vendor, within a reasonable time frame set forth in the City's request, provide adequate assurances to the City in writing, of Vendor's ability to perform in accordance with terms of this Agreement. In the event that the Vendor fails to provide the City the requested assurances within the prescribed time frame, the City may treat such failure as a repudiation or breach of this Agreement, and resort to any remedy for breach provided for in this Agreement or at law.

ARTICLE 4 – COMPENSATION

4.1 Vendor shall be paid an amount not to exceed Ninety Eight Thousand Two Hundred Eighty and no/100 Dollars ($98,280.00) per year, as compensation for the provision of Rental Services.

4.2 Funding for this Agreement is contingent upon the City's availability of funds and the Agreement is subject to amendment or termination due to lack of funds or a reduction of funds, upon thirty (30) days written notice to Vendor.

ARTICLE 5 - SCOPE OF RENTAL SERVICES

5.1 Vendor shall provide all labor, supervision, materials, equipment, tools, services and expertise necessary for the completion of Rental Services, in accordance to the special terms and conditions specified in the Contract Documents.

5.2 Vendor shall perform the Rental Services in accordance with that degree of care and skill ordinarily exercised by reputable members of its profession.

5.3 Vendor represents and warrants to the City that: (i) Vendor possesses all qualifications, licenses and expertise required for the provision of Rental Services, with personnel fully licensed by the State of Florida; (ii) Vendor is not delinquent in the payment of any sums due the City, including payment of permit fees, local business taxes, or in the performance of any obligations to the City; (iii) all personnel assigned to perform work shall be, at all times during the term hereof, fully qualified and trained to perform the tasks assigned to each; (iv) the Rental Services will be performed in the manner and at such times and locations as described by the City for the budgeted amount; and (v) the person executing this Agreement on behalf of Vendor is duly authorized to execute same and fully bind Vendor as a party to this Agreement.

ARTICLE 6 - INDEPENDENT CONTRACTOR

6.1 Vendor has been procured and is being engaged by the City as an independent contractor, and not as an agent or employee of the City. Accordingly, Vendor shall not attain, nor be entitled to, any rights or benefits under the Civil Service or Pension Ordinances of the City, nor any rights generally afforded classified or unclassified employees of the City. Vendor further understands that Florida workers' compensation benefits available to employees of the City, are not available to Vendor. Therefore, Vendor agrees to provide workers' compensation insurance for any employee or agent of Vendor rendering services to the City under this Agreement.

6.2 Vendor agrees and understands that: (i) any and all subcontractors used by Vendor shall be paid by Vendor and not paid directly by the City; and (ii) any and all liabilities regarding payment to or use of subcontractors for any of the work related to this Agreement shall be borne solely by Vendor.

ARTICLE 7 - CONFLICTS OF INTEREST

7.1 The Vendor represents and warrants to the City that it has not employed or retained any person or company employed by the City to solicit or secure this Agreement and that it has not offered to pay, paid, or agreed to pay any person any fee, commission, percentage, brokerage fee, or gift of any kind contingent upon or in connection with, the award of this Agreement.

7.2 Vendor covenants that no person under its employ who presently exercises any functions or responsibilities on behalf of the City has any personal financial interest, directly or indirectly, with the Vendors. Vendor further covenants that, in the performance of this Agreement, no person having such conflicting interest shall be employed.

ARTICLE 8 - DEFAULT

8.1 If Vendor fails to comply with any term or condition of this Agreement, or fails to perform any of its obligations hereunder, then Vendor shall be in default. The City shall have

the right to terminate this Agreement, in the event Vendor fails to cure a default within thirty (30) days after receiving Notice of Default. Vendor understands and agrees that termination of this Agreement under this section shall not release Vendor from any obligations accruing prior to the effective date of termination.

ARTICLE 9 - CITY'S TERMINATION RIGHTS

9.1 The City shall have the right to terminate this Agreement, in its sole discretion at any time, with or without cause, upon thirty (30) days written notice to Vendor. In such event, the City shall pay Vendor compensation for Rental Services rendered prior to the effective date of termination. The City shall not be liable to Vendor for any additional compensation, or for any consequential or incidental damages.

ARTICLE 10- NOTICES

10.1 All notices, demands, correspondence and communications between the City and Vendor shall be deemed sufficiently given under the terms of this Agreement when dispatched by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

To Vendor:	Enterprise Leasing Company of Florida 15401 West Dixie Highway North Miami, FL 33162 Phone: 305) 948-9432 Fax: (___) ___-____
To City:	City of North Miami Attn: City Manager 776 N.E. 125th Street North Miami, Florida 33161
With a copy to:	City Attorney City of North Miami 776 N.E. 125th Street North Miami, Florida 33161

10.2 Either Party may at any time designate a different address and/or contact person by giving notice as provided above to the other Party. Such notices shall be deemed given upon receipt by the addressee.

10.3 In the event there is a change of address and the moving Party fails to provide notice to the other Party, then notice sent as provided in this Article shall constitute adequate notice.

ARTICLE 11 - PUBLIC RECORDS

11.1 Vendor understands that the public shall have access, at all reasonable times, to all documents and information pertaining to City contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the City and the public to all documents subject to disclosure under applicable law.

ARTICLE 12 - INDEMNIFICATION

12.1 Vendor shall defend, indemnify and hold harmless the City, its officers and employees from and against any and all claims, costs, losses and damages including, but not limited to reasonable attorney's fees, caused by the negligent acts or omissions of the Vendor, its officers, directors, agents, partners, subcontractors, employees and managers in the performance of the Rental Services under this Agreement.

12.2 Nothing contained in this Agreement is any way intended to be a waiver of the limitation placed upon the City's liability as set forth in Chapter 768, Florida Statutes. Additionally, the City does not waive sovereign immunity, and no claim or award against the City shall include attorney's fees, investigative costs or pre-judgment interest.

ARTICLE 13 - FORCE MAJEURE

13.1 A "Force Majeure Event" shall mean an act of God, act of governmental body or military authority, fire, explosion, power failure, flood, storm, hurricane, sink hole, other natural disasters, epidemic, riot or civil disturbance, war or terrorism, sabotage, insurrection, blockade, or embargo. In the event that either Party is delayed in the performance of any act or obligation pursuant to or required by the Agreement by reason of a Force Majeure Event, the time for required completion of such act or obligation shall be extended by the number of days equal to the total number of days, if any, that such Party is actually delayed by such Force Majeure Event. The Party seeking delay in performance shall give notice to the other Party specifying the anticipated duration of the delay, and if such delay shall extend beyond the duration specified in such notice, additional notice shall be repeated no less than monthly so long as such delay due to a Force Majeure Event continues. Any Party seeking delay in performance due to a Force Majeure Event shall use its best efforts to rectify any condition causing such delay and shall cooperate with the other Party to overcome any delay that has resulted.

ARTICLE 14 - MISCELLANEOUS PROVISIONS

14.1 No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

14.2 All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with this Agreement, as well as all continuing obligations indicated in the Contract Documents, shall survive final payment, completion and acceptance of the Rental Services and termination or completion of the Agreement.

14.3 Should any provision, paragraph, sentence, word or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect or limitation of its use.

14.4 Rental Services shall not be subcontracted, transferred, conveyed, or assigned under this Agreement in whole or in part to any other person, firm or corporation without the prior written consent of the City.

14.5 The City of North Miami is exempt from Federal Excise and State taxes. The applicable tax exemption number or certificate shall be made available upon request.

14.6 This Agreement constitutes the sole and entire agreement between the Parties. No modification or amendments hereto shall be binding on either Party unless in writing and signed by both Parties.

14.7 This Agreement shall be construed and enforced according to the laws of the State of Florida. Venue in any proceedings between the Parties shall be in Miami-Dade County, Florida.

14.8 The City reserves the right to audit the records of the Vendor covered by this Agreement at any time during the provision of Rental Services and for a period of three years after final payment is made under this Agreement.

14.9 The Vendor agrees that it shall not discriminate as to race, sex, color, creed, national origin, or disability, in connection with its performance under this Agreement.

14.10 The professional Rental Services to be provided by Vendor pursuant to this Agreement shall be non-exclusive, and nothing herein shall preclude the City from engaging other firms to perform Rental Services.

14.11 This Agreement shall be biding upon the Parties herein, their heirs, executors, legal representatives, successors and assigns.

14.12 The Vendor agrees to comply with and observe all applicable federal, state, and local laws, rules, regulations, codes and ordinances, as they may be amended from time to time.

14.13 All other terms and conditions set forth in the IFB which have not been modified by this Agreement, shall remain in full force and effect.

14.14 In the event of any dispute arising under or related to this Agreement, the prevailing party shall be entitled to recover all actual attorney fees, costs and expenses incurred by it in connection with that dispute and/or the enforcement of this Agreement, including all such actual attorney fees, costs and expenses at all judicial levels, including appeal, until such dispute is resolved with finality.

14.15 This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute one and the same Agreement.

(*The remainder of this page is intentionally left blank*)

IN WITNESS WHEREOF, the Parties have executed this Agreement by their respective proper officers duly authorized the day and year first written above.

ATTEST:

Corporate Secretary or Witness:

By: _____

Print Name: _____

Title: _____

Date: _____

Enterprise Leasing Company of Florida, LLC, a foreign limited liability company:

"**Vendor**"

By: DocuSigned by: Tina Diehl B6A12C576C6E4A0...

Print Name: _____

Title: Regional Vice President

Date: 3/25/2014

ATTEST:

By: DocuSigned by: 2C7010872EE8414...
Michael A. Etienne
City Clerk

City of North Miami, a Florida municipal corporation: "**City**"

By: DocuSigned by: 233EA295C4CB43C...
Stephen E. Johnson
City Manager

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: DocuSigned by: Regine Monestime 9787B801BC7F413...
Regine M. Monestime
City Attorney