

**RESOLUTION 18-03-21**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT WITH NUE URBAN CONCEPTS TO ESTABLISH LEGISLATIVE INTENT TO DEVELOP A MOBILITY PLAN AND FEE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town is a municipal corporation of the state of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, NUE presented to the Town Commission a detailed explanation of Mobility Plans and the need to create a mobility plan and fee for the Town of Lake Park; and

**WHEREAS**, such development of a mobility plan and fee will require additional amendments to the scope of service to ensure that the plan and fee align with the legislation under Florida Statute 163.3180 which allows local governments to create a mobility plan and fee to mitigate transportation impacts regionally and locally; and

**WHEREAS**, the Town of Lake Park will finance the Mobility Plan through a Mobility Fee which will be less than or equal to the Concurrency Fee charged by Palm Beach County for new development in the Town of Lake Park; and

**WHEREAS**, in accordance with the scope of work, NUE Consultants are responsible for establishing Legislative Intent to develop a mobility plan and fee for the Town of Lake Park and to complete the Scope of Services (Attachment 1) outlined in NUE's proposal, including tasks 1 through 5 for the sum of \$24,850; and

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK:**

**Section 1.** The whereas clauses are hereby incorporated herein.

**Section 2.** The Mayor is hereby authorized and directed to execute the contract between the Town and NUE Urban Concepts.

**Section 3.** This Resolution shall take effect immediately upon its execution.

The foregoing Resolution was offered by Vice-Mayor Glas-Castro who moved its adoption. The motion was seconded by Commissioner Michaud and upon being put to a roll call vote, the vote was as follows:

	AYE	NAY
MAYOR MICHAEL O'ROURKE	<u>  /  </u>	<u>  </u>
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>  /  </u>	<u>  </u>
COMMISSIONER ERIN FLAHERTY	<u>  /  </u>	<u>  </u>
COMMISSIONER JOHN LINDEN	<u>  /  </u>	<u>  </u>
COMMISSIONER ROGER MICHAUD	<u>  /  </u>	<u>  </u>

The Town Commission thereupon declared the foregoing Resolution No. 18-03-21 duly passed and adopted this 7 day of April, 2021.


TOWN OF LAKE PARK, FLORIDA

BY:   
MICHAEL O'ROURKE  
MAYOR

ATTEST:

  
VIVIAN MENDEZ  
TOWN CLERK

Approved as to form and legal sufficiency:

BY:   
THOMAS J. BAIRD  
TOWN ATTORNEY



February 3<sup>rd</sup>, 2021

Mr. John O. D'Agostino  
Town Manager  
Town of Lake Park  
535 Park Avenue  
Lake Park, FL 33403

**RE: ESTABLISH LEGISLATIVE INTENT TO DEVELOP A MOBILITY PLAN & FEE**

NUE Urban Concepts (NUC) is pleased to provide a scope of service to establish legislative intent in the Comprehensive Plan to develop a mobility plan and mobility fee for the Town of Lake Park. Establishing legislative intent in the Comprehensive Plan is the first step in development of a mobility fee.

Absent a fully executed form of contract, once signed, this form of Agreement for planning services ("the Agreement") shall, for all purposes, constitute a binding contract upon the City of Lake Park (CLIENT) and NUE Urban Concepts (NUC). In addition, once signed this Agreement shall serve as the Notice to Proceed with the work identified herein. NUE Urban Concepts has prepared the scope of service, CLIENT's responsibilities, schedule, compensation, and contract conditions.

The following is a more detailed breakdown of the task involved.

**I. SCOPE OF SERVICE - ESTABLISH LEGISLATIVE INTENT**

Task 1: **COMPREHENSIVE PLAN REVIEW:** NUE Urban Concepts will review the Comprehensive Plan Land Use, Transportation and Capital Improvements Element goals, objectives and policies to evaluate policies related to design and land uses, transportation concurrency, level of service standards, complete streets, parking and funding of transportation improvements. The review will be utilized to *develop legislative intent recommendations* for the Comprehensive Plan.

Task 2: **COMPREHENSIVE PLAN RECOMMENDATIONS:** NUC will recommend policies for inclusion in the City's Comprehensive Plan to establish *legislative intent* to consider adoption of a mobility plan and mobility fee. The

## Town of Lake Park Scope of Service to Establish Legislative Intent

recommend policies will be developed for the Transportation and Capital Improvement Elements of the City's Comprehensive Plan.

**Task 3:** **COMPREHENSIVE PLAN NARRATIVE:** NUC will provide a written narrative to accompany the proposed policies recommendations for inclusion in the Comprehensive Plan Amendments (CPA) and City's Staff Report for transmittal to the Florida Department of Economic Opportunity (DEO) for review. The City will prepare the transmittal, required forms, and Staff report for transmittal to DEO. NUC will assist City Staff with support documentation for inclusion in the Staff Report.

**Task 4:** **LEGAL REVIEW:** NUC will coordinate with City Staff and the City Attorney on ongoing legal review and guidance for the City to move forward with development of a mobility plan and mobility fee. The review will also address comments made by the County and any adjacent municipalities on the proposed CPA and as the City goes through the process to develop a mobility plan and mobility fee.

**Task 5:** **MEETINGS:** NUC will prepare a presentation and attend a virtual Planning Commission meeting and either a virtual or in-person CPA transmittal hearing before the City Commission. NUC will attend the adoption hearing either virtually or in person. NUC will be available for up to four (4) conference calls with City Staff. NUC will prepare a brief one-to-two-page overview of mobility plans and mobility fees for public outreach.

### **Deliverables:**

- (1) Comprehensive Plan Policies to establish legislative intent**
- (2) Written narrative to be included with CPA transmittal**
- (3) Mobility Plan & Fee One-to-Two Page Overview.**

## **II. CLIENT'S RESPONSIBILITIES**

- A. The CLIENT shall provide the City's Comprehensive Plan in a word format for editing purposes and any templates used to prepare narratives for transmittal.
- B. The CLIENT shall provide any City transportation plans and /or CRA Plan, along with any studies that include recommended mobility improvements if the City wishes to move forward with additional task.

## **III. SCHEDULE**

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Upon receipt of a fully executed copy of this Agreement, NUC shall perform its services and discharge the obligations imposed upon us in a prompt and timely manner and as expeditiously as it is consistent with professional skill and care, and the orderly progress of work. The proposed policies and narrative can be provided within two weeks of approval of this scope or as defined by the City. A time frame will be established if the City elects to pursue additional task.

### **IV. DURATION OF CONTRACT**

The contract will conclude upon deliverance of the proposed policies and narrative and will expire after all outstanding invoices are paid by the Client.

### **V. COMPENSATION**

The total compensation for the Scope of Service is \$24,900. The scope of service includes Mr. Louis Rotundo with Rotundo and Associates as a subconsultant. NUC shall submit an invoice to the CLIENT upon completion of the policies and narrative. The invoice will include information on the task performed and the hours worked. Invoices shall be payable within 15 days of receipt of the invoice. NUC reserves the right to suspend all services on the CLIENT'S project if an invoice remains unpaid 15 days after the date of the invoice. If suspended, work will not resume until all outstanding invoices are paid in full. Accounts unpaid 30 days after the invoice date shall be subject to a monthly charge of 2% of the unpaid balance at the sole election of NUC. In the event, any portion of a CLIENT account balance remains unpaid 30 days after the date of invoice, the CLIENT shall pay collection costs, expert witness fees, and other associated fees, including reasonable attorney's fees.

If services under this Agreement continue for a period of more than twelve (12) months from the date of this Agreement, the fees contained in the Fee Schedule shall be subject to re-negotiation at the sole discretion of NUC. In the event of unsuccessful negotiations following the said 12-month period of service, NUC shall have the sole and exclusive right of termination of the Agreement upon written notice to CLIENT. Any change in such fees shall apply to the unfinished services as of the effective date of such charge.

In the event the referenced project or services of NUC called for under this Agreement is/are suspended, cancelled or abandoned by the CLIENT, NUC shall be given five (5) days prior written notice of such action and shall be compensated for the professional services provided up to the date of suspension, cancellation or abandonment.

### **VI. TASK**

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The following is a breakdown of the cost and hours associated with each task based on a rate of \$175 per hour. Please note, subsequent hourly rates may be higher depending on whether the City piggybacks on an existing Continuous Services Contract or pursues an RFQ.

<b>TASK #</b>	<b>TASK</b>	<b>HOURS</b>	<b>COST</b>
<b>1</b>	<b>COMPREHENSIVE PLAN REVIEW</b>	<b>10</b>	<b>\$1,750</b>
<b>2</b>	<b>COMPREHENSIVE PLAN RECOMMENDATIONS</b>	<b>30</b>	<b>\$5,250</b>
<b>3</b>	<b>COMPREHENSIVE PLAN NARRATIVE</b>	<b>32</b>	<b>\$5,600</b>
<b>4</b>	<b>LEGAL REVIEW</b>	<b>40</b>	<b>\$7,000</b>
<b>5</b>	<b>MEETINGS</b>	<b>30</b>	<b>\$5,250</b>
<b>Total</b>		<b>142</b>	<b>\$24,850</b>

**VII. RETAINER**

The CLIENT agrees to pay NUC a deposit of \$0 dollars.

**VIII. ADDITIONAL SERVICES**

None are envisioned at this time.

**IX. INDEMNIFICATION**

The CLIENT shall indemnify and hold harmless NUC and all its employees, officers, and directors and other personnel and NUC's sub-consultants from and against any claims, damages, losses, and expenses (including reasonable attorney's fees and costs associated with such claims) resulting from the performance of services, provided that any such claim, damage, loss or expense is caused in whole or in part by the negligent act, omission, and/or strict liability of the CLIENT, anyone directly or indirectly employed by the CLIENT (Except NUC), or anyone for whose acts any of them may be liable.

**X. RISK ALLOCATION**

In recognition of the relative risks, rewards and benefits of the project to both the CLIENT and NUC, the risks have been allocated such that the CLIENT agrees that, to the fullest extent permitted by law, the total liability for any claim of any nature whatsoever arising out or related to the performance of services under this Agreement, as to NUC and their employees,

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offices, and directors shall be limited, in the aggregate amount of any/all such claim(s) to the total fees for professional services paid by the CLIENT pursuant to the Agreement.

### **XI. MEDIATION**

In the event of a dispute regarding any of the Parties' obligations hereunder, the Parties shall, no less than 90 days prior to the initiation of litigation relating to any such dispute, engage in pre-suit mediation. NUC may choose to file suit without pre-suit mediation in disputes pertaining to non-payment where there is no timely, written notice from the CLIENT as to a dispute relating to unpaid invoices.

Unless the parties mutually agree otherwise in writing, the said pre-suit mediation shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to the Contract.

The Parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

### **XII. MISCELLANEOUS PROVISIONS**

The Parties expressly waive their rights to claim consequential damages of any kind, nature or species which relate to the performance of obligations by either Party to this Agreement, as well as their employees, officers, and directors.

### **XIII. REUSE OF DOCUMENTS**

All documents prepared or furnished by NUC (and NUC's independent professional sub-consultants) pursuant to this Agreement are instruments of service in respect of the project and NUC shall retain an ownership and property interest therein. The CLIENT may make and retain copies of information and reference of the documents prepared by NUC.

Any adaptation or modification of documents prepared by NUC for the specific purpose outlined in this scope will be at the CLIENT'S sole risk and without any liability or legal exposure to NUC. The CLIENT shall indemnify and hold harmless NUC and NUC independent professional associates and sub-consultants from all claims, damages, losses, and expenses

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including attorney's fees arising out of, or resulting there from, adaptation or modification of documents prepared by NUC.

### **XIV. INSURANCE**

NUC carries General Liability Insurance for Errors and Omissions at \$1,000,000 and Commercial Liability Insurance at \$1,000,000. Limits shall not exceed the lump sum contract amount. Additional insurance may require a scope addendum.

### **XV. APPLICABLE LAWS**

Unless otherwise specified, the laws of the State of Florida shall govern this agreement. In the unlikely event of litigation regarding the Parties' obligations hereunder, the Parties expressly agree venue for such litigation shall be conducted in Palm Beach County.

This proposal represents the entire understanding between us with respect to the project and may only be modified in writing, signed by both parties. If you have any questions regarding our fee proposal, please do not hesitate to contact us so we can clarify or revise our understanding of the project scope.

Thank you again for allowing NUC the opportunity to prepare this proposal for you. I look forward to working with City Staff. Please feel free to contact me with any questions or comments that you may have. I look forward to working with you and your team.

Sincerely,



Jonathan B. Paul

Notice: The signature below authorizes the work herein described to proceed and does so on behalf of the Signatory of the land or property upon which the work is to be performed and warrants that he/she has authority to sign Agreement on behalf of the Signatory and on behalf of the City. The signature below further authorizes NUC to serve notice to the City under this Agreement in accordance with Section 713.06, Florida Statutes.

Signatures of NUC and CLIENT on page 7 of this scope.



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*Jonathan B Paul*

02/03/2021

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Jonathan B. Paul, AICP  
Principal  
NUE Urban Concepts

Date

Signature:



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Client Name (Printed):

Date

Title:

Entity: