



City of Pembroke Pines

**FIRST AMENDMENT TO LICENSE AGREEMENT FOR THE
OPERATION OF PEMBROKE LAKES GOLF COURSE PRO SHOP
BETWEEN THE CITY OF PEMBROKE PINES AND
TA GOLF SALES, LLC**

THIS AMENDMENT ("First Amendment"), dated _____, is entered into by and between:

THE CITY OF PEMBROKE PINES, a municipal corporation organized and operating under the laws of the State of Florida, with an address of **601 City Center Way, Pembroke Pines, FL 33025**, hereinafter referred to as "CITY",

and

TA GOLF SALES, LLC, a Limited Liability Company, as listed with the Florida Division of Corporations, with a business address of **10500 Taft Street, Pembroke Pines, FL 33026**, hereinafter referred to as "LICENSEE". "CITY" and "LICENSEE" may hereinafter be referred to collectively as the "Parties" and individually as a "Party".

WHEREAS, on **August 9, 2023**, the Parties entered into the License Agreement for the Operation of Pembroke Lakes Golf Course Pro Shop ("Original Agreement") for an initial **one (1) year** period, which commenced on **August 9, 2023**, and which will naturally expire on **August 8, 2024**; and,

WHEREAS the Original Agreement authorized the renewal thereof at the expiration of the initial term, for up to **two (2)**, successive, **one (1) year** periods pursuant to written amendments to the Original Agreement; and,

WHEREAS the Parties desire to renew the term of the Original Agreement for a **one (1) year** period, as set forth in this First Amendment.

W I T N E S S E T H

NOW, THEREFORE, for and in consideration of the sum of the mutual covenants and other good and valuable consideration, the receipt of which are hereby acknowledged, the Parties hereto agree as set forth below:

SECTION 1. The recitations set forth in the above "WHEREAS" clauses are true and correct and incorporated herein by this reference.

SECTION 2. The Original Agreement is hereby renewed for a **one (1) year** period commencing on **August 9, 2024**, and naturally expiring on **August 8, 2025**.



SECTION 3. Scrutinized Companies. LICENSEE, its principals, or owners, certify that they are not listed on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in Iran Terrorism Sectors List, or is engaged in business operations with Syria. In accordance with Section 287.135, Florida Statutes, as amended, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with any agency or local governmental entity for goods or services of:

3.1 Any amount if, at the time bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or

3.2 One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:

3.2.1 Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, created pursuant to Section 215.473, Florida Statutes; or

3.2.2 Is engaged in business operations in Syria.

SECTION 4. Employment Eligibility. LICENSEE certifies that it is aware of and complies with the requirements of Section 448.095, Florida Statutes, as may be amended from time to time and briefly described herein below.

4.1 **Definitions for this Section.**

4.1.1 “Contractor” means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration. “Contractor” includes, but is not limited to, a vendor or consultant.

4.1.2 “Contractor” includes, but is not limited to, a vendor or consultant.

4.1.3 “Subcontractor” means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.

4.1.4 “E-Verify system” means an Internet-based system operated by the United States Department of Homeland Security that allows participating employers to electronically verify the employment eligibility of newly hired employees.

4.2 **Registration Requirement; Termination.** Pursuant to Section 448.095, Florida Statutes, effective January 1, 2021, Contractors, shall register with and use the E-verify system in order to verify the work authorization status of all newly hired employees. Contractor shall register for and utilize the U.S. Department of Homeland Security’s E-Verify System to verify the employment eligibility of:



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4.2.1 All persons employed by a Contractor to perform employment duties within Florida during the term of the contract; and

4.2.2 All persons (including subvendors/subconsultants/subcontractors) assigned by Contractor to perform work pursuant to the contract with the City of Pembroke Pines. The Contractor acknowledges and agrees that registration and use of the U.S. Department of Homeland Security's E-Verify System during the term of the contract is a condition of the contract with the City of Pembroke Pines; and

4.2.3 The Contractor shall comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes, but is not limited to registration and utilization of the E-Verify System to verify the work authorization status of all newly hired employees. Contractor shall also require all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The Contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. Termination of this Contract under this Section is not a breach of contract and may not be considered as such. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of one (1) year after the date of termination.

SECTION 5. In the event of any conflict or ambiguity by and between the terms and provisions of this First Amendment, and the Original Agreement, the terms and provisions of this First Amendment shall control to the extent of any such conflict or ambiguity.

SECTION 6. The Parties agree that in all other respects the Original Agreement shall remain in full force and effect, except as specifically modified herein.

SECTION 7. Each exhibit referred to in the Original Agreement, except as repealed herein, forms an essential part of this First Amendment. The exhibits, if not physically attached, should be treated as part of this First Amendment and are incorporated herein by reference.

SECTION 8. Each person signing this First Amendment on behalf of either Party individually warrants that he or she has full legal power to execute this First Amendment on behalf of the Party for whom he or she is signing, and to bind and obligate such Party with respect to all provisions contained in this First Amendment.

SECTION 9. This First Amendment may be executed by hand or electronically in multiple originals or counterparts, each of which shall be deemed to be an original and together shall constitute one and the same agreement. Execution and delivery of this First Amendment by the Parties shall be legally binding, valid, and effective upon delivery of the executed documents to the other Party through facsimile transmission, email, or other electronic delivery.



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IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals the day and year first written above.

CITY:

CITY OF PEMBROKE PINES, FLORIDA

APPROVED AS TO FORM:

BY: _____

Print Name: _____
OFFICE OF THE CITY ATTORNEY

MAYOR ANGELO CASTILLO

ATTEST:

BY: _____

MARLENE D. GRAHAM, CITY CLERK

CHARLES F. DODGE, CITY MANAGER

LICENSEE:

TA GOLF SALES, LLC

Signed By: _____

DocuSigned by:
Trace Allison
B84083EE43AD462...

Printed Name: Trace Allison

Title: Owner



City of Pembroke Pines

LICENSE AGREEMENT FOR THE OPERATION OF
PEMBROKE LAKES GOLF COURSE
PRO SHOP

THIS AGREEMENT ("Agreement"), dated August 9, 2023, is entered into by and between:

THE CITY OF PEMBROKE PINES, a municipal corporation of the State of Florida with a business address of **601 City Center Way, Pembroke Pines, Florida 33025** (hereinafter referred to as the "CITY")

and

TA GOLF SALES, LLC., a Limited Liability Company, as listed with the Florida Division of Corporations, with a business address of **10500 Taft Street, Pembroke Pines, FL 33026** (hereinafter referred to as the "LICENSEE" or "CONTRACTOR"). CITY and LICENSEE may hereinafter be referred to collectively as the "Parties."

W I T N E S S E T H:

In consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and LICENSEE agree as follows:

ARTICLE 1
PREAMBLE

In order to establish the background, context and form of reference for this Agreement, and to generally express the objectives and intentions of the respective Parties herein, the following statements, representations, and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow, and may be relied upon by the Parties as essential elements of the mutual considerations upon which this Agreement is based.

1.1 CITY owns the premises and golf facility at the Pembroke Lakes Golf Course ("Golf Course"). The CITY contracted with Professional Course Management, LTD ("PCM") to operate the Golf Course. The Golf Course includes a Golf Pro Shop "Pro Shop" where patrons can pay golf fees or purchase retail items such as golf gear and equipment. The Pro Shop is staffed and managed by PCM under the direction of PCM's Director of Golf. Since 1999, the Director of Golf has separately managed the retail business of the pro shop under a separate city agreement.



1.2 The previous Director of Golf, Harry Ferguson, entered into the retail business agreement with the city for the Pro Shop in 1999. The agreement expired; however Mr. Ferguson continued to operate under the expired agreement's terms and conditions.

1.3 Mr. Ferguson retired in December of 2022. Mr. Trace Alison, owner of LICENSEE, is the new Director of Golf for the Golf Course. Mr. Alison, under the business name of LICENSEE, immediately assumed the role and responsibility of managing the retail portion of the Pro Shop business. LICENSEE has operated under the terms and conditions of the previously expired Pro Shop agreement to keep a continuity of service for our patrons.

1.4 CITY desires to retain the services of LICENSEE to operate the Pro Shop at the Pembroke Lakes Golf Course.

1.5 LICENSEE has agreed to provide such services and operate the Pro Shop subject to and in accordance with the terms and conditions of this Agreement.

1.6 On August 2, 2023, the CITY Commission approved this Agreement with LICENSEE to render the services more particularly described herein below.

ARTICLE 2

SERVICES AND RESPONSIBILITIES

2.1 CONTRACTOR hereby agrees to manage and operate the Pro Shop, within the premises located at 10500 Taft Street, Pembroke Pines, FL 33026 (the "Property", the "Premises"), and to perform the services described in **Exhibit "A" "Scope of Services"**, attached hereto and by this reference made a part hereof, in a timely and professional manner.

2.2 CONTRACTOR shall schedule regular meetings with the CITY representatives at least once a month to discuss the operations of the Pro Shop.

2.3 CONTRACTOR shall furnish all services, labor, and materials necessary and as may be required in the performance of this Agreement, and all work performed under this Agreement shall be carried out in a professional manner.

2.4 CONTRACTOR hereby represents to CITY, with full knowledge that CITY is relying upon these representations when entering into this Agreement with CONTRACTOR, that CONTRACTOR has the professional expertise, experience, and manpower to perform the services to be provided by CONTRACTOR pursuant to the terms of this Agreement.

2.5 CONTRACTOR hereby agrees to perform all services at all times faithfully, industrially, professionally and to the best of CONTRACTOR's ability, experience and talents as pursuant to the express and implicit terms of this Agreement, to the reasonable satisfaction of the CITY. CONTRACTOR recognizes that the reputation of the CITY, the Golf Course and its continued operation are dependent upon well-maintained and clean facilities with high quality service.



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2.6 CONTRACTOR hereby certifies that the information provided pursuant to this Article is true and correct as of this date. Further, the CONTRACTOR has obtained or will obtain all necessary licensing, occupational license, and certificate requirements which may be applicable in connection with the operation and management of the Pro Shop. CITY agrees to cooperate with CONTRACTOR to the full extent needed to assure CONTRACTOR receives proper licensing and certifications.

2.7 TIME IS OF THE ESSENCE. Time is of the essence of this Agreement for each and all of its provisions in which performance is a factor.

ARTICLE 3

THE PRO SHOP PROPERTY

3.1 LICENSE.

3.1.1 CITY hereby grants to LICENSEE the right, license, and privilege of occupying, managing, operating, and maintaining certain CITY owned property ("License"), located within the premises at 10500 Taft Street, Pembroke Pines, FL 33026. All of the real property underlying the building and adjacent thereto, with all improvements thereon, including the building and parking areas, and used in connection with the operation of the building, shall hereinafter be referred to as the "Premises". The location and dimensions of said Pro Shop are delineated on **Exhibit "B" "Pro Shop Floor Plan"**, attached hereto and by this reference made a part hereof.

3.1.2 The License granted herein is subject to the terms, covenants and conditions herein set forth and LICENSEE covenants, as a material part of the consideration of this License, to keep and perform each and every term, covenant, and condition herein set forth. LICENSEE shall use the Pro Shop for retail sales purposes only and shall not use or permit the Golf Pro Shop to be used for any other purpose without the prior written consent of CITY.

3.2 SIGNS.

3.2.1 The LICENSEE may affix and maintain only signs which are of such type, size, color, location, copy nature and display qualities and in compliance with all codes, ordinances and regulations of any governing body. Any such failure to comply with the provisions of this paragraph shall be deemed a default of this Lease, upon written notice and failure to cure under the terms of this Agreement.

3.2.2 LICENSEE agrees to maintain such signs, or other installations as may be approved by the CITY, in good condition and repair at LICENSEE's own cost and expense.



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3.3 **MERCHANDISE DISPLAYS.**

3.3.1 LICENSEE may not display or sell merchandise outside the defined exterior walls and permanent doorways of the Premises. LICENSEE shall not employ or utilize any device or equipment that can be heard outside the Premises.

3.4 **GOLF COURSE OPERATIONS.**

3.4.1 LICENSEE understands and agrees that sufficient space shall be made available in the Pro Shop for CITY staff, or other agents of the CITY, to conduct the business necessary for the operation of the golf course, including but not limited to, the sale of greens fees.

3.4.2 The Parties agree that the CITY staff, or its other agent, monitoring the golf operation on the Premises shall assist with merchandise sales as time permits. LICENSEE agrees to assist with the golf operation as time permits.

3.4.3 A separate cash register for merchandise sales shall be kept from that register utilized for greens fees or other operations of the Golf Course.

3.5 **LIABILITY FOR PERSONAL PROPERTY.** LICENSEE agrees that all personal property or inventory placed on the Premises shall remain the property of LICENSEE, and shall be placed on the Premises at the risk of LICENSEE. LICENSEE shall bear the risk of loss for any such personal property or insurance and shall further give the CITY prompt written notice of any occurrence, incident or accident occurring on the Premises.

3.6 **UTILITIES.** The CITY shall be responsible for the electricity used by the Pro Shop as well as all other utilities.

3.7 **PARKING AND COMMON AREAS.**

3.7.1 CITY reserves the right to change the entrances, exits, traffic lanes, number of spaces, and the boundaries and locations of such parking area or areas in or around the Pro Shop during the term of this license. Furthermore, CITY reserves the right to temporarily close all or any portion of the parking areas needed by CITY for maintenance or other public activities. CITY agrees to use its best efforts to not unreasonably block, close, or obstruct the entrances and exits longer than is reasonable to perform the work.

3.7.2 LICENSEE shall cause no obstruction to the Premises sidewalks, corridors, common areas, parking areas, emergency exits or fire lanes. If LICENSEE is notified of such obstruction and it fails to take corrective action, CITY shall, at the sole expense of the LICENSEE, remove or cause to be removed said obstruction.



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3.8 MAINTENANCE AND REPAIRS.

3.8.1 LICENSEE's operation of the Pro Shop shall be conclusive evidence of LICENSEE's acceptance thereof in good, sanitary order, condition and repair, and with no defects of any sort. LICENSEE shall, at LICENSEE's sole cost and expense, throughout the Term of this Agreement, keep the interior of the Pro Shop in good condition and repair including maintenance, replacement and repairs, which may be necessary, at CITY's discretion, to the interior of the Pro Shop, to keep same in the condition delivered to LICENSEE on the commencement date hereof, ordinary wear and tear excepted. LICENSEE shall promptly make, at LICENSEE's sole cost and expense, all repairs in or to the Pro Shop caused by LICENSEE's negligence or the negligence of any personnel employed by LICENSEE, for which LICENSEE is responsible.

3.8.2 CITY shall provide sufficient written notice to LICENSEE of its intent to make repairs such that the making of said repairs does not constitute an inconvenience to the LICENSEE, but CITY shall have no liability to LICENSEE, nor shall LICENSEE's covenants and obligations hereunder be reduced or abated in any manner whatsoever, by reason of any inconvenience, annoyance, interruption, or injury to business arising from CITY's making any repairs or changes which CITY is required to or permitted to make by this Agreement or required by law, to make in or to any portion of the building or the Pro Shop, or in or to the fixtures, equipment, or appurtenances therein. CITY agrees to use its best efforts to not interrupt or interfere with the LICENSEE's business in the event repairs or changes are to be made on the Pro Shop.

3.8.3 CITY shall maintain at its sole expense, the exterior of the structure, the maintenance, repair and/or replacement of all currently existing plumbing, pipes, electrical wiring and conduits, heating and air-conditioning systems, as well as maintenance of the existing roof in leak-free condition and landscaping on the Property.

3.9 **ALTERATIONS.** No improvement, alterations, or additions shall be made to the Pro Shop by LICENSEE without the prior written consent of CITY.

3.10 **ENTRY BY CITY.** CITY, or its authorized agent or agents, shall have the right to enter the Pro Shop at all times to inspect same, to prevent waste, to show the Pro Shop to prospective purchasers or tenants, to repair the Pro Shop and any portion of the building that CITY may deem necessary or desirable, without any other amount due hereunder, and may for that purpose erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed, always providing that the entrance to the Pro Shop shall not be unreasonably blocked thereby, and further providing that the business of the LICENSEE shall not be interfered with unreasonably. LICENSEE hereby waives any claim for damages or for any injury or inconvenience to or interference with LICENSEE's business, any loss of occupancy or quiet enjoyment of the Pro Shop, and any other loss occasioned thereby excluding, however, any damage, injury, or inconvenience caused by the negligence of CITY or their employees. For each of the aforesaid purposes, CITY shall at all times have and retain a key with which to unlock all of the doors in the Pro Shop, excluding LICENSEE's vaults, safes, and files, and CITY shall have



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the right to use any and all means which CITY may deem proper to open said doors in an emergency in order to obtain entry to the Pro Shop.

3.11 ASSIGNMENT. Licensee shall not have the right to assign the Pro Shop or any part thereof, or permit others to occupy same, nor to transfer this Agreement without the written consent of the CITY, which consent may be withheld at the total and absolute discretion of the CITY.

3.12 COMPLIANCE WITH LAW.

3.12.1 LICENSEE shall comply with all laws, orders, ordinances and other public requirements now or hereafter pertaining to Licensee's use of the Premises. Licensor shall comply with all laws, orders, ordinances and other public requirements now or hereafter affecting the Premises.

3.12.2 LICENSEE shall not use the Pro Shop, or permit anything to be done in or about the Premises, which shall in any way conflict with any applicable general law, statute, ordinance, or governmental rule or regulation now in force or which may hereafter be enacted or promulgated.

3.12.3 Licensee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises by LICENSEE, its agents, employees, contractors or invitees, without the prior written consent of Licensor.

3.12.4 CITY shall, at its sole cost and expense, throughout the term of this Agreement, promptly comply with all laws, statutes, ordinances, and governmental rules, regulations, or requirements now in force, or which may hereafter be in force, and with the requirements of any board of fire underwriters or other similar bodies now or hereafter constituted relating to or affecting the condition, use or occupancy of the Pro Shop.

3.13 SURRENDER OF PREMISES.

3.13.1 Upon the conclusion of the term, or upon termination of this Agreement LICENSEE agrees to peaceably surrender and deliver the Pro Shop to the CITY in substantially the same condition as it was delivered to LICENSEE at the commencement of this Agreement, ordinary wear and tear excluded. Furthermore, LICENSEE agrees to remove from the Pro Shop at its own expense, any personal property or inventory placed therein. Upon completion of removal, the condition of the Pro Shop shall be safe and not constitute a hazard.

3.13.2 Return of Keys Upon termination of this Agreement, LICENSEE must promptly return to CITY all CITY keys and/or access cards. By agreeing herein, LICENSEE understands that any loss or failure to return a CITY key shall subject LICENSEE to the costs associated with key replacement and/or re-keying. For keys unlocking several doors, replacement and re-keying costs can be substantial. In case of failure to return a key and failure to pay for key replacement and/or lock re-keying,



LICENSEE understands that CITY shall enforce by all legal means its right to repayment for all costs incident to key replacement and/or lock re-keying.

3.14 PROHIBITED USES.

3.14.1 LICENSEE shall not do or permit anything to be done in or about the Pro Shop nor bring or keep anything therein which is not within the permitted use of the Pro Shop or which shall in any way increase the existing rate of or affect any fire or other insurance upon the Pro Shop, building or any of its contents, or cause a cancellation of any insurance policy covering the Pro Shop, building or any of its contents. LICENSEE shall not do or permit anything to be done in or about the Pro Shop building and/or Pro Shop itself which shall in any way obstruct or interfere with the rights of other tenants or occupants of the building or injure or annoy them, or use or allow the Pro Shop to be used for any improper, immoral, unlawful, or objectionable purpose. Nor shall LICENSEE cause, maintain, or permit any nuisance in, on or about the Pro Shop. LICENSEE shall not commit or allow to be committed any waste in or upon the Pro Shop.

3.14.2 LICENSEE SHALL NOT CAUSE LIENS: Nothing in this Agreement shall grant or confer unto the LICENSEE the right to lien, mortgage or encumber in any way the Premises or any improvement thereon nor subject said property to any encumbrance; the LICENSEE has no right whatsoever to lien, mortgage or encumber the real property of the CITY, or the improvements thereon; construction liens are expressly prohibited under this Agreement.

ARTICLE 4 TERM AND TERMINATION

4.1 CONTRACTOR shall perform the services associated with the Pro Shop as identified in Article 2 of this Agreement and in **Exhibit "A"** thereto, and CITY shall grant License to LICENSEE, for an initial period of one (1) year which shall commence on the date of final execution of this Agreement and continue for a period of one (1) year thereafter, unless terminated prior to said date as provided for herein.

4.2 This Agreement may be renewed for up to two (2), successive, one (1) year periods upon mutual written consent of the Parties, evidenced by a written Amendment to this Agreement extending the term thereof. The Parties agree that the terms of this Agreement, including but not limited to the compensation provision, may be negotiated upon renewal.

4.3 **Termination for Convenience.** This Agreement may be terminated by either Party for cause or by the CITY for convenience, upon providing **thirty (30) calendar days** of written notice to the other Party. In the event that LICENSEE abandons this Agreement or causes it to be terminated, LICENSEE shall indemnify CITY against loss pertaining to this termination.

4.3 **Default by LICENSEE** In addition to all other remedies available to CITY, this Agreement shall be subject to termination by CITY for cause, should LICENSEE neglect or fail



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to perform or observe any of the terms, provisions, conditions or requirements herein contained, if such neglect or failure shall continue for a period of thirty (30) calendar days after receipt by LICENSEE of written notice of such neglect or failure.

ARTICLE 5

COMPENSATION AND METHOD OF PAYMENT

5.1 In order to compensate CITY for the privilege of operating the Pro Shop, LICENSEE shall pay to CITY **five percent (5%)** of gross revenues derived from merchandise sales of the Pro Shop. Gross revenues as herein described shall not include sales tax..

5.2 During the term of this Agreement, LICENSEE shall, on or before the **fifth (5th) calendar day** of each month, submit monthly gross revenue statements to the CITY.

5.3 Amounts due to the CITY at the end of each month shall be paid to the CITY on or before the **fifth (5th) calendar day** of the following month.

5.4 Method of Payment. LICENSEE will make payments to CITY at:

City of Pembroke Pines
Finance Department, 3rd Floor
601 City Center Way
Pembroke Pines, FL 33025

5.5 **LATE CHARGES.** LICENSEE hereby acknowledges that late payment by LICENSEE to CITY of amounts due hereunder shall cause CITY to incur costs not contemplated by this Agreement, the exact amount of which shall be difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, if any amount due from LICENSEE shall not be received by CITY or CITY's designee within fifteen (15) calendar days after said amount is due, then LICENSEE shall pay to CITY a late charge equal to the maximum amount permitted by law (and in the absence of any governing law, 1.5 % of such overdue amount), plus any attorneys' fees incurred by CITY by reason of LICENSEE's failure to pay said amount when due hereunder. The Parties hereby agree that such late charges represent a fair and reasonable estimate of the cost that CITY shall incur by reason of the late payment by LICENSEE and shall in no way constitute or be construed as a penalty. Acceptance of such late charges by the CITY shall in no event constitute a waiver of LICENSEE's default with respect to such overdue amount, nor prevent CITY from exercising any of its other rights and remedies granted hereunder.

ARTICLE 6

CHANGES IN SCOPE OF WORK

6.1 CITY or LICENSEE may request changes that would increase, decrease, or otherwise modify the Scope of Services, as described herein to be provided pursuant to this Agreement. These changes may affect the monthly compensation accordingly. Such changes or additional services must be in accordance with the provisions of the Code of Ordinances of the CITY, and



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must be contained in a written amendment, executed by the Parties hereto, with the same formality, equality and dignity herewith prior to any deviation from the terms of this Agreement, including the initiation of any additional or extra work.

6.2 While requesting changes that would increase, decrease, or otherwise modify the scope of services LICENSEE shall continue services.

ARTICLE 7

INDEMNIFICATION

7.1 LICENSEE shall indemnify and hold harmless the CITY, its elected and appointed officers, agents, assigns and employees, consultants, separate contractors, any of their subcontractors, or sub-subcontractors, from and against claims, demands, or causes of action whatsoever, and the resulting losses, damages, costs and expenses, including but not limited to attorneys' fees, including paralegal expenses, liabilities, damages, orders, judgments, or decrees, sustained by the CITY arising out of or resulting from (A) LICENSEE's performance or breach of Agreement, (B) acts or omissions, negligence, recklessness, or intentional wrongful conduct by LICENSEE, its agents, employees, subcontractors, and volunteers, and (C) LICENSEE's failure to take out and maintain insurance as required under this Agreement. LICENSEE shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the CITY, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon.

7.2 The obligations and duties provided for in this Article 7, herein shall survive indefinitely regardless of termination for convenience or cause.

7.3 CITY reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of LICENSEE.

7.4 Nothing contained herein is intended nor shall be construed to waive CITY's rights and immunities under the common law or Section 768.28, Florida Statutes, as may be amended from time to time.

ARTICLE 8

INSURANCE

8.1 LICENSEE expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by LICENSEE shall in no way limit the responsibility to indemnify, keep and save harmless and defend the CITY or its officers, employees, agents and instrumentalities as herein provided.

8.2 LICENSEE shall not commence performance pursuant to this Agreement until it has obtained all insurance required under this paragraph and such insurance has been approved by the Risk Manager of the CITY nor shall LICENSEE allow any subcontractor to commence work on his subcontract until all similar such insurance required of the subcontractor has been obtained and similarly approved.



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8.3 Certificates of Insurance, reflecting evidence of the required insurance, shall be filed with the CITY's Risk Manager prior to the commencement of this Agreement. Policies shall be issued by companies authorized to do business under the laws of the State of Florida. The insurance company shall be rated no less than "A" as to management, and no less than "Class VI" as to financial strength according to the latest edition of Best's Insurance Guide published by A.M. Best Company.

8.4 Certificates of Insurance shall provide for thirty (30) calendar days' prior written notice to the CITY in case of cancellation or material changes in the policy limits or coverage states. If the carrier cannot provide thirty (30) calendar days' notice of cancellation, either LICENSEE or their Insurance Broker must agree to provide notice.

8.5 Insurance shall be in force until all obligations required to be fulfilled under the terms of the Agreement are satisfactorily completed as evidenced by the formal acceptance by the CITY. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, LICENSEE shall furnish, at least forty-five (45) calendar days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect. LICENSEE shall neither commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. LICENSEE shall be liable to CITY for any lapses in service resulting from a gap in insurance coverage.

8.6 REQUIRED INSURANCE

LICENSEE shall be required to obtain all applicable insurance coverage, as indicated below, prior to commencing any work pursuant to this Agreement:

Yes No

✓ ☐ 8.6.1 Comprehensive General Liability Insurance written on an occurrence basis including, but not limited to: coverage for bodily injury and property damage, personal & advertising injury, products & completed operations, and contractual liability. Coverage must be written on an occurrence basis, with limits of liability no less than:

1. Each Occurrence Limit - \$1,000,000
2. Fire Damage Limit (Damage to rented premises) - \$100,000
3. Personal & Advertising Injury Limit - \$1,000,000
4. General Aggregate Limit - \$2,000,000
5. Products & Completed Operations Aggregate Limit - \$2,000,000

Products & Completed Operations Coverage shall be maintained for the later of three (3) years after the delivery of goods/services or final payment under the Agreement.

The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.



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Yes No

- ✓ ☐ 8.6.2 Workers' Compensation and Employers' Liability Insurance covering all employees, and/or volunteers of LICENSEE engaged in the performance of the scope of work associated with this Agreement. In the case any work is sublet, LICENSEE shall require the subcontractors similarly to provide Workers' Compensation Insurance for all the latter's employees unless such employees are covered by the protection afforded by LICENSEE. Coverage for LICENSEE and all subcontractors shall be in accordance with applicable state and/or federal laws that may apply to Workers' Compensation Insurance with limits of liability no less than:

- | | |
|---------------------------|---------------------------------------|
| 1. Workers' Compensation: | Coverage A – Statutory |
| 2. Employers Liability: | Coverage B \$500,000 Each Accident |
| | \$500,000 Disease – Policy Limit |
| | \$500,000 Disease – Each Employee |

If LICENSEE claims to be exempt from this requirement, LICENSEE shall provide CITY proof of such exemption for CITY to exempt LICENSEE.

8.7 REQUIRED ENDORSEMENTS

- 8.7.1 The City of Pembroke Pines shall be named as an Additional Insured on each of the Liability Policies required herein.
- 8.7.2 Waiver of all Rights of Subrogation against the CITY.
- 8.7.3 Thirty (30) Day Notice of Cancellation or Non-Renewal to the CITY.
- 8.7.4 LICENSEE's policies shall be Primary & Non-Contributory.
- 8.7.5 All policies shall contain a "severability of interest" or "cross liability" clause without obligation for premium payment of the CITY.
- 8.7.6 The City of Pembroke Pines shall be named as a Loss Payee on all Property and/or Inland Marine Policies as their interest may appear.

8.8 Any and all insurance required of LICENSEE pursuant to this Agreement must also be required by any subcontractor in the same limits and with all requirements as provided herein, including naming the CITY as an additional insured, in any work that is subcontracted unless such subcontractor is covered by the protection afforded by LICENSEE and provided proof of such coverage is provided to CITY. LICENSEE and any subcontractors shall maintain such policies during the term of this Agreement.

8.9 The CITY reserves the right to require any other additional types of insurance coverage and/or higher limits of liability it deems necessary based on the nature of work being performed under this Agreement.

8.10 The insurance requirements specified in this Agreement are minimum requirements and in no way reduce any liability LICENSEE has assumed in the indemnification/hold harmless section(s) of this Agreement.



City of Pembroke Pines

8.11 The CITY reserves the right to require any other insurance coverage it reasonably deems necessary depending upon the exposures.

ARTICLE 9

NON-DISCRIMINATION & EQUAL OPPORTUNITY EMPLOYMENT

During the performance of the Agreement, neither the LICENSEE nor any subcontractors shall discriminate against any employee or applicant for employment because of race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. LICENSEE will take affirmative action to ensure that employees are treated during employment, without regard to their race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. Such actions must include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. LICENSEE shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. LICENSEE further agrees that LICENSEE will ensure that subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause.

ARTICLE 10

INDEPENDENT CONTRACTOR

This Agreement does not create an employee/employer relationship between the Parties. It is the intent of the Parties that the LICENSEE is an independent contractor under this Agreement and not the CITY's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers' Compensation Act, and the State unemployment insurance law. The LICENSEE shall retain sole and absolute discretion in the judgment of the manner and means of carrying out LICENSEE's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of LICENSEE, which policies of LICENSEE shall not conflict with CITY, State, Federal, or United States policies, rules or regulations relating to the use of LICENSEE's funds provided for herein. The LICENSEE agrees that it is a separate and independent enterprise from the CITY, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between the LICENSEE and the CITY and the CITY will not be liable for any obligation incurred by LICENSEE, including but not limited to unpaid minimum wages and/or overtime premiums.



ARTICLE 11

UNCONTROLLABLE FORCES

11.1 Neither CITY nor LICENSEE shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fires, floods, earthquakes, hurricanes, storms, lightning, an epidemic or pandemic, acts of God, war, riot, civil disturbance, sabotage, and governmental actions.

11.2 Neither Party shall, however, be excused from performance if nonperformance is due to forces, which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other Party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

ARTICLE 12

GOVERNING LAW AND VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida as now and hereafter in force. The venue for any and all actions or claims arising out of or related to this Agreement shall be in Broward County, Florida.

ARTICLE 13

SIGNATORY AUTHORITY

LICENSEE shall provide CITY with copies of requisite documentation evidencing that the signatory for LICENSEE has the authority to enter into this Agreement.

ARTICLE 14

DEFAULT OF CONTRACT & REMEDIES

14.1 **Damages.** CITY reserves the right to recover any ascertainable actual damages incurred as a result of the failure of LICENSEE to perform in accordance with the requirements of this Agreement, or for losses sustained by CITY resultant from LICENSEE's failure to perform in accordance with the requirements of this Agreement.

14.3 **Correction of Services.** If, in the judgment of CITY, services provided by LICENSEE do not conform to the requirements of this Agreement, CITY reserves the right to require that LICENSEE correct all deficiencies in the services to bring the services into conformance without additional cost to CITY, in accordance with the requirements of this Agreement. CITY shall be the sole judge of non-conformance and the quality of services rendered.



14.4 **Default of Contract.** The occurrence of any one or more of the following events shall constitute a default and breach of this Agreement by LICENSEE:

14.4.1. The vacating or abandonment of the Pro Shop by LICENSEE for a period of more than ten (10) business days.

14.4.3 The failure by LICENSEE to make any payment of percentage of gross revenues due to the CITY, or any other amount due hereunder, when due, where such failure shall continue for a period of fifteen (15) calendar days after the same is due.

14.4.2 The unnecessary delay, refusal of, or failure to comply with any of the terms of this Agreement or neglect, or refusal to comply with the instructions of the Recreation and Cultural Affairs Director relative thereto.

14.4.3 The failure by LICENSEE to observe or perform any of the terms, covenants, or conditions of this Agreement to be observed or performed by LICENSEE, where such failure shall continue for a period of ten (10) calendar days after written notice thereof by CITY to LICENSEE; provided, however, that if the nature of LICENSEE's default is such that more than ten (10) calendar days are reasonably required for its cure, then LICENSEE shall not be deemed to be in default if LICENSEE commences such cure within said ten (10) calendar day period and thereafter diligently prosecutes such cure to completion.

14.4.4 The Pro Shop coming into the hands of any person other than expressly permitted under this Agreement.

14.4.5 The assignment and/or transfer of this Agreement or execution or attachment thereon by LICENSEE or any other party in a manner not expressly permitted hereunder.

14.4.6 The making by LICENSEE of any general assignment or general arrangement for the benefit of creditors, or the filing by or against LICENSEE of a petition to have LICENSEE adjudged a bankruptcy, or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against LICENSEE, the same is dismissed within sixty (60) calendar days); or the appointment of a trustee or a receiver to take possession of substantially all of LICENSEE's assets, or for LICENSEE's interest in this Agreement, where possession is not restored to LICENSEE within thirty (30) calendar days; for attachment, execution or other judicial seizure of substantially all of LICENSEE's assets, or for LICENSEE's interest in this Agreement, where such seizure is not discharged within thirty (30) calendar days.

14.4.7 Except to the extent of LICENSEE's right to cure upon default by LICENSEE hereunder, or during the continuance thereof, CITY may, at its option, upon written notice to LICENSEE, designate a date not less than five (5) calendar days from the giving of such notice on which this Agreement and all rights of LICENSEE hereunder shall terminate.



City of Pembroke Pines

14.5 Remedies in Default. In case of default by LICENSEE, CITY shall notify LICENSEE, in writing, of such abandonment, delay, refusal, failure, neglect, or default and direct LICENSEE to comply with all provisions of this Agreement. If the abandonment, delay, refusal, failure, neglect or default is not cured within seven (7) calendar days of when notice was sent by CITY, CITY may declare a default of the Agreement and notify LICENSEE of such declaration of default and terminate the Agreement. After the expiration of any grace periods or cure periods in the event of any such default or breach by LICENSEE, CITY may at any time thereafter, in its sole discretion, with or without notice or demand, and without limiting CITY in the exercise of any right or remedy which CITY may have by reason of such default or breach, the CITY may:

14.5.1. Terminate LICENSEE's license to operate the Pro Shop by any lawful means, in which case this Agreement shall terminate and LICENSEE shall immediately surrender possession of the Pro Shop to CITY. In such event, CITY shall be entitled to recover from LICENSEE any and all damages incurred by CITY by reason of LICENSEE's default, including, but not limited to, the cost of recovering possession of the Pro Shop, the expense of retelling, including necessary renovation and alteration of the Pro Shop, reasonable attorneys' fees and costs, and damages in an amount equal to the difference between the rental payments and other amounts due hereunder for the balance of the Agreement term, and that portion of any leasing commission paid by CITY and applicable to the unexpired term of this Agreement. Unpaid installments of amounts due shall bear interest from the date due at the maximum legal rate.

14.5.2. Resume possession by any lawful means and let the Pro Shop for the remainder of the Agreement term for the benefit of the CITY. In addition, CITY shall immediately recover from LICENSEE any other damages occasioned by or resulting from the abandonment or a breach or default other than a default in the payment of rent or other amount due hereunder, including reasonable attorney's fees and costs incurred.

14.5.3. Accelerate all future, and other payments that might otherwise be due under this Agreement. CITY may notify LICENSEE of LICENSEE's option to accelerate all payments due and owing provided the LICENSEE has, in fact, defaulted on its payments due under this Agreement.

14.5.4 Notwithstanding the other provisions in this Article, CITY reserves the right to terminate the Agreement at any time, whenever the service provided by LICENSEE fails to meet reasonable standards of the trade after CITY gives written notice to the LICENSEE of the deficiencies as set forth in the written notice within fourteen calendar (14) calendar days of the receipt by LICENSEE of such notice from CITY.

Pursue any other remedy now or hereafter available to CITY under the laws or judicial decisions of the State of Florida.



City of Pembroke Pines

ARTICLE 15

BANKRUPTCY

It is agreed that if LICENSEE is adjudged bankrupt, either voluntarily or involuntarily, then this Agreement shall terminate effective on the date and at the time the bankruptcy petition is filed.

ARTICLE 16

MERGER; AMENDMENT

This Agreement constitutes the entire Agreement between LICENSEE and CITY, and all negotiations and oral understandings between the Parties are merged herein. This Agreement can be supplemented or amended only by a written document executed by both LICENSEE and CITY with the same formality and equal dignity herewith.

ARTICLE 17

DISPUTE RESOLUTION

In the event that a dispute, if any, arises between CITY and LICENSEE relating to this Agreement, performance or compensation hereunder, LICENSEE shall continue to render service in full compliance with all terms and conditions of this Agreement as interpreted by CITY regardless of such dispute. LICENSEE expressly recognizes the paramount right and duty of CITY to provide adequate maintenance of CITY's Property, and further agrees, in consideration for the execution of this Agreement, that in the event of such a dispute, if any, it will not seek injunctive relief in any court, but will negotiate with CITY for an adjustment on the matter or matters in dispute and, upon failure of said negotiations to resolve the dispute, may present the matter to a court of competent jurisdiction in an appropriate suit therefore instituted by it or by CITY.

ARTICLE 18

PUBLIC RECORDS

18.1 The City of Pembroke Pines is a public agency subject to Chapter 119, Florida Statutes. The LICENSEE shall comply with Florida's Public Records Law. Specifically, the LICENSEE shall:

18.1.1 Keep and maintain public records required by the CITY to perform the service;

18.1.2 Upon request from the CITY's custodian of public records, provide the CITY 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;

18.1.3 Ensure that public records that are exempt or that are confidential and exempt from public record disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and, following completion of the contract, LICENSEE shall



City of Pembroke Pines

destroy all copies of such confidential and exempt records remaining in its possession after LICENSEE transfers the records in its possession to the CITY; and

18.1.4 Upon completion of the contract, LICENSEE shall transfer to the CITY, at no cost to the CITY, all public records in LICENSEE's possession. All records stored electronically by LICENSEE must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.

18.2 The failure of LICENSEE to comply with the provisions set forth in this Article shall constitute a default and breach of this Agreement, for which CITY may terminate.

IF LICENSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO LICENSEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**CITY CLERK
601 CITY CENTER WAY, 4th FLOOR
PEMBROKE PINES, FL 33025
(954) 450-1050
mgraham@ppines.com**

**ARTICLE 19
SCRUTINIZED COMPANIES**

19.1 LICENSEE, its principals or owners, certify that they are not listed on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or is engaged in business operations with Syria. In accordance with Section 287.135, Florida Statutes, as amended, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with any agency or local governmental entity for goods or services of:

19.1.1 Any amount if, at the time bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or

19.1.2 One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:



19.1.2.1 Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes; or

19.1.2.2 Is engaged in business operations in Syria.

ARTICLE 20

EMPLOYMENT ELIGIBILITY

20.1 **E-Verify.** LICENSEE certifies that it is aware of and complies with the requirements of Section 448.095, Florida Statutes, as may be amended from time to time and briefly described herein below.

20.1.1 Definitions for this Section.

20.1.1.1 "Contractor" means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration.

20.1.1.2 "Contractor" includes, but is not limited to, a vendor or consultant.

20.1.1.3 "Subcontractor" means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.

20.1.1.4 "E-Verify system" means an Internet-based system operated by the United States Department of Homeland Security that allows participating employers to electronically verify the employment eligibility of newly hired employees.

20.2 **Registration Requirement; Termination.** Pursuant to Section 448.095, Florida Statutes, effective January 1, 2021, Contractors, shall register with and use the E-verify system in order to verify the work authorization status of all newly hired employees. Contractor shall register for and utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of:

20.2.1 All persons employed by a Contractor to perform employment duties within Florida during the term of the contract; and

20.2.2 All persons (including subvendors/subconsultants/subcontractors) assigned by Contractor to perform work pursuant to the contract with the City of Pembroke Pines. The Contractor acknowledges and agrees that registration and use of the U.S. Department of Homeland Security's E-Verify System during the term of the contract is a condition of the contract with the City of Pembroke Pines; and

20.2.3 The Contractor shall comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes, but is not limited



City of Pembroke Pines

to registration and utilization of the E-Verify System to verify the work authorization status of all newly hired employees. Contractor shall also require all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The Contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. Termination of this Contract under this Section is not a breach of contract and may not be considered as such. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of one (1) year after the date of termination.

ARTICLE 21

MISCELLANEOUS

21.1 **Ownership of Documents.** Reports, surveys, studies, and other documents created in connection with this Agreement are and shall remain the property of CITY, whether or not the project for which they are made is completed.

21.2 **Legal Representation.** It is acknowledged that each Party to this Agreement had the opportunity to be represented by counsel in the preparation of this Agreement, and accordingly, the rule that a contract shall be interpreted strictly against the Party preparing same shall not apply herein due to the joint contributions of both Parties.

21.3 **Records.** LICENSEE shall keep such records and accounts and require any and all subcontractors to keep records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged to this engagement, and any expenses for which LICENSEE expects to be reimbursed. Such books and records will be available at all reasonable times for examination and audit by CITY and shall be kept for a period of ten (10) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by CITY of any fees or expenses based upon such entries.

21.4 **Assignments; Amendments.** This Agreement, and any interests herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by LICENSEE without the prior written consent of CITY. For purposes of this Agreement, any change of ownership of LICENSEE shall constitute an assignment which requires CITY approval. However, this Agreement shall run to the benefit of CITY and its successors and assigns. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

21.5 **No Contingent Fees.** LICENSEE warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for LICENSEE to solicit or



City of Pembroke Pines

secure this Agreement, 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 LICENSEE any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, CITY shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

21.6 **Notice.** Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, LICENSEE and CITY designate the following as the respective places for giving of notice:

CITY: Charles F. Dodge, City Manager
City of Pembroke Pines
601 City Center Way, 4th Floor
Pembroke Pines, Florida 33025
Telephone No. (954) 450-1040

Copy To: Samuel S. Goren, City Attorney
Goren, Cherof, Doody & Ezrol, P.A.
3099 East Commercial Boulevard, Suite 200
Fort Lauderdale, Florida 33308
Telephone No. (954) 771-4500
Facsimile No. (954) 771-4923

LICENSEE: Trace J. Allison
TA GOLF SALES, LLC
10500 Taft Street
Pembroke Pines, FL 33026
E-mail: trace.plcc@gmail.com
E-mail: tagolfsales@gmail.com
Telephone No: (954) 431-4144

21.7 **Binding Authority.** Each person signing this Agreement on behalf of either Party individually warrants that he or she has full legal power to execute this Agreement on behalf of the Party for whom he or she is signing, and to bind and obligate such Party with respect to all provisions contained in this Agreement.

21.8 **Headings.** Headings herein are for the convenience of reference only and shall not be considered in any interpretation of this Agreement.



21.9 **Exhibits.** Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.

21.10 **Severability.** If any provision of this Agreement or application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

21.11 **Entire Agreement and Conflicts.** This Agreement is intended by the Parties hereto to be final expression of this Agreement, and it constitutes the full and entire understanding between the Parties with respect to the subject hereof, notwithstanding any representations, statements, or agreements to the contrary heretofore made. In the event of a conflict between this Agreement, Exhibit "A", and Exhibit "B", this Agreement shall govern, then Exhibit "A", and Exhibit "B".

21.12 **Waiver.** Failure of CITY to insist upon strict performance of any provision or condition of this Agreement, or to execute any right therein contained, shall not be construed as a waiver or relinquishment for the future of any such provision, condition, or right, but the same shall remain in full force and effect.

21.13 **Attorneys' Fees.** In the event that either Party brings suit for enforcement of this Agreement, each Party shall bear its own attorney's fees and court costs, except as otherwise provided under the indemnification provisions set forth herein above.

21.14 **Protection of City Property.** At all times during the performance of this Agreement, LICENSEE shall protect CITY's Property and Premises from all damage whatsoever that may result from use of Premises as authorized by this Agreement.

21.15 **Counterparts and Execution.** This Agreement may be executed by hand or electronically in multiple originals or counterparts, each of which shall be deemed to be an original and together shall constitute one and the same agreement. Execution and delivery of this Agreement by the Parties shall be legally binding, valid and effective upon delivery of the executed documents to the other party through facsimile transmission, email, or other electronic delivery.

21.16 **Compliance with Statutes.** It shall be LICENSEE's responsibility to be aware of and comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, City, state, and federal agencies as applicable.

SIGNATURE PAGE FOLLOWS



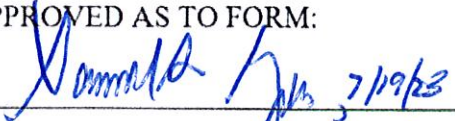
City of Pembroke Pines

IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals the day and year first written above.

CITY:

CITY OF PEMBROKE PINES, FLORIDA

APPROVED AS TO FORM:

 7/19/23

Print Name: Samuel L. Gallet
OFFICE OF THE CITY ATTORNEY

BY:


MAYOR FRANK C. ORTIS

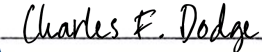
ATTEST:

DocuSigned by:

 August 9, 2023
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MARLENE D. GRAHAM, CITY CLERK

DocuSigned by:

BY:

 August 9, 2023
47B966ECFDAD4AC...
CHARLES F. DODGE, CITY MANAGER

DS



LICENSEE:

TA GOLF SALES, LLC

Signed By:



Printed Name:

TRACE ALLISON

Title:

OWNER



City of Pembroke Pines

**LICENSE AGREEMENT FOR THE OPERATION
OF PEMBROKE LAKES GOLF COURSE
PRO SHOP**

EXHIBIT "A"
Scope of Services

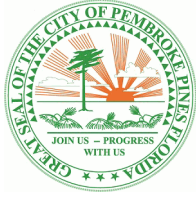
The duties and responsibilities of CONTRACTOR include, but are not limited to, the following:

1. Supervise the retail business of the Pro Shop and maintain it in good and clean condition, ordinary wear and tear excepted, including the interior of the Premises. The CITY shall be responsible for making all reasonable and necessary repairs to such buildings upon notification by CONTRACTOR for the need of such repair.
2. To keep the Premises clean, sanitary, free from trash and debris and in good operating condition in accordance with well-reasoned maintenance procedures and techniques.
3. At its sole cost and expense, to keep the Golf Pro Shop open and with adequate merchandise available for sale during the times and dates the Golf Course is in operation and open for play as agreed to by the parties hereto.
4. Maintain for sale a first-class stock of merchandise in the Pro Shop, including but not limited to, golf balls, clubs, bags, clothing and other golfing equipment and merchandise comparable to that maintained in other pro shops in private golf and country clubs similar in membership and assets to that of this CITY golf course.
5. Purchase and pay for, in its own name, all merchandise sold in the Golf Pro Shop, which merchandise shall be owned solely by the CONTRACTOR and the CITY shall have no responsibility whatsoever in the purchase or payment for same nor any interest in the ownership thereof.
6. Set prices for which merchandise in the Pro Shop is sold and receive all income and revenue from such sales. CONTRACTOR shall maintain exclusive control of setting such prices.
7. Maintain all accounts payable to all suppliers of merchandise to the Pro Shop in its own name and on a current basis, in no way implying or representing to such suppliers that the CITY is responsible for the payment of such accounts, and keep accurate records. CONTRACTOR agrees to hold the CITY harmless from any and all claims of suppliers of merchandise to the Pro Shop.
8. Be liable for any rebates or allowances necessary to cover defective merchandise or charges for services erroneously made.



City of Pembroke Pines

9. During the term of this Agreement, CONTRACTOR shall obtain and carry at its own expense sufficient insurance covering the loss of fire, theft, or other casualty, of all merchandise in the Pro Shop, including all property owned by or in or under the control of or displayed by the CONTRACTOR for sale in the Pro Shop or stored therein for CONTRACTOR's own benefit. CONTRACTOR agrees to hold the CITY harmless from any claims for loss of or damage to any property held by CONTRACTOR or stored for third parties.



City of Pembroke Pines, FL

601 City Center Way
Pembroke Pines, FL
33025
www.ppines.com

Agenda Request Form

Agenda Number: 15.

File ID: 23-0527

Type: Agreements/Contracts

Status: Passed

Version: 1

**Agenda
Section:**

In Control: City Commission

File Created: 07/14/2023

Short Title: Agreement with TA Golf Sales LLC

Final Action: 08/02/2023

Title: MOTION TO APPROVE AN AGREEMENT WITH TA GOLF SALES LLC TO MANAGE AND OPERATE THE RETAIL PORTION OF THE PEMBROKE LAKES GOLF COURSE PRO SHOP FOR AN INITIAL ONE YEAR PERIOD WITH AN OPTION TO RENEW FOR TWO ADDITIONAL ONE-YEAR PERIODS.

***Agenda Date:** 08/02/2023

Agenda Number: 15.

Internal Notes:

Attachments: 1. TA Golf Sales- License Agreement for Operation of Golf Pro Shop, 2. Exhibit A - Scope of Services, 3. Exhibit B - Golf Pro Shop Floor Plan

1	City Commission	08/02/2023	approve	Pass
Action Text: A motion was made by Commissioner Schwartz, seconded by Commissioner Castillo, to approve Item 15. The motion carried by the following vote:				
Aye: - 5 Mayor Ortis, Commissioner Schwartz, Commissioner Good Jr., Commissioner Castillo, and Vice Mayor Siple				
Nay: - 0				

MOTION TO APPROVE AN AGREEMENT WITH TA GOLF SALES LLC TO MANAGE AND OPERATE THE RETAIL PORTION OF THE PEMBROKE LAKES GOLF COURSE PRO SHOP FOR AN INITIAL ONE YEAR PERIOD WITH AN OPTION TO RENEW FOR TWO ADDITIONAL ONE-YEAR PERIODS.

SUMMARY EXPLANATION AND BACKGROUND:

1. The City owns the premises and golf facility at the Pembroke Lakes Golf Course. The City contracts with Professional Course Management, LTD ("PCM") to operate the Golf Course. The Golf Course includes a Golf Pro Shop where patrons can pay golf fees or purchase retail items such as golf gear and equipment. The Pro Shop is staffed and managed by PCM under the direction of PCM's Director of Golf. Since 1999, the Director of Golf has separately managed the retail business of the pro shop under a separate city agreement.

2. The previous Director of Golf, Harry Ferguson, entered into a retail business agreement with the city for the Pro Shop in 1999.

Agenda Request Form Continued (23-0527)

3. Mr. Ferguson retired in December of 2022. Mr. Trace Alison was hired by PCM as the new Director of Golf for the Golf Course. Mr. Alison owns the company TA Golf Sales, LLC. Mr. Alison immediately assumed the role and responsibility of managing the retail portion of the Pro Shop business. Mr. Alison has operated under the terms and conditions of the previous Pro Shop agreement to keep a continuity of service for our patrons.

4. The agreement requires Mr. Alison to pay the city five percent (5%) of gross revenues before sales tax, derived from merchandise sales of the Golf Pro Shop. Mr. Alison has a Point of Sale system for the retail business that is separate and apart from the City's point of sale system for sales of golf green fees, cart fees, and other revenues associated with playing golf at the course.

5. Request the City Commission approve the agreement with TA Golf Sales LLC to manage and operate the retail portion of the Pembroke Lakes Golf Course Pro Shop for an initial one (1) year period with an option to renew for two (2) additional one (1) year periods.

FINANCIAL IMPACT DETAIL:

a) **Initial Cost:** None. This is a revenue agreement. Estimated annual revenue is \$6,800

b) **Amount budgeted for this item in Account No:** 001-362025-7006 - Commission Pro Shop \$6,800

c) **Source of funding for difference, if not fully budgeted:** Not Applicable

d) **5 year projection of the operational cost of the project:**

	Year 1	Year 2	Year 3	Year 4	Year 5
Revenues	Estimated \$6,800				
Expenditures	\$0				
Net Revenue	Estimated \$6,800				

e) **Detail of additional staff requirements:** Not Applicable

FEASIBILITY REVIEW:

A feasibility review is required for the award, renewal and/or expiration of all function sourcing contracts. This analysis is to determine the financial effectiveness of function sourcing services.

a) **Was a Feasibility Review/Cost Analysis of Out-Sourcing vs. In-House Labor Conducted for this service?** Not Applicable

b) **If Yes, what is the total cost or total savings of utilizing Out-Sourcing vs. In-House Labor for this service?** Not Applicable

Agenda Request Form Continued (23-0527)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

06/23/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Roebuck Associates Insurance Exchange LLC 5599 S University Drive, # 301 Davie, FL 33328 Roebuck Associates		CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: PRODUCER CUSTOMER ID #: PEMBR-1	
INSURED Pembroke Lakes Golf Shop TA Golf Sales, LLC d/b/a 10500 Taft Street Pembroke Pines, FL 33026		INSURER(S) AFFORDING COVERAGE INSURER A : Century Surety Ins. Co. INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :	
		NAIC #	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> GENERAL LIABILITY	X		CCP1115684	01/01/2023	01/01/2024	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (PER ACCIDENT) \$
	<input type="checkbox"/> HIRED AUTOS						
	<input type="checkbox"/> NON-OWNED AUTOS						
	UMBRELLA LIAB						EACH OCCURRENCE \$
	<input type="checkbox"/> EXCESS LIAB						AGGREGATE \$
	<input type="checkbox"/> DEDUCTIBLE						
	<input type="checkbox"/> RETENTION \$						
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATU-TORY LIMITS \$
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						OTHER \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Re: 10500 Taft Street, Pembroke Pines, FL 33026
 The certificate holder is named as additional insured with regard to general liability.

CERTIFICATE HOLDER

CANCELLATION

PEMPINE The City of Pembroke Pines 601 City Center Way Pembroke Pines, FL 33025	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	---

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JIMMY PATRONIS
CHIEF FINANCIAL OFFICER

STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF WORKERS' COMPENSATION

**** CERTIFICATE OF ELECTION TO BE EXEMPT FROM FLORIDA WORKERS' COMPENSATION LAW ****

NON-CONSTRUCTION INDUSTRY EXEMPTION

This certifies that the individual listed below has elected to be exempt from Florida Workers' Compensation law.

EFFECTIVE DATE: 5/1/2023

EXPIRATION DATE: 4/30/2025

PERSON: TRACE J ALLISON

EMAIL: TAGOLFSALES@GMAIL.COM

FEIN: 883228634

BUSINESS NAME AND ADDRESS:

TA GOLF SLAES, LLC

10500 TAFT STREET

HOLLYWOOD, FL 33026

This certificate of election to be exempt is NOT a license issued by the Department of Business and Professional Regulation. To determine if the certificate holder is required to have a license to perform work or to verify the license of the certificate holder, go to www.myfloridalicense.com.

IMPORTANT: Pursuant to subsection 440.05(13), F.S., an officer of a corporation who elects exemption from this chapter by filing a certificate of election under this section may not recover benefits or compensation under this chapter. Pursuant to subsection 440.05(11), F.S., Certificates of election to be exempt issued under subsection (3) apply only to the corporate officer named on the notice of election to be exempt. Pursuant to subsection 440.05(12), F.S., notices of election to be exempt and certificates of election to be exempt shall be subject to revocation if, at any time after the filing of the notice or the issuance of the certificate, the person named on the notice or certificate no longer meets the requirements of this section for issuance of a certificate. The department shall revoke a certificate at any time for failure of the person named on the certificate to meet the requirements of this section.

DFS-F2-DWC-252 CERTIFICATE OF ELECTION TO BE EXEMPT
RULE 69L-6.012, F.A.C. REVISED 01/2023

E01714728

QUESTIONS? (850) 413-1609

Rojas, Dominique

From: Rotstein, Daniel
Sent: Thursday, July 13, 2023 12:50 PM
To: Rojas, Dominique
Subject: FW: TA Golf Sales, LLC - Pembroke Lakes Golf Course Pro Shop License Agreement - Risk Approval Request
Attachments: COI (CGL) Expires 1-1-2024.pdf; WC Exemption Certificate - Expires 4-30-2025.pdf; TA Golf Sales-License Agreement for Operation of Golf Pro Shop (v).pdf; Exhibit A - Scope of Services.pdf; Exhibit B - Golf Pro Shop Floor Plan.pdf
Follow Up Flag: Follow up
Flag Status: Completed

Approved

From: Rojas, Dominique <drojas@ppines.com>
Sent: Thursday, July 13, 2023 12:20 PM
To: Rotstein, Daniel <drotstein@ppines.com>
Cc: Contracts <contracts@ppines.com>
Subject: TA Golf Sales, LLC - Pembroke Lakes Golf Course Pro Shop License Agreement - Risk Approval Request

Dear Daniel,

Good afternoon. Please find attached the certificates of insurance for the above-referenced agreement. Also attached for your reference are the agreement and exhibits.

We stand by to know of your approval/comments and thank you for your attention.

Kindest regards,

Dominique Rojas • Contracts Specialist
Finance Department
City of Pembroke Pines
601 City Center Way, Pembroke Pines, FL 33025
Direct: 954-392-9436
Email: drojas@ppines.com
Main: 954-392-9435
Team Email: contracts@ppines.com
www.ppines.com
City Hall hours: Monday–Thursday 7am–6pm (closed on Fridays)

From: Rojas, Dominique <drojas@ppines.com>
Sent: Wednesday, June 28, 2023 3:28 PM
To: Rotstein, Daniel <drotstein@ppines.com>
Cc: Contracts <contracts@ppines.com>
Subject: TA Golf Sales, LLC - Pembroke Lakes Golf Course Pro Shop License Agreement - Risk Approval Request

Dear Daniel,