



SECTION 7 - INSURANCE REQUIREMENTS

7.1 Indemnification for Design Professionals and Construction Contracts

The **Consultant** shall indemnify and hold harmless the CITY, its officers and employees from any and all liability, losses or damages, including reasonable attorneys' fees and costs of defense, which the CITY, its officers and employees, may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature to the extent such claims are caused by negligence, recklessness, or intentional wrongful conduct of the **Consultant** and other persons employed or utilized by **Consultant** during performance of this Agreement. The **Consultant** 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. The **Consultant** expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the **Consultant** 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.

7.2 Insurance Coverage

- A. **Consultant** shall not commence work under 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 the **Consultant** allow any subcontractor to commence work on any subcontract until all similar such insurance required of the subcontractor has been obtained and similarly approved.
- B. 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.
- C. Certificates of Insurance shall provide for thirty (30) 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) days' notice of cancellation, either the **Consultant** or their Insurance Broker must agree to provide notice.
- D. 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, the **Consultant** shall furnish, at least forty-five (45) 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. The **Consultant** shall neither commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. **Consultant** shall be liable to CITY for any lapses in service resulting from a gap in insurance coverage.

- E. **Consultant** shall be required to obtain all applicable insurance coverage, as indicated in the sections below, prior to commencing any work pursuant to this Agreement.

7.3 Comprehensive General Liability Insurance

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:

- A. Each Occurrence Limit - \$1,000,000
- B. Fire Damage Limit (Damage to rented premises) - \$100,000
- C. Personal & Advertising Injury Limit - \$1,000,000
- D. General Aggregate Limit - \$2,000,000
- E. 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. *(For Construction projects: Increase to ten (10) years and include a Designated Construction Project(s) General Aggregate Limit)*

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.

7.4 Workers' Compensation and Employers' Liability Insurance

Workers' Compensation and Employers' Liability Insurance covering all employees, and/or volunteers of the **Consultant** engaged in the performance of the scope of work associated with this Agreement. In the case any work is sublet, the **Consultant** 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 the **Consultant** Coverage for the **Consultant** 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:

- A. Workers' Compensation: Coverage A – Statutory
- B. Employers Liability: Coverage B

\$500,000 Each Accident



\$500,000 Disease – Policy Limit

\$500,000 Disease – Each Employee

If **Consultant** claims to be exempt from this requirement, **Consultant** shall provide CITY proof of such exemption along with a written request for CITY to exempt **Consultant**, written on **Consultant** letterhead.

7.5 Comprehensive Auto Liability Insurance

Comprehensive Auto Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the performance of work under this Agreement, with a combined single limit of liability for bodily injury and property damage no less than:

- A. Any Auto (Symbol 1)
Combined Single Limit (Each Accident) - \$1,000,000
- B. Hired Autos (Symbol 8)
Combined Single Limit (Each Accident) - \$1,000,000
- C. Non-Owned Autos (Symbol 9)
Combined Single Limit (Each Accident) - \$1,000,000

If work under this Agreement includes transportation of hazardous materials, policy shall include pollution liability coverage equivalent to that provided by the latest version of the ISO pollution liability broadened endorsement for auto and the latest version of the ISO Motor Carrier Act endorsement, equivalents or broader language.

If **Consultant** requests reduced limits under a Personal Auto Liability Policy and it is agreed to by the CITY, coverage shall include Bodily Injury limits of \$100,000 per person/\$300,000 per occurrence and Property Damage limits of \$300,000 per occurrence.

7.6 Umbrella/Excess Liability Insurance

Umbrella/Excess Liability Insurance in the amount of **\$2,000,000** as determined appropriate by the CITY depending on the type of job and exposures contemplated. Coverage must be follow form of the General Liability, Auto Liability and Employer's Liability. This coverage shall be maintained for a period of no less than the later of three (3) years after the delivery of goods/services or final payment pursuant to this 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.

7.7 Environmental/Pollution Liability Insurance

Environmental/Pollution Liability insurance shall be required with a limit of no less than \$1,000,000 per wrongful act. Coverage shall include: **Consultant's** completed operations, sudden, accidental



and gradual pollution conditions. This coverage shall be maintained for a period of no less than the later of three (3) years after the delivery of goods/services or final payment pursuant to this Agreement. Retroactive date, if any, to be no later than the first day of service to the CITY. *(Limit to align with size and scope of the Agreement and exposure inherent with operation/services being performed. For Construction projects: Increase to ten (10) years)*

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.

7.8 Required Endorsements

- A. The City of Pembroke Pines shall be named as an Additional Insured on each of the Liability Policies required herein.
- B. Waiver of all Rights of Subrogation against the CITY.
- C. Thirty (30) Day Notice of Cancellation or Non-Renewal to the CITY.
- D. **Consultant's** policies shall be Primary & Non-Contributory.
- E. All policies shall contain a "severability of interest" or "cross liability" clause without obligation for premium payment of the CITY.
- F. 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.

7.9 Additional Requirements

- A. Any and all insurance required of the **Consultant** 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 the **Consultant** and provided proof of such coverage is provided to CITY. The **Consultant** and any subcontractors shall maintain such policies during the term of this Agreement.
- B. 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.
- C. The insurance requirements specified in this Agreement are minimum requirements and in no way reduce any liability the **Consultant** has assumed in the indemnification/hold harmless section(s) of this Agreement.



SECTION 8 - GENERAL TERMS AND CONDITIONS

8.1 EXAMINATION OF CONTRACT DOCUMENTS

Before submitting a Proposal, each Proposer should:

- A. consider federal, state and local laws, ordinances, rules and regulations that may in any manner affect cost or performance of the work,
- B. study and carefully correlate the Proposer's observations with the Proposal Documents; and
- C. notify the Purchasing Manager of all conflicts, errors and discrepancies, if any, in the Proposal Documents.

The Proposer, by and through the submission of a Proposal, agrees that Proposer shall be held responsible for having familiarized themselves with the nature and extent of the work and any local conditions that may affect the work to be done and the services, equipment, materials, parts and labor required.

8.2 CONFLICT OF INSTRUCTIONS

If a conflict exists between the General Conditions and Instructions stated herein and specific conditions and instructions contained in specifications, the specifications shall govern.

8.3 ADDENDA or ADDENDUM

A formal solicitation may require an Addendum to be issued. An addendum in some way may clarify, correct or change the original solicitation (i.e. due date/time, specifications, terms, conditions, line item).

Bidders must register for an account on the City's e-Procurement Portal, hosted by OpenGov. Once the bidder has completed registration, they will receive addenda notifications via email by clicking "Follow" on this project. Ultimately, it is the sole responsibility of each bidder to periodically check the site for any addenda at <https://procurement.opengov.com/portal/pembrokepines>.

Consultants are cautioned not to consider verbal modifications to the solicitation, as the addendum issued through OpenGov will be the only official method whereby changes will be made.

8.4 INTERPRETATIONS AND QUESTIONS

If the Proposer is in doubt as to the meaning of any of the Proposal Documents, is of the opinion that the Conditions and Specifications contain errors or contradictions or reflect omissions, or has any question concerning the conditions and specifications, the Proposer shall submit a question for interpretation or clarification.

The City requires all questions relating to the solicitation to be submitted through the "Question & Answer" tab, for the specific project, on the City's e-Procurement Portal, located at <https://procurement.opengov.com/portal/pembrokepines>. Questions and inquiries must be received by the "Question Due Date" stated in the solicitation. Questions received after the "Question Due



Date” shall not be answered. Interpretations or clarifications in response to such questions will be issued via OpenGov. Bidders may also click “Follow” on this solicitation to receive an e-mail notification(s) when answers are posted. It is the responsibility of the bidder to check the website for answers to inquiries. The issuance of a response via OpenGov is considered an Addendum and shall be the only official method whereby such an interpretation or clarification will be made.

OpenGov Support is also available to assist proposers with submitting their proposal and to ensure that proposers are submitting their proposals correctly. Proposers should ensure that they contact OpenGov support, with ample time before the bid closing date and time, via one of the following methods:

- A. Chat (preferred method): Click the button in the lower right-hand corner of the portal when logged in.
- B. E-mail: support@opengov.com
- C. Phone: 1 (605) 336-7167
- D. <https://opengov.my.site.com/support/s/contactsupport>

For all other questions related to this solicitation, please contact the Procurement Department at purchasing@ppines.com.

8.5 RULES, REGULATIONS, LAWS, ORDINANCES and LICENSES

The awarded **Consultant** shall observe and obey all laws, ordinances, rules, and regulations of the federal, state, and CITY, which may be applicable to the service being provided. The awarded firm shall have or be responsible for obtaining all necessary permits or licenses required, if necessary, in order to provide this service.

Proposer warrants by submittal that prices quoted here are in conformity with the latest federal price guidelines, if any.

8.6 WARRANTIES FOR USAGE

Whenever a bid is sought, seeking a source of supply for a specified time for materials or service, the quantities or usage shown are estimated only. No guarantee or warranty is given or implied by the City as to the total amount that may or may not be purchased from any resulting contracts. These quantities are for proposer’s information only and will be used for tabulation and presentation of bid.

8.7 BRAND NAMES

If and wherever in the specifications a brand name, make, name of manufacturer, trade name, or vendor catalog number is mentioned, it is for the purpose of establishing a grade or quality of material only. Since the City does not wish to rule out other competition and equal brands or makes, the phrase “OR EQUAL” is added. However, if a product other than that specified is bid, Proposers shall indicate on their proposal and clearly state the proposed substitution and deviation. It is the **Consultant’s responsibility** to provide any necessary documentation and samples within their bid submittal to prove that the product is equal to that specified. Such samples are to be furnished before the date of bid opening, unless otherwise specified. Additional evidence in the form of



documentation and samples may be requested if the proposed brand is other than that specified. The City retains the right to determine if the proposed brand shall be considered as an approved equivalent or not.

8.8 QUALITY

All materials used for the manufacture or construction of any supplies, materials, or equipment covered by this bid shall be new, the latest model, of the best quality, and highest grade workmanship, unless otherwise noted.

8.9 SAMPLES

Samples, when requested, must be furnished before, or at the bid opening, unless otherwise specified, and delivered free of expense to the City and if not used in testing or destroyed, will upon request within thirty (30) days of bid award be returned at the proposer's expense.

8.10 ESTIMATED QUANTITIES

No guarantee is expressed or implied as to the total quantity of commodities/services to be purchased pursuant to this solicitation. Estimated quantities will be used for comparison and ranking purposes only. The City is not obligated to contract for a given amount of commodities/services subsequent to the award of this solicitation. The City reserves the right to issue separate purchase orders as needed, issue a blanket purchase order, and release partial quantities, or any combination of the preceding as deemed necessary by the City.

8.11 DEVELOPMENT COSTS

Neither the City nor its representatives shall be liable for any expenses incurred in connection with the preparation, submission or presentation of a Bid in response to this solicitation. All information in the Bid shall be provided at no cost to the City.

8.12 PRICING

Prices should be stated in units of quantity specified in the bidding specifications. In case of discrepancy in computing the amount of the bid, the unit prices quoted will govern.

Proposer warrants by virtue of bidding that prices, terms, and conditions quoted in his bid will be firm for acceptance for a period of ninety (90) days from date of bid opening unless otherwise stated by the City or proposer.

8.13 DELIVERY POINT

All items shall be delivered F.O.B. destination, and delivery cost and charges included in the bid price. Failure to do so may be cause for rejection of bid.

8.14 TAX EXEMPT STATUS

The City is exempt from Florida Sales and Federal Excise taxes on direct purchase of tangible property.

8.15 CONTRACT TIME



By virtue of the submission of the Proposal, Proposer agrees and fully understands that the completion time of the work of the Contract is an essential and material condition of the Contract and that time is of the essence. The Successful Proposer agrees that all work shall be prosecuted regularly, diligently and uninterrupted at such rate of progress as will ensure full completion thereof within the time specified. Failure to complete the work within the time period specified shall be considered a default.

In addition, time will be of the essence for any orders placed as a result of this bid. Purchaser reserves the right to cancel such orders, or part thereof, without obligation if delivery is not made at the time(s) or place(s) specified.

8.16 COPYRIGHT OR PATENT RIGHTS

Proposer warrants that there have been no violations of copyrights or patent rights in manufacturing, producing, or selling other goods shipped or ordered as a result of this bid, and seller agrees to hold the purchaser harmless from any and all liability, loss or expense occasioned by such violation.

8.17 ANTI-TRUST VIOLATIONS

Pursuant to Section 287.137, Florida Statutes, as may be amended, a person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity.

8.18 PUBLIC ENTITY CRIMES

Pursuant to Sec. 287.133(2)(a), Fla. Stat., a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime or who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

Pursuant to Sec. 287.134(2)(b), Fla. Stat., a public entity may not accept any bid, proposals, or replies from, award any contract to, or transact any business with any entity or affiliate on the discriminatory vendor list for a period of 36 months following the date that entity or affiliate was placed on the discriminatory vendor list unless that entity or affiliate has been removed from the list. A public entity that was transacting business with an entity at the time of the discrimination resulting in that entity being placed on the discriminatory vendor list may not accept any bid, proposal, or reply from, award any contract to, or transact any business with any other entity who is under the



same, or substantially the same, control as the entity whose name appears on the discriminatory vendor list so long as that entity's name appears on the discriminatory vendor list.

The Sworn Statement of Public Entity Crime Affidavit Form, in the Submittal Documents section on the OpenGov portal for this solicitation, includes documentation that shall be executed by an individual authorized to bind the Proposer. The Proposer further understands and accepts that any contract issued as a result of this solicitation shall be either voidable or subject to immediate termination by the City. In the event there is any misrepresentation or lack of compliance with the mandates of Section 287.133 or Section 287.134, respectively, Florida Statutes. The City in the event in such termination, shall not incur any liability to the Proposer for any goods, services or materials furnished.

8.19 CONFLICT OF INTEREST

The award of any contract hereunder is subject to the provisions of Chapter 112, Florida Statutes. Proposers must disclose with their Proposal the name of any officer, director, partner, proprietor, associate or agent who is also an officer or employee of CITY or any of its agencies. Further, all Proposers must disclose the name of any officer or employee of CITY who owns, directly or indirectly, an interest of five percent (5%) or more in the Proposer's firm or any of its branches or affiliate companies.

8.20 FACILITIES

The City reserves the right to inspect the Proposer's facilities at any time with prior notice.

8.21 ENVIRONMENTAL REGULATIONS

CITY reserves the right to consider Proposer's history of citations and/or violations of environmental regulations in determining a Proposer's responsibility, and further reserves the right to declare a Proposer not responsible if the history of violations warrant such determination. Proposer shall submit with the Proposal, a complete history of all citations and/or violations, notices and dispositions thereof. The non-submission of any such documentation shall be deemed to be an affirmation by the Proposer that there are no citations or violations. Proposer shall notify CITY immediately of notice of any citation or violation that Proposer may receive after the Proposal opening date and during the time of performance of any contract awarded to Proposers.

8.22 SIGNATURE REQUIRED

All proposals must be signed with the firm name and by an officer or employee having authority to bind the company or firm by his signature. FAILURE TO PROPERLY SIGN PROPOSAL SHALL INVALIDATE SAME, AND IT MAY NOT BE CONSIDERED FOR AWARD.

The individual executing this Bid on behalf of the Company warrant to the City that the Company is authorized to do business in the State of Florida, is in good standing and that Company possesses all of the required licenses and certificates of competency required by the State of Florida and Broward County to provide the goods or perform the services herein described.



The signed bid shall be considered an offer on the part of the proposer or **Consultant**, which offer shall be deemed accepted upon approval by the City Commission of the City of Pembroke Pines and in case of default on the part of the proposer or **Consultant** after such acceptance, the City of Pembroke Pines may take such action as it deems appropriate including legal action for damages or specific performance.

8.23 MANUFACTURER'S CERTIFICATION

The City of Pembroke Pines reserves the right to request from proposer separate manufacturer certification of all statements made in the proposal.

8.24 MODIFICATION OR WITHDRAWAL OF PROPOSAL

The City recommends for proposers to submit their proposals as soon as they are ready to do so. Please allow ample time to submit your proposals on the OpenGov website. Proposals may be modified or withdrawn prior to the deadline for submitting Proposals.

8.25 PUBLIC BID; BID OPENING AND GENERAL EXEMPTIONS

All submittals received by the deadline will be recorded, and will subsequently be publicly opened on the same business day at 2:30 pm at the office of the City Clerk, 4th Floor, 601 City Center Way, Pembroke Pines, Florida, 33025.

All Proposals received from Proposers in response to the solicitation will become the property of CITY and will not be returned to the Proposers. In the event of Contract award, all documentation produced as part of the Contract shall become the exclusive property of CITY. Proposers are requested to identify specifically any information contained in their Proposals which they consider confidential and/or proprietary and which they believe to be exempt from disclosure, citing specifically the applicable exempting law.

Pursuant to Section 119.071 of the Florida Statutes, sealed bids, proposals, or replies received by a Florida public agency shall remain exempt from disclosure until an intended decision is announced or until 30 days from the opening, whichever is earlier.

Therefore, proposers will not be able to procure a copy of their competitor's bids until an intended decision is reached or 30 days has elapsed since the time of the bid opening.

However, pursuant to Section 255.0518 of the Florida Statutes, when opening sealed bids that are received pursuant to a competitive solicitation for **construction or repairs on a public building or public work**, the entity shall:

- A. Open the sealed bids at a public meeting.
- B. Announce at that meeting the name of each bidder and the price submitted in the bid.
- C. Make available upon request the name of each bidder and the price submitted in the bid.



For solicitations that are **not** for “**construction or repairs on a public building or public work**” the City shall not reveal the prices submitted in the bids until an intended decision is announced or until 30 days from the opening, whichever is earlier.

8.26 RESERVATIONS FOR REJECTION AND AWARD

The City of Pembroke Pines reserves the right to accept or reject any and all bids or parts of bids, to waive irregularities and technicalities, and to request rebids. The City also reserves the right to award a contract on such items(s) or service(s) the City deems will best serve its interests. All bids shall be awarded to the most responsive/responsible proposer, provided the (City) may for good cause reject any bid or part thereof. It further reserves the right to award a contract on a split order basis, or such combinations as shall best serve the interests of the City unless otherwise specified. No premiums, rebates or gratuities permitted, either with, prior to, or after award. This practice shall result in the cancellation of said award and/or return of items (as applicable) and the recommended removal of proposer from bid list(s).

8.27 BID PROTEST

Any protests or challenges to this competitive procurement shall be governed by Section 35.38 of the City’s Code of Ordinances.

8.28 INDEMNIFICATION

The Successful Proposer shall pay all claims, losses, liens, settlements or judgments of any nature whatsoever in connection with the subsequent indemnifications including, but not limited to, reasonable attorney's fees (including appellate attorney's fees) and costs.

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 Successful Proposer under the indemnification agreement. Nothing contained herein is intended nor shall it be construed to waive City’s rights and immunities under the common law or Florida Statute 768.28 as amended from time to time.

Additional indemnification requirements may be included under Special Terms and Conditions and/or as part of a specimen contract included in the solicitation package.

General Indemnification: To the fullest extent permitted by laws and regulations, Successful Proposer shall indemnify, defend, save and hold harmless the CITY, its officers, agents and employees, harmless from any and all claims, damages, losses, liabilities and expenses, direct, indirect or consequential arising out of or in consequence arising out of or alleged to have arisen out of or in consequence of the products, goods or services furnished by or operations of the Successful Proposer or his subcontractors, agents, officers, employees or independent contractors pursuant to or in the performance of the Contract.

Indemnification for Design Professionals and Construction Contracts: The Successful Proposer shall indemnify and hold harmless the CITY, its officers and employees, from any and all liability, losses or damages, including reasonable attorneys' fees and costs of defense, which the CITY, its



officers and employees, may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature to the extent such claims are caused by the negligence, recklessness, or intentional wrongful conduct of the Successful Proposer and other persons employed or utilized by the Successful Proposer during performance of the resulting Agreement.

Patent and Copyright Indemnification: Successful Proposer agrees to indemnify, defend, save and hold harmless the CITY, its officers, agents and employees, from all claims, damages, losses, liabilities and expenses arising out of any alleged infringement of copyrights, patent rights and/or the unauthorized or unlicensed use of any invention, process, material, property or other work manufactured or used in connection with the performance of the Contract, including its use by CITY.

8.29 DEFAULT PROVISION

In the case of default by the proposer or **Consultant**, the City of Pembroke Pines may procure the articles or services from any other sources and hold the proposer or **Consultant** responsible for any excess costs occasioned or incurred thereby.

The City shall be the sole judge of nonperformance, which shall include any failure on the part of the successful Proposer to accept the Award, to furnish required documents, and/or to fulfill any portion of the contract within the time stipulated. Upon default by the successful Proposer to meet any terms of this agreement, the City will notify the Proposer five (5) days (weekends and holidays excluded) to remedy the default. Failure on the **Consultant's** part to correct the default within the required five (5) days shall result in the contract being terminated and upon the City notifying in writing the Consultant of its intentions and the effective date of the termination. The following shall constitute default:

- A. Failure to perform the Work required under the contract and/or within the time required or failing to use the subcontractor, entities and personnel as identified and set forth, and to the degree specified in the contract.
- B. Failure to begin the Work under this Bid within the time specified.
- C. Failure to perform the Work with sufficient Workers and equipment or with sufficient materials to ensure timely completion.
- D. Neglecting or refusing to remove materials or perform new Work where prior Work has been rejected as non-conforming with the terms of the contract.
- E. Becoming insolvent, being declared bankrupt, or committing act of bankruptcy or insolvency, or making an assignment renders the successful Proposer incapable of performing the Work in accordance with and as required by the contract.
- F. Failure to comply with any of the terms of the contract in any material respect.



In the event of default of a contract, the successful Proposer shall pay all attorney's fees and court costs incurred in collecting any damages. The successful Proposer shall pay the City for any and all costs incurred in ensuing the completion of the project.

Additional provisions may be included in the specimen contract.

8.30 ACCEPTANCE OF MATERIAL

The material delivered under this proposal shall remain the property of the seller until a physical inspection and actual usage of this material and/or services is made and thereafter accepted to the satisfaction of the City and must comply with the terms herein, and be fully in accord with specifications and of the highest quality. In the event the material and/or services supplied to the City are found to be defective or do not conform to specifications, the City reserves the right to cancel the order upon written notice to the seller and return product to seller at the sellers expense.

8.31 LOCAL GOVERNMENT PROMPT PAYMENT ACT

The City complies with Florida Statute 218.70, Local Government Prompt Payment Act.

8.32 SCRUTINIZED COMPANIES LIST

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 an agency or local governmental entity for goods or services of:

- A. Any amount if, at the time of 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
- B. 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:
 - 1. Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Terrorism Sectors List, created pursuant to Section 215.473, Florida Statutes; or
 - 2. Is engaged in business operations in Syria.

By submitting a bid, proposal or response, the company, 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 Terrorism Sectors List, or is engaged in business operations in Syria.

8.33 PUBLIC RECORDS; TRADE SECRET, PROPRIETARY AND CONFIDENTIAL SUBMITTALS

The Proposer's response to this solicitation is a public record pursuant to Florida law, which is subject to disclosure by the City under the State of Florida Public Records Law, Florida Statutes



Chapter 119.07 (“Public Records Law”). The City shall permit public access to all documents, papers, letters or other material submitted in connection with this solicitation and the Contract to be executed for this solicitation, subject to the provisions of Chapter 119.07 of the Florida Statutes.

Any language contained in the Proposer’s response to the solicitation purporting to require confidentiality of any portion of the Proposer’s response to the solicitation, except to the extent that certain information is in the City’s opinion a Trade Secret pursuant to Florida law, shall be void. If a Proposer submits any documents or other information to the City which the Proposer claims is Trade Secret information and exempt from Florida Statutes Chapter 119.07 (“Public Records Laws”), the Proposer shall clearly designate that it is a Trade Secret and that it is asserting that the document or information is exempt. The Proposer must specifically identify the exemption being claimed under Florida Statutes 119.07. The City shall be the final arbiter of whether any information contained in the Proposer’s response to the solicitation constitutes a Trade Secret.

Any claim of confidentiality on financial statements must be asserted at the time of submittal. The firm must identify the specific statute that authorizes the exemption from the Public Records Law. Please note that the financial statement exemption provided for in Section 119.071(1)c, Florida Statutes only applies to submittals in response to a solicitation for a “public works” project.

EXCEPT FOR CLEARLY MARKED PORTIONS THAT ARE BONA FIDE TRADE SECRETS PURSUANT TO FLORIDA LAW, DO NOT MARK YOUR RESPONSE TO THE SOLICITATION AS PROPRIETARY OR CONFIDENTIAL. DO NOT MARK YOUR RESPONSE TO THE SOLICITATION OR ANY PART THEREOF AS COPYRIGHTED. ALL DOCUMENTS THAT THE FIRM PURPORTS TO BE CONFIDENTIAL, PROPRIETARY OR A TRADE SECRET SHALL BE UPLOADED TO THE OPENGOV WEBSITE AS A SEPARATE ATTACHMENT CLEARLY IDENTIFYING THE EXEMPTION BEING CLAIMED UNDER FLORIDA STATUTES 119.07.

The city’s determination of whether an exemption applies shall be final, and the proposer agrees to defend, indemnify, and hold harmless the city and the city’s officers, employees, and agent, against any loss or damages incurred by any person or entity as a result of the city’s treatment of records as public records.

8.34 PURCHASING AGREEMENTS WITH OTHER GOVERNMENT AGENCIES

It is hereby made part of this solicitation that the submission of any bid response to this advertised request constitutes a bid made under the same or similar terms and conditions, for the same price, or better price, to other government agencies if agreeable by the proposer and the government agency.

At the option of the **Consultant**, the use of the contract resulting from this solicitation may be extended to other governmental agencies, including the State of Florida, its agencies, political subdivisions, counties, and cities.

Each governmental agency allowed by the **Consultant** to use this contract shall do so independently of any other governmental entity. Each agency shall be responsible for its own purchases and shall



be liable only for goods or services ordered, received, and accepted. No agency receives any liability by virtue of this bid and subsequent contract award.

8.35 CONE OF SILENCE

Prohibited Communication: In accordance with the Cone of Silence Ordinance, Section 35.40 of the City's Code of Ordinances, during the course of a sealed competitive solicitation, a cone of silence shall be in effect between:

- A. Any person or entity that seeks a contract, contract amendment, award, recommendation, or approval related to a sealed competitive solicitation or that is subject to being evaluated or having its response evaluated in connection with a sealed competitive solicitation, including a person or entity's representative; and
- B. The City Manager or any person or group of persons appointed or designated by the City Commission or the City Manager to evaluate, select, or make a recommendation to the City Commission or the City Manager regarding a sealed competitive solicitation, including any member of the selection/evaluation committee.

Effective Dates: A cone of silence shall be in effect during a sealed competitive solicitation process beginning upon the advertisement for the sealed competitive solicitation or during such other procurement activities as declared by the City Commission, and shall terminate at the time the City Commission takes final action or gives final approval of a contract, rejects all bids or responses to the sealed competitive solicitation, or takes other action which ends the sealed competitive solicitation process.

Permitted Communication: The cone of silence shall not apply to:

- A. Written or oral communications with legal counsel for the city, the Procurement Department staff for the city, and the person or persons designated in the sealed competitive solicitation as the contact person for clarification or information related to the sealed competitive solicitation.
- B. Public presentations, asking questions, or providing feedback at pre-bid meetings, site visits or conferences or at a selection, evaluation or negotiation meeting related to the sealed competitive solicitation.
- C. Contract negotiations with the selected entity.

Violations: Any action in violation of this section shall be cause for disqualification of the bid or the proposal.

8.36 E-VERIFY

Contractor 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.

- A. Definitions for this Section:



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.
2. "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.
3. "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.

B. 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:

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



8.37 JESSICA LUNSFORD ACT

Background screening requirements for **Consultant**'s performing services for or at City's Charter Schools.

- A. Except as provided in §§1012.467 or 1012.468, Florida Statutes, non-instructional school employees or contractual personnel who:
 1. are permitted access on school grounds when students are present,
 2. have direct contact with students or,
 3. have access to or control of school funds must meet level 2 screening requirements as described in §1012.32, Florida Statutes. Contractual personnel shall include any **Consultant**, individual, or entity under contract with the City engaged to perform services for or at City's Charter Schools.
- B. Every 5 years following employment or entry into a resulting contract in a capacity described in subsection (A), each person who is so employed or under contract with the City must meet level 2 screening requirements as described in §1012.32, Florida Statutes, at which time the City shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for the level 2 screening. If, for any reason following employment or entry into a resulting contract in a capacity described in subsection (A), the fingerprints of a person who is so employed or under contract with the City are not retained by the Department of Law Enforcement under §1012.32(3)(a) and (b), Florida Statutes, the person must file a complete set of fingerprints with the City. Upon submission of fingerprints for this purpose, the City shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for the level 2 screening, and the fingerprints shall be retained by the Department of Law Enforcement under §1012.32(3)(a) and (b), Florida Statutes. The cost of the state and federal criminal history check required by level 2 screening shall be borne by the **Consultant**, or the person fingerprinted. Under penalty of perjury, each person who is employed or engaged to perform a resulting contract in a capacity described in subsection (A) must agree to inform his or her employer or the party with whom he or she is under contract within 48 hours if convicted of any disqualifying offense while he or she is employed or under a resulting contract in that capacity.
- C. If it is found that a person who is employed or under contract in a capacity described in subsection (A) does not meet the level 2 requirements, the person shall be immediately suspended from working in that capacity and shall remain suspended until final resolution of any appeals.

8.38 PROHIBITION AGAINST CONSIDERING SOCIAL, POLITICAL OR IDEOLOGICAL INTERESTS IN GOVERNMENT CONTRACTING



Bidders are hereby notified of the provisions of Section 287.05701, Florida Statutes, as amended, that the City will not request documentation of or consider a Bidder's social, political, or ideological interests when determining if the Bidder is a responsible Bidder. Bidders are further notified that the City's governing body may not give preference to a Bidder based on the Bidder's social, political, or ideological interests.



**ENGINEERING DESIGN SERVICES AGREEMENT
BETWEEN THE CITY OF PEMBROKE PINES AND
CONTRACTOR/CONSULTANT... NAME (Example)**

THIS AGREEMENT (“Agreement”), dated _____, 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, FL 33025**, hereinafter referred to as "CITY",

and

CONTRACTOR/CONSULTANT... NAME (Example), a **a For Profit
Corporation** as listed with the Florida Division of Corporations,
authorized to do business in the State of Florida, and with a business
address of **Contractor Street Address, , City, State Zip Code**,
hereinafter referred to as "CONSULTANT". "CITY" and
"CONSULTANT" may be collectively referred to herein as "Parties" and
individually as "Party".

WITNESSETH:

In consideration of the mutual terms and conditions, promises, covenants and payments hereinafter
set forth, CITY and CONSULTANT 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 On , the CITY advertised its notice to bidders of the CITY's desire to hire a firm to
provide **Engineering Design Services** services, as more particularly described in **Exhibit**
“«Exhibit Letter/Number»” attached hereto and by this reference made a part hereof, for the said
bid entitled:

“”

«Invitation for Bid (“IFB”) #

1.2 On , the bids were opened at the offices of the City Clerk.



1.3 On _____, the CITY's evaluation committee certified CONSULTANT as qualified to provide the professional services as described in **Exhibit "A"** and selected CONSULTANT as the most highly qualified to perform the required services in accordance with the Consultant's Competitive Negotiation Act ("CCNA"), §287.055, Florida Statutes.

1.4 On _____, the CITY awarded the bid to CONSULTANT and authorized the proper CITY officials to negotiate and enter into this Agreement with CONSULTANT to govern the services more particularly described herein below.

1.5 Negotiations pertaining to the services to be performed by the CONSULTANT were undertaken in accordance with the CCNA, §287.055, Florida Statutes, and this Agreement incorporates the results of such negotiations.

1.6 The services provided by CONSULTANT pursuant to this Agreement shall comply with the definition of "professional services" in Section 287.055(2)(a), Florida Statutes, as amended from time to time.

1.7

ARTICLE 2

SERVICES AND RESPONSIBILITIES

2.1 CONSULTANT hereby agrees to perform the services for «**Service_Description**», as more particularly described in **Exhibit "A"** attached hereto and by this reference made a part hereof. CONSULTANT agrees to do everything required by this Agreement.

2.2 CONSULTANT shall furnish all services, labor, equipment, and materials necessary and as may be required in the performance of this Agreement, except as otherwise specifically provided for herein, and all services required under this Agreement shall be performed in a professional manner.

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

2.4 CONSULTANT assumes professional and technical responsibility for performance of its services to be provided hereunder in accordance with recognized professional and ethical guidelines established by their profession. If within one (1) year following completion of its services, such services fail to meet the aforesaid standards, and the CITY promptly advises CONSULTANT thereof in writing, CONSULTANT agrees to re-perform such deficient services without charge to the CITY.



2.5 The relationship between CITY and CONSULTANT created hereunder and the services to be provided by CONSULTANT pursuant to this Agreement are non-exclusive. CITY shall be free to pursue and engage similar relationships with other contractors to perform the same or similar services performed by CONSULTANT hereunder, so long as no other consultant shall be engaged to perform the specific project(s) assigned to CONSULTANT while CONSULTANT is so engaged without first terminating such assignment. CONSULTANT shall be free to pursue relationships with other parties to perform the same or similar services, whether or not such relationships are for services to be performed within the City of Pembroke Pines, so long as no such relationship shall result in a conflict of interest, ethical or otherwise, with the CITY's interests in the services provided by CONSULTANT hereunder.

2.6 CONSULTANT shall not utilize the services of any sub-consultant without the prior written approval of CITY.

2.7 CONSULTANT shall comply with the applicable provisions of the City of Pembroke Pines Code of Ordinances. CONSULTANT shall require that all sub-consultants comply with the applicable provisions of the City of Pembroke Pines Code of Ordinances.

ARTICLE 3 **TERM AND TERMINATION**

3.1 The services herein required shall commence upon full execution of this Agreement and not later than seven (7) days after the date that CONSULTANT receives CITY's Notice to Proceed. The services shall be completed within **thirty (30) calendar days** from issuance of CITY's Notice to Proceed, subject to any permitted extensions of time pursuant to this Agreement and any amendments and/or addenda thereto. For the purposes of this Agreement, the term "completion" shall mean the satisfactory completion and final inspection of the Property by the CITY.

3.2 **Termination for Convenience.** This Agreement may be terminated by CITY for convenience, upon providing thirty (30) calendar days of written notice to CONSULTANT for such termination in which event CONSULTANT shall be paid its compensation for services performed before the termination date, including services reasonably related to termination.

3.3 **Default by CONSULTANT.** In addition to all other remedies available to CITY, this Agreement shall be subject to cancellation by CITY for cause, should CONSULTANT neglect or fail 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 CONSULTANT of written notice of such neglect or failure.

3.4 In the event that the CONSULTANT abandons this Agreement or causes it to be terminated, CONSULTANT shall indemnify the CITY against any loss pertaining to this termination up to a maximum of the full contracted fee amount. All finished or unfinished documents, data, studies, plans, surveys, and reports prepared by CONSULTANT shall become the property of CITY and shall be delivered by CONSULTANT to CITY immediately.



ARTICLE 4

COMPENSATION AND METHOD OF PAYMENT

4.1 CONSULTANT shall be entitled to invoice CITY for services performed and properly invoiced in accordance with this Agreement. The total compensation amount paid to CONSULTANT for the services herein required shall not exceed _____ **DOLLARS AND _____ CENTS (0.00).**

4.2 CITY will make its best efforts to pay CONSULTANT within thirty (30) days of receipt of proper invoice, which invoice must include the total shown to be due. Invoices submitted to the CITY shall include information such as, but not limited to, the date(s) of service, staff classification, the amount of time spent, a description of the service(s), and any other information reasonably required by CITY.

4.3 **Method of Billing and Payment.** All payments shall be governed by the Local Government Prompt Payment Act, as set forth in Part VII, Chapter 218, Florida Statutes. The CITY shall within thirty (30) calendar days, from the date the CITY approves the Application for Payment, pay the CONSULTANT the amount approved by the City Engineer or his or her assignees. Payment will be made to CONSULTANT at:

«Vendor_Name»
Attn: «Vendor_Contact_Title»
«Vendor_Address_Line_1»
«Vendor_Address_Line_2»

4.4 **Contingency or Allowance.** Any contingency or allowance amount provided for herein authorizes the CITY to execute change orders up to the amount of the contingency or allowance without the need to obtain additional Commission approval. In addition, CITY shall utilize the contingency or allowance to reimburse CONSULTANT for the related permit, license, impact or inspection fees. Payments will be made to CONSULTANT based on the actual cost of permits upon submission of paid permit receipts. It is hereby understood and agreed that the CONSULTANT shall not expend any dollars in connection with the contingency or allowance without the expressed prior written approval of the CITY's authorized representative. Any contingency or allowance funds that have not been utilized at the end of the project will remain with the CITY, the CONSULTANT shall only be paid for the proposed project cost as approved by the City Commission along with any contingency or allowance expenses that were approved by the CITY's authorized representative. If the permit fees exceed the contingency or allowance CITY will reimburse the CONSULTANT the actual amount of the permit fees required for project completion.

ARTICLE 5

CHANGES TO SCOPE OF SERVICES AND ADDITIONAL SERVICES

5.1 CITY or CONSULTANT may request changes that would increase, decrease, or otherwise modify the Scope of Services, as described in **Exhibit "A"** to be provided under this Agreement as described in Article 2. 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 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 services.

5.2 In no event will the CONSULTANT be compensated for any services which have not been described either herein or in a separate written agreement executed by the Parties hereto.

ARTICLE 6

INDEMNIFICATION

6.1 The CONSULTANT shall indemnify and hold harmless the CITY, its officers and employees, from liability, losses or damages, including reasonable attorneys' fees and costs of defense, which the CITY, its officers and employees, may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the negligence, recklessness, or intentional wrongful misconduct of CONSULTANT, and other persons employed or utilized by CONSULTANT during performance of this Agreement. The CONSULTANT 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.

6.2 Parties understand and agree that the covenants and representations relating to this indemnification provision shall survive the term of this Agreement and continue in full force and effect as to the Party's responsibility to indemnify.

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

ARTICLE 7

INSURANCE

7.1 The CONSULTANT expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the CONSULTANT 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.

7.2 CONSULTANT AND ALL SUBCONSULTANTS, SHALL NOT BE ALLOWED TO commence work under this AGREEMENT until the CONSULTANT has obtained all insurance required by this Insurance Section, including the purchase of a Policy of Insurance naming the City of Pembroke Pines as an Additional Named Insured, which Insurance Policy and its terms must be agreed to and approved in writing by the Risk Manager for the City of Pembroke Pines, nor shall any SUBCONSULTANT be allowed to commence work under this AGREEMENT until the SUBCONSULTANT complies with the Insurance requirements required by this Insurance Section, including the duty to purchase a Policy of Insurance which names the City of Pembroke



Pines as an Additional Named Insured, which Insurance Policy and its terms are agreed to and approved in writing by the Risk Manager for the City of Pembroke Pines.

7.3 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.

7.4 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 the CONSULTANT or their Insurance Broker must agree to provide notice.

7.5 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, the CONSULTANT 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. The CONSULTANT shall neither commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. CONSULTANT shall be liable to CITY for any lapses in service resulting from a gap in insurance coverage.

7.6 REQUIRED INSURANCE

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

Yes No



7.6.1 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. Personal & Advertising Injury Limit - \$1,000,000
3. General Aggregate Limit - \$2,000,000
4. Products & Completed Operations Aggregate Limit - \$2,000,000

Aggregate Reduction: CONTRACTOR shall advise the CITY in the event any aggregate limits are reduced below the required per-occurrence limit. At its own expense, the CONTRACTOR will reinstate the aggregate limits to comply with the minimum requirements and shall furnish the CITY with a new certificate of insurance showing such



coverage is in force.

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.**

Yes No

☒

7.6.2 Workers' Compensation and Employers' Liability Insurance covering all employees, and/or volunteers of the CONSULTANT engaged in the performance of the scope of work associated with this Agreement. In the case any work is sublet, the CONSULTANT 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 the CONSULTANT. Coverage for the CONSULTANT 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 CONSULTANT claims to be exempt from this requirement, CONSULTANT shall provide CITY proof of such exemption for CITY to exempt CONSULTANT.

Yes No

☐ ✕

7.6.3 Comprehensive Auto Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the performance of work under this Agreement, with a combined single limit of liability for bodily injury and property damage no less than:

1. Any Auto (Symbol 1)
Combined Single Limit (Each Accident) - \$1,000,000
2. Hired Autos (Symbol 8)
Combined Single Limit (Each Accident) - \$1,000,000
3. Non-Owned Autos (Symbol 9)
Combined Single Limit (Each Accident) - \$1,000,000

If work under this Agreement includes transportation of hazardous materials, policy shall include pollution liability coverage equivalent to that provided by the latest version of the ISO pollution liability broadened endorsement for auto and the latest version of the ISO Motor Carrier Act endorsement, equivalents or broader language.

Yes No

☐ ✕

7.6.3.1 If CONSULTANT requests reduced limits under a Personal Auto Liability Policy and it is agreed to by the CITY, coverage shall include Bodily Injury limits of \$100,000 per person/\$300,000 per occurrence and Property Damage limits of \$300,000 per occurrence



Yes No

- ☐ ✕ 7.6.4 Umbrella/Excess Liability Insurance in the amount of \$2,000,000.00 as determined appropriate by the CITY depending on the type of job and exposures contemplated. Coverage must be follow form of the General Liability, Auto Liability and Employer's Liability. This coverage shall be maintained for a period of no less than the later of three (3) years after the delivery of goods/services or final payment pursuant to this 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.**

Yes No

- ☒ 7.6.5 Professional Liability/Errors & Omissions Insurance with a limit of liability no less than \$1,000,000 per wrongful or negligent act. This coverage shall be maintained for a period of no less than three (3) years after the delivery of goods/services final payment pursuant to this Agreement. Retroactive date, if any, to be no later than the first day of service to the CITY.

Yes No

- ☐ ✕ 7.6.6 Environmental/Pollution Liability insurance shall be required with a limit of no less than \$1,000,000 per wrongful act. Coverage shall include: CONSULTANT's completed operations, sudden, accidental and gradual pollution conditions. This coverage shall be maintained for a period of no less than the later of three (3) years after the delivery of goods/services or final payment pursuant to this Agreement. Retroactive date, if any, to be no later than the first day of service to the CITY. **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.**

Yes No

- ☐ ✕ 7.6.7 Cyber Liability including Network Security and Privacy Liability with a limit of liability no less than \$1,000,000 per loss. Coverage shall include liability arising from: theft, dissemination and/or use of confidential information stored or transmitted in electronic form, unauthorized access to, use of, or tampering with computer systems, including hacker attacks or inability of an authorized third party to gain access to your services, including denial of service, and the introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network, or similar computer-related property and the data, software and programs thereon. If vendor is collecting credit card information, it shall cover all PCI breach expenses. Coverage is to include the various state monitoring and state required remediation as well as meet the various state notification requirements. This coverage shall be maintained for a period of no less than the later of three (3) years after delivery of goods/services or final payment of the Agreement. Retroactive date, if any, to be no later than the first day of service to the CITY. **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.**

Yes No

- ☐ ✕ 7.6.8 Crime Coverage shall include employee dishonesty, forgery or alteration, and computer fraud in an amount of no less than \$1,000,000 per loss. If CONSULTANT is physically located on CITY's premises, a third-party fidelity coverage extension shall apply.



Yes No

- ☐ ✕ 7.6.9 Garage Liability & Garage-keepers Legal Liability for those that manage parking lots for the CITY or service CITY vehicles. Coverage must be written on an occurrence basis, with limits of liability no less than \$1,000,000 per Occurrence, including products & completed operations. This coverage shall be maintained for a period of no less than the later of three (3) years after the delivery of goods/services or final payment of this 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.**

Yes No

- ☐ ✕ 7.6.10 Liquor Liability for those in the business of selling, serving or furnishing of any alcoholic beverages, whether licensed or not, shall carry a limit of liability of no less than \$1,000,000 per occurrence. 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.**

Yes No

- ☐ ✕ 7.6.11 Sexual Abuse & Molestation for any agreement involving a vulnerable population. Limits shall be no less than \$500,000 per occurrence. This coverage shall be maintained for a period of no less than the later of three (3) years after the delivery of goods/services or final payment of this Agreement. Retroactive date, if any, to be no later than the first day of service to the CITY. **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.**

Yes No

- ☐ ✕ 7.6.12 Builder's Risk Insurance shall be "All Risk" for one hundred percent (100%) of the completed value of the project that is the subject of this Agreement with a deductible of not more than five percent (5%) for Named Windstorm and \$20,000 per claim for all other perils. The Builder's Risk Insurance shall include interests of the CITY, the CONSULTANT and subcontractors of the project. The CONSULTANT shall include a separate line item for all costs associated with the Builder's Risk Insurance Coverage for the project. The CITY reserves the right at its sole discretion to utilize the CONSULTANT's Builder's Risk Insurance or for the CITY to purchase its own Builder's Risk Insurance for the Project. Prior to the CONSULTANT purchasing the Builder's Risk insurance for the project, the CONSULTANT shall allow the CITY the opportunity to analyze the CONSULTANT's coverage and determine who shall purchase the coverage. Should the CITY utilize the CONSULTANT's Builder's Risk Insurance, the CONSULTANT shall be responsible for all deductibles. If the CITY chooses to purchase the Builder's Risk Coverage on the project, the CONSULTANT shall provide the CITY with a change order deduct for all premiums and costs associated with the Builder's Risk insurance in their schedule. Should the CITY choose to utilize the CITY's Builder's Risk Program, the CITY shall be responsible for the Named Windstorm Deductible and the CONSULTANT shall be responsible for the All Other Perils Deductible.

If and when 100% is not available or reasonable, the CITY Risk Manager is to make the determination as to what limits are appropriate for the given project.



Yes No

☐ x 7.6.13 Other Insurance

7.7 REQUIRED ENDORSEMENTS

7.7.1 The City of Pembroke Pines shall be named as an Additional Insured on each of the Liability Policies required herein.

7.7.2 Waiver of all Rights of Subrogation against the CITY.

7.7.3 Thirty (30) calendar day Notice of Cancellation or Non-Renewal to the CITY.

7.7.4 CONSULTANT's policies shall be Primary & Non-Contributory.

7.7.5 All policies shall contain a "severability of interest" or "cross liability" clause without obligation for premium payment of the CITY.

7.7.6 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.

7.8 Any and all insurance required of the CONSULTANT 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 the CONSULTANT and provided proof of such coverage is provided to CITY. The CONSULTANT and any subcontractors shall maintain such policies during the term of this Agreement.

7.9 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.

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

ARTICLE 8

NON-DISCRIMINATION AND EQUAL OPPORTUNITY EMPLOYMENT

During the performance of the Agreement, neither the CONSULTANT 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. CONSULTANT 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. CONSULTANT 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. CONSULTANT further agrees that it will ensure that subcontractors, if any, will be made aware of and will comply with this



nondiscrimination clause.

ARTICLE 9

INDEPENDENT CONTRACTOR

This Agreement does not create an employee/employer relationship between the Parties. It is the intent of the parties that the CONSULTANT 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 CONSULTANT shall retain sole and absolute discretion in the judgment of the manner and means of carrying out CONSULTANT's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT, which policies of CONSULTANT shall not conflict with CITY, State, or United States policies, rules or regulations relating to the use of CONSULTANT's funds provided for herein. The CONSULTANT 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 CONSULTANT and the CITY and the CITY will not be liable for any obligation incurred by CONSULTANT, including but not limited to unpaid minimum wages and/or overtime premiums.

ARTICLE 10

AGREEMENT SUBJECT TO FUNDING

This Agreement shall remain in full force and effect only as long as the expenditures provided for in the Agreement have been appropriated by the City Commission of the City of Pembroke Pines in the annual budget for each fiscal year of this Agreement, and is subject to termination based on lack of funding.

ARTICLE 11

UNCONTROLLABLE FORCES

Neither CITY nor CONSULTANT 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: fire, flood, earthquakes, storms, lightning, epidemic, pandemic, acts of God, war, riot, civil disturbance, sabotage, and governmental actions. 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 claims or actions arising out of or related to this Agreement shall be in Broward County, Florida.

ARTICLE 13

SIGNATORY AUTHORITY

CONSULTANT shall provide CITY with copies of requisite documentation evidencing that the signatory for CONSULTANT 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 CONSULTANT to perform in accordance with the requirements of this Agreement, or for losses sustained by CITY resultant from CONSULTANT's failure to perform in accordance with the requirements of this Agreement.

14.2 **Correction of Services.** If, in the judgment of CITY, the services provided by CONSULTANT do not conform to the requirements of this Agreement, or if the services exhibit poor workmanship, CITY reserves the right to require that CONSULTANT correct all deficiencies in the services to bring the services into conformance without additional cost to CITY, and / or replace any personnel who fail to perform in accordance with the requirements of this Agreement. CITY shall be the sole judge of non-conformance and the quality of services.

14.3 **Default of Contract.** The occurrence of any one or more of the following events shall constitute a default and breach of this Agreement by CONSULTANT for which CITY may terminate for cause:

14.3.1 The abandonment, 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 Arts Director relative thereto.

14.3.2 The failure by CONSULTANT to observe or perform any of the terms, covenants, or conditions of this Agreement to be observed or performed by CONSULTANT, where such failure shall continue for a period of seven (7) calendar days after written notice thereof by CITY to CONSULTANT; provided, however, that if the nature of CONSULTANT's default is such that more than seven (7) calendar days are reasonably required for its cure, then CONSULTANT shall not be deemed to be in default if



CONSULTANT commences such cure within said seven (7) calendar day period and thereafter diligently prosecutes such cure to completion.

14.3.3 The assignment and/or transfer of this Agreement or execution or attachment thereon by CONSULTANT or any other Party in a manner not expressly permitted hereunder.

14.3.4 The making by CONSULTANT of any general assignment or general arrangement for the benefit of creditors, or the filing by or against CONSULTANT of a petition to have CONSULTANT 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 CONSULTANT, 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 CONSULTANT's assets, or for CONSULTANT's interest in this Agreement, where possession is not restored to CONSULTANT within thirty (30) calendar days; for attachment, execution or other judicial seizure of substantially all of CONSULTANT's assets, or for CONSULTANT's interest in this Agreement, where such seizure is not discharged within thirty (30) calendar days.

14.4 **Remedies in Default.** In case of breach of this Agreement by CONSULTANT, CITY shall notify CONSULTANT, in writing, of such abandonment, delay, refusal, failure, neglect, or default and direct CONSULTANT to comply with all provisions of the 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 CONSULTANT of such declaration of default and terminate the Agreement.

14.4.1 Upon such declaration of default, all payments remaining due CONSULTANT at the time of default, less all sums due CITY for damages suffered, or expenses incurred by reason of default, shall be due and payable to CONSULTANT.

14.4.2 CITY may complete the Agreement, or any part thereof, either by day labor or re-letting a contract for the same, and procure services necessary for the completion of the Agreement, and charge the cost of same to CONSULTANT with the costs incident thereto to such default.

14.4.3 In the event CITY completes the Agreement at a lesser cost than would have been payable to CONSULTANT under this Agreement, if the same had been fulfilled by CONSULTANT, CITY shall retain such differences. Should such cost to CITY be greater, CONSULTANT shall pay the amount of such excess to the CITY.

14.4.4 Notwithstanding the other provisions in this Article, CITY reserves the right to terminate the Agreement at any time, whenever the service provided by CONSULTANT fails to meet reasonable standards of the trade after CITY gives written notice to the CONSULTANT of the deficiencies as set forth in the written notice within seven (7) calendar days of the receipt by CONSULTANT of such notice from CITY.



ARTICLE 15 **BANKRUPTCY**

It is agreed that if CONSULTANT 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 **DISPUTE RESOLUTION**

In the event that a dispute, if any, arises between CITY and CONSULTANT relating to this Agreement, performance or compensation hereunder, CONSULTANT shall continue to render service in full compliance with all terms and conditions of this Agreement as interpreted by CITY regardless of such dispute. CONSULTANT expressly 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 17 **PUBLIC RECORDS**

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

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

17.1.2 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;

17.1.3 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 Agreement term and, following completion of the Agreement, CONSULTANT shall destroy all copies of such confidential and exempt records remaining in its possession after the CONSULTANT transfers the records in its possession to the CITY; and

17.1.4 Upon completion of the Agreement, CONSULTANT shall transfer to the CITY, at no cost to the CITY, all public records in CONSULTANT's possession. All records stored electronically by the CONSULTANT 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.



17.2 The failure of CONSULTANT to comply with the provisions set forth in this Article shall constitute a Default and Breach of this Agreement, for which, the CITY may terminate the Agreement in accordance with the terms herein.

IF CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONSULTANT'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
drogers@ppines.com**

**ARTICLE 18
SCRUTINIZED COMPANIES**

18.1 CONSULTANT, 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:

18.1.1 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

18.1.2 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:

18.1.2.1 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

18.1.2.2 Is engaged in business operations in Syria.

**ARTICLE 19
EMPLOYMENT ELIGIBILITY**

19.1 **E-Verify.** CONSULTANT 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.

19.1.1 Definitions for this Section.

19.1.1.1 “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.

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

19.1.1.3 “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.

19.1.1.4 “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.

19.2 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:

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

19.2.2 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

19.2.3 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.

ARTICLE 24

EQUAL BENEFITS FOR EMPLOYEES

24.1 CONSULTANT certifies that it is aware of the requirements of Section 35.39 of the CITY's Code of Ordinances and certifies that **(check only one box below)**:

- ☐ CONSULTANT currently complies with the requirements of Section 35.39 of the CITY's Code of Ordinances; or
- ☐ CONSULTANT will comply with the conditions of Section 35.39 of the CITY's Code of Ordinances; or
- ☐ CONSULTANT will not comply with the conditions of Section 35.39 of the CITY's Code of Ordinances; or
- ☐ CONSULTANT does not comply with the conditions of Section 35.39 of the CITY's Code of Ordinances because of the following allowable exemption **(check only box below)**:
 - ☐ ---Counter Party---} does not provide benefits to employees' spouses in traditional marriages; or
 - ☐ CONSULTANT provides an employee the cash equivalent of benefits because CONSULTANT is unable to provide benefits to employees' Domestic Partners or spouses despite making reasonable efforts to provide them. To meet this exception, CONSULTANT shall provide a notarized affidavit that it has made reasonable efforts to provide such benefits. The affidavit shall state the efforts taken to provide such benefits and the amount of the cash equivalent. Case equivalent means the amount of money paid to an employee with a Domestic Partner or spouse rather than providing benefits to the employee's Domestic Partner or spouse. The case equivalent is equal to the employer's direct expense of providing benefits to an employee's spouse; or
 - ☐ CONSULTANT is a religious organization, association, society, or any non-profit charitable or educational institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society; or
 - ☐ CONSULTANT is a governmental agency.

24.2 Except where federal or state law mandates to the contrary, a contractor awarded a contract pursuant to a competitive solicitation shall provide benefits to Domestic Partners and spouses of its employees, irrespective of gender, on the same basis as it provides benefits to employees' spouses in traditional marriages.

24.3 CONSULTANT shall provide the City Manager and his/her designee, access to its records for the purpose of audits and/or investigations to ascertain compliance with the provisions of this Article, and upon request shall provide evidence that the CONSULTANT is in compliance with



the provisions of this Article upon the renewal of this Agreement or when the City Manager or his/her designee receives a complaint or has reason to believe CONSULTANT may not be in compliance with the provisions of this Article. Records shall include but not be limited to providing the City Manager and his/her designee with certified copies of CONSULTANT's records pertaining to its benefits policies and its employment policies and practices.

24.4 CONSULTANT must conspicuously make available to all employees and applicants for employment the following statement:

“During the performance of a contract with the City of Pembroke Pines, Florida, the CONSULTANT will provide Equal Benefits to its employees with spouses, as defined by Section 35.39 of the City of Pembroke Pines Code of Ordinances, and its employees with Domestic Partners and all Married Couples”.

If CONSULTANT has questions regarding the application of Section 35.39 of the City of Pembroke Pines Code of Ordinances to CONSULTANT's duties pursuant to this Agreement, contact Human Resources at (954) 954-392-2092 or cmaglio@ppines.com.

24.5 By executing this Agreement, CONSULTANT certifies that it agrees to comply with the above and Section 35.39 of the City of Pembroke Pines Code of Ordinances, as may be amended from time to time.

ARTICLE 25

MISCELLANEOUS

25.1 **Ownership of Documents.** Reports, surveys, plans, studies and other data provided 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. CITY hereby agrees to use CONSULTANT's work product for its intended purposes.

25.2 **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.

25.3 **Records.** CONSULTANT 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 CONSULTANT 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. All records shall be maintained and available for disclosure, as appropriate, in accordance with Chapter 119, Florida Statutes.



25.4 **Assignments; Amendments.** This Agreement, and any interests herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by CONSULTANT without the prior written consent of CITY. For purposes of this Agreement, any change of ownership of CONSULTANT 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.

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

25.6 **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, CONSULTANT 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



CONSULTANT

Primary Contact Name, Primary Contact Title
CONTRACTOR/CONSULTANT... NAME (Example)
Contractor Street Address,
City, State Zip Code
E-mail: e-mail@emailaddress.com
Telephone No: (000) 000-0000
Cell phone No: (000) 000-0000
Facsimile No:

25.7 **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.

25.8 **Headings.** Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.

25.9 **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.

25.10 **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.

25.11 **Extent of Agreement and Conflicts.** This Agreement represents the entire and integrated agreement between CITY and CONSULTANT and supersedes all prior negotiations, representations or agreements, either written or oral. In the event of a conflict between this Agreement, **Exhibit "A"**, and **Exhibit "B"**, this Agreement shall govern, then **Exhibit "A"**, and then **Exhibit "B"**.

25.12 **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.

25.13 **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.

25.14 **Protection of CITY Property.** At all times during the performance of this Agreement, CONSULTANT shall protect CITY's property from all damage whatsoever on account of the work being carried on under this Agreement.

25.15 **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.

25.16 **No Waiver of Sovereign Immunity.** Nothing contained herein is intended nor shall be construed to waive the CITY's rights and immunities under the common law of Section 768.28, Florida Statutes, as may be amended from time to time.

25.17 **No Third Party Beneficiaries.** The services to be performed by the CONSULTANT are intended solely for the benefit of the CITY. No person or entity not a signatory to this Agreement shall be entitled to rely on the CONSULTANT's performance of its services hereunder, and no right to assert a claim against the CONSULTANT by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this Agreement or the performance of the CONSULTANT's services hereunder.

25.18 **Human Trafficking.** Pursuant to Section 787.06(13), Fla. Stat., nongovernmental agencies contracting with CITY are required to provide an affidavit attesting that the nongovernmental agency does not use coercion for labor or services as defined within Section 787.06, Fla. Stat. By executing this Agreement and submitting the executed required affidavit, the CONSULTANT represents and warrants that it does not use coercion for labor or services as provided by state law.

25.19 **Discriminatory Vendor List.** Pursuant to Section 287.134(2)(a), Fla. Stat., an entity or affiliate, as defined in Section 287.134(1), who has been placed on the discriminatory vendor list may not submit a bid, proposal or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity. By executing this Agreement, the COLLEGE represents and warrants that neither it nor any of its affiliates is currently on the discriminatory vendor list.

25.20 **Antitrust Violations.** Pursuant to Section 287.137, Florida Statutes, as may be amended, a person or an affiliate who has been placed on the antitrust violator vendor list (electronically published and updated quarterly by the State of Florida) following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity. By entering into this Agreement, CONSULTANT certifies neither it nor its affiliate(s) are on the antitrust violator vendor list at the time of entering this Agreement. False certification under this paragraph or being subsequently added to that list will result in termination of this Agreement, at the option of the CITY consistent with Section 287.137, Florida Statutes, as amended.



25.21 **Public Entity Crimes.** Pursuant to Section 287.133(2)(a), Fla. Stat., a person or affiliate, as defined in Section 287.1 33(1), Fla. Stat., who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of thirty-five thousand dollars (\$35,000.00) for a period of thirty-six (36) months following the date of being placed on the convicted vendor list. By executing this Agreement, the CONSULTANT represents and warrants that neither it nor any of its affiliates is currently on the convicted vendor list.

25.22 PURSUANT TO SECTION 558.0035, FLORIDA STATUTES, AN INDIVIDUAL EMPLOYEE OR AGENT OF THE CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR ECONOMIC DAMAGES RESULTING FROM NEGLIGENCE UNDER THIS AGREEMENT IF THE CONDITIONS OF SECTION 558.0035, FLORIDA STATUTES, AS AMENDED FROM TIME TO TIME, ARE SATISFIED.

25.23 **Compliance with Statutes.** It shall be the CONSULTANT'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; **specifically the Jessica Lunsford Act – Chapter 1012, Florida Statutes, which provides for the screening of individuals who are vendors or contractors with a Florida public school or district.**

25.24 **Additional Background Screening Requirements.** In addition, to any other background screening requirements that may be required in this Agreement and/or by statutes, ordinances, rules, orders, regulations and requirements of all local, City, state, and federal agencies, the CONSULTANT shall ensure that all employees that are providing services to the CITY, shall complete and pass a **Level II background check.**

25.25 **Compliance with Foreign Entity Laws.** CONTRACTOR ("Entity") hereby attests under penalty of perjury the following:

- 25.25.1 Entity is not owned by the government of a foreign country of concern as defined in Section 287.138, Florida Statutes. (Source: § 287.138(2)(a), Florida Statutes);
- 25.25.2 The government of a foreign country of concern does not have a controlling interest in Entity. (Source: § 287.138(2)(b), Florida Statutes);
- 25.25.3 Entity is not owned or controlled by the government of a foreign country of concern, as defined in Section 692.201, Florida Statutes. (Source: § 288.007(2), Florida Statutes);



- 25.25.4 Entity is not a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country of concern, as defined in Section 692.201, Florida Statutes, or a subsidiary of such entity. (Source: § 288.007(2), Florida Statutes);
- 25.25.5 Entity is not a foreign principal, as defined in Section 692.201, Florida Statutes. (Source: § 692.202(5)(a)(1), Florida Statutes); and,
- 25.25.6 Entity is in compliance with all applicable requirements of Sections 692.202, 692.203, and 692.204, Florida Statutes.

**SIGNATURE PAGE AND
AFFIDAVIT OF COMPLIANCE WITH
HUMAN TRAFFICKING LAWS FOLLOW**



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: _____

CHARLES F. DODGE, CITY MANAGER

DEBRA E. ROGERS, CITY CLERK

CONSULTANT:

**CONTRACTOR/CONSULTANT... NAME
(Example)**

Signed By: _____

Printed Name: _____

Title: _____



AFFIDAVIT OF COMPLIANCE WITH HUMAN TRAFFICKING LAWS

In accordance with section 787.06 (13), Florida Statutes, the undersigned, on behalf of the entity listed below ("Entity"), hereby attests under penalty of perjury that:

1. The Affiant is an officer or representative of the Entity entering into an agreement with the City of Pembroke Pines.
2. The Entity does not use coercion for labor or services as defined in Section 787.06, Florida Statutes, entitled "Human Trafficking".
3. The Affiant is authorized to execute this Affidavit on behalf of the Entity.
4. I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this affidavit and that the punishment for knowingly making a false statement includes fines and/or imprisonment.
5. Pursuant to Sec. 92.525(2), Fla. Stat., under penalties of perjury, I declare that I have read the foregoing affidavit of compliance with Human Trafficking Laws and that the facts stated in it are true.

FURTHER AFFIANT SAYETH NAUGHT.

DATE: _____

ENTITY: **CONTRACTOR/CONSULTANT... NAME (Example)**

SIGNED BY: _____

NAME: _____

TITLE: _____

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD[YY])

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED

YOUR COMPANY NAME HERE

INSURER A:

INSURER B:

INSURER C:

INSURER D:

INSURER E:

Companies providing coverage**COVERAGES**

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DDYY)	POLICY EXPIRATION DATE (MM/DDYY)	LIMITS								
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> policy <input type="checkbox"/> project <input type="checkbox"/> loc	<div style="border: 1px solid black; padding: 10px; text-align: center;"> Must Include General Liability </div>			EACH OCCURRENCE \$ FIRE DAMAGE (Any one fire) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$								
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				<div style="border: 1px solid black; padding: 10px; text-align: center;"> SAMPLE CERTIFICATE </div>								
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO			AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$									
	EXCESS LIABILITY OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$								
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				<table border="1"> <tr> <td>WC STATU-TORY LIMITS</td> <td>OTH-ER</td> </tr> <tr> <td>E.L. EACH ACCIDENT</td> <td>\$</td> </tr> <tr> <td>E.L. DISEASE - EA EMPLOYEE</td> <td>\$</td> </tr> <tr> <td>E.L. DISEASE - POLICY LIMIT</td> <td>\$</td> </tr> </table>	WC STATU-TORY LIMITS	OTH-ER	E.L. EACH ACCIDENT	\$	E.L. DISEASE - EA EMPLOYEE	\$	E.L. DISEASE - POLICY LIMIT	\$
WC STATU-TORY LIMITS	OTH-ER												
E.L. EACH ACCIDENT	\$												
E.L. DISEASE - EA EMPLOYEE	\$												
E.L. DISEASE - POLICY LIMIT	\$												
	OTHER												

Certificate must contain wording similar to what appears below

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCL

"THE CERTIFICATE HOLDER IS NAMED AS ADDITIONALLY INSURED WITH REGARD TO GENERAL LIABILITY"

CERTIFICATE HOLDER

ADDITIONAL INSURED; INSURER LETTER:

CANCELLATION

City of Pembroke Pines
601 City Center Way
Pembroke Pines FL 33025

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION

MAIL 30 DAYS WRITTEN
 LEFT.

City Must Be Named as Certificate Holder

AUTHORIZED REPRESENTATIVE