



SECOND AMENDMENT TO AMENDED AND RESTATED AGREEMENT FOR OPERATION, MAINTENANCE, MANAGEMENT OF THE UTILITY SYSTEM

THIS AMENDMENT (“Second Amendment”), dated _____, is entered into by and between:

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

and

OPERATIONS MANAGEMENT INTERNATIONAL, INC., a company authorized to do business in the State of Florida, with a business address of 9191 S. Jamaica Street, Englewood, Colorado, 80112, hereinafter referred to as “CONTRACTOR” or “OPERATOR”. CITY and CONTRACTOR may hereinafter be referred to individually as a “PARTY” or collectively as the “PARTIES”.

WHEREAS, the PARTIES entered into the Amended and Restated Agreement for Operation, Maintenance, Management of the Utility System on July 23, 2020 for a five (5) year term (the “Agreement”); and

WHEREAS, Section 10.3 of the Agreement provides that CONTRACTOR shall require all subcontractors, suppliers, and such other individuals and entities performing or furnishing any of the services under the Agreement to comply with the requirements imposed on CONTRACTOR under the Agreement; and

WHEREAS, the CONTRACTOR has determined that one of its subcontractors, Craig A. Smith & Associates, LLC, does not comply with the required under Section 11.5.4 of the Agreement entitled “Contractor’s Pollution Liability Insurance”; and

WHEREAS, CONTRACTOR has requested that CITY waive the insurance requirement under Contractor’s Pollution Liability Insurance requirement for Craig A. Smith & Associates, LLC due to its desire to continue working with Craig A. Smith & Associates, LLC under this agreement and to avoid being in breach of the terms of the Agreement; and

WHEREAS, CITY staff has reviewed CONTRACTOR’S request and has no objection to waiving the requirement under Section 11.5.4 of the Agreement specifically for Craig A. Smith & Associates, LLC; and

WHEREAS, the City Commission has determined that it is in the best interest of the citizens and residents of Pembroke Pines to waive the insurance requirement under Section 11.5.4 of the Agreement specifically for Craig A. Smith & Associates, LLC in order to ensure the continued and uninterrupted provision of essential CITY services.



W I T N E S S E T H

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

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

SECTION 2. Section 10.3 Agreement is hereby revised and amended as set forth below:

10.3 OPERATOR shall be solely responsible for scheduling and coordinating Subcontractors, Suppliers and other individuals and entities performing or furnishing any of the Services under a direct or indirect contract with OPERATOR. OPERATOR shall require all Subcontractors, Suppliers and such other individuals and entities performing or furnishing any of the Services to comply with the requirements imposed on OPERATOR under this Agreement, except that Craig A. Smith & Associates, LLC shall not be required to comply with the insurance requirement under Section 11.5.4 of the Agreement, requiring pollution liability insurance in an amount of no less than \$2,000,000.00 for each incident and a \$2,000,000.00 annual aggregate. All Subcontractors, Suppliers and such other individuals and entities performing or furnishing any of the Services shall communicate with the CITY through OPERATOR.

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

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

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

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

3.2.2 Is engaged in business operations in Syria.

SECTION 4. Employment Eligibility. 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.

4.1 **Definitions for this Section.**

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

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

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

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

5.2 **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:

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

5.2.2 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

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



one (1) year after the date of termination.

SECTION 6. Public Entity Crimes. Pursuant to Section 287.133(2)(a), Fla. Stat., a person or affiliate, as defined in Section 287.133(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 Second Amendment, the CONTRACTOR represents and warrants that neither it nor any of its affiliates is currently on the convicted vendor list.

SECTION 7. 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 Second Amendment, the CONTRACTOR represents and warrants that neither it nor any of its affiliates is currently on the discriminatory vendor list.

SECTION 8. 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 Second Amendment and submitting the executed required affidavit, the CONTRACTOR represents and warrants that it does not use coercion for labor or services as provided by state law.

SECTION 9. 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 Second Amendment, CONTRACTOR certifies neither it nor its affiliate(s) are on the antitrust violator vendor list at the time of entering this Second Amendment. False certification under this paragraph or being subsequently added to that list will result in termination of the Agreement, as amended, at the option of the CITY consistent with Section 287.137, Florida



Statutes, as amended.

SECTION 10. In the event of any conflict or ambiguity by and between the terms and provisions of this Second Amendment, and the Agreement, as amended, the terms and provisions of this Second Amendment shall control to the extent of any such conflict or ambiguity.

SECTION 11. The Parties agree that in all other respects the Agreement shall remain in full force and effect, except as specifically modified herein.

SECTION 12. Each exhibit referred to in the Agreement, as amended, except as repealed herein, forms an essential part of this Second Amendment. The exhibits, if not physically attached, should be treated as part of this Second Amendment and are incorporated herein by reference.

SECTION 13. Each person signing this Second Amendment on behalf of either Party individually warrants that he or she has full legal power to execute this Second Amendment on behalf of the Party for whom he or she is signing, and to bind and obligate such Party with respect to all provisions contained in this Second Amendment.

SECTION 14. This Second Amendment may be executed by hand or electronically in multiple originals or counterparts, each of which shall be deemed to be an original and together shall constitute one and the same agreement. Execution and delivery of this Second Amendment by the Parties shall be legally binding, valid and effective upon delivery of the executed documents to the other Party through facsimile transmission, email, or other electronic delivery.

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

CONTRACTOR:

**OPERATIONS MANAGEMENT
INTERNATIONAL, INC.**

Signed By: Andy Rouse

Printed Name: Andy Rouse

Title: Vice President



AFFIDAVIT OF COMPLIANCE WITH ANTI-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 Anti-Human Trafficking Laws and that the facts stated in it are true.

FURTHER AFFIANT SAYETH NAUGHT.

DATE: _____

ENTITY: **OPERATIONS MANAGEMENT INTERNATIONAL, INC.**

SIGNED BY: _____

NAME: _____

TITLE: _____