



City of Pembroke Pines

**AGREEMENT BETWEEN
THE CITY OF PEMBROKE PINES AND
ACOSTA TRACTORS INC**

THIS AGREEMENT (“Agreement”), dated _____, is entered into by and between the **City of Pembroke Pines**, a Florida municipal corporation with a business address of 601 City Center Way, Pembroke Pines, Florida 33025 (hereinafter referred to as “CITY”), and **Acosta Tractors Inc**, a For Profit Corporation, with a business address of 11986 NW 97 Ave., Hialeah Gardens, FL 33018 (hereinafter referred to as “CONTRACTOR”). CITY and CONTRACTOR shall be collectively referred to herein as “Parties” and individually as “Party”.

WHEREAS the CITY desires to implement Roadway Improvements in the form of traffic calming features in the Pines Village neighborhood; and,

WHEREAS, on April 24, 2024, the Town of Cutler Bay (“Town”) entered into an agreement with CONTRACTOR pursuant to Invitation to Bid (“ITB”) 23-10, entitled “Franjo Road Roadway Improvements Project” for a term of seven hundred (700) calendar days from the date specified in the Notice to Proceed of July 29, 2024, for substantial completion by June 29, 2026; and,

WHEREAS, pursuant to CITY Code of Ordinances §35.18(C)(5), entitled “Utilization of Other Governmental Agencies’ Contracts”, CITY has evaluated Town’s Invitation to Bid (“ITB”) 23-10 and the related agreement with CONTRACTOR and determined such terms and pricing may be utilized by CITY to procure Roadway Improvement services; and,

WHEREAS, pursuant to CITY Code of Ordinances §35.18(C)(5), the CITY desires to engage CONTRACTOR to provide Roadway Improvement services utilizing the terms and pricing offered in Town’s ITB 23-10 and the related agreement with CONTRACTOR; and,

WHEREAS CONTRACTOR agrees to extend the same terms and pricing as set forth in Town’s ITB 23-10 and the related agreement with CONTRACTOR to CITY as set forth herein; and,

WHEREAS the Parties wish to incorporate and supplement the terms and conditions set forth in Town’s ITB 23-10 and the related agreement with CONTRACTOR, attached hereto and made a specific part hereof as **Exhibit “A”**, with the terms and requirements set forth herein; and,

WHEREAS, at its meeting of _____, the CITY Commission approved this Agreement and authorized the proper CITY officials to execute this Agreement.

NOW, THEREFORE, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, the Parties agree as follows:

1. The foregoing recitals are true and correct and incorporated herein as if set forth in full.



2. **Scope of Services.** The CONTRACTOR agrees to provide all labor, materials, and services as may be necessary to provide Roadway Improvement services for the three (3) traffic calming features to be located at SW 68th Boulevard and SW 6th Street, SW 6th Street and SW 70th Terrace, and SW 64th Way and SW 3rd Street (each the “Property” and collectively the “Properties”), as set forth herein and in accordance with the specifications more particularly described in **Exhibit “A”** and in CONTRACTOR’s proposal for CITY, attached hereto and by this reference made a part hereof as **Exhibit “B”**, and as further agreed by the Parties. CONTRACTOR agrees to perform all services required pursuant to this Agreement, each exhibit, amendment, or addenda hereto, and set forth in the Commission award.

2.1 CONTRACTOR 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 work performed pursuant to this Agreement shall be done in a professional manner.

2.2 CONTRACTOR shall supervise the workforce to ensure that all workers conduct themselves and perform their work in a safe and professional manner. CONTRACTOR shall comply with all OSHA safety rules and regulations in the operation of equipment and in the performance of the work. CONTRACTOR shall at all times have a competent field supervisor on the job site to enforce these policies and procedures at the CONTRACTOR’s expense.

2.3 CONTRACTOR shall provide CITY with seventy-two (72) hours written notice prior to the beginning of work pursuant to this Agreement and prior to any schedule change with the exception of changes caused by inclement weather.

2.4 CONTRACTOR shall schedule regular meetings with the CITY representatives weekly to discuss issues related to the services provided pursuant to this Agreement.

2.5 CONTRACTOR hereby represents to CITY that CONTRACTOR is properly licensed by the applicable federal, state, and local agencies to provide the services pursuant to this Agreement. Furthermore, CONTRACTOR agrees to maintain such licenses during the term of this Agreement. If CONTRACTOR’s license is revoked, suspended, or terminated for any reason by any governmental agency, CONTRACTOR shall notify the CITY immediately.

2.6 CONTRACTOR shall comply with any and all Federal, State, and local laws and regulations now in effect, or hereinafter enacted during the term of this Agreement, which are applicable to CONTRACTOR, its employees, agents or subcontractors, if any, with respect to the work and services described herein. A violation of any federal, state, or local law or regulation may be cause for breach, allowing the CITY to terminate this Agreement.

2.7 CONTRACTOR shall not subcontract any of its obligations under this Agreement without first obtaining the CITY’s prior written consent. In the event the CITY does consent in writing to a subcontracting arrangement, CONTRACTOR shall be the prime contractor



and shall remain fully responsible for performance of all obligations which it is required to perform under this Agreement. Any subcontract entered into by CONTRACTOR shall name the CITY as a third-party beneficiary.

3. **Compensation and Method of Payment.** CITY agrees to compensate CONTRACTOR monthly for all services performed and work that has been completed, inspected and properly invoiced by CONTRACTOR pursuant to this Agreement and **Exhibit "B"**. The total amount paid to CONTRACTOR pursuant to this Agreement shall not exceed **FOUR HUNDRED SEVENTY-EIGHT THOUSAND, SIX DOLLARS AND SIXTY-SIX CENTS (\$478,006.66)**, which includes an owner's contingency in an amount equal to FORTY-TWO THOUSAND, SIX HUNDRED SEVENTY-NINE DOLLARS AND SEVENTEEN CENTS (\$42,679.17), and an amount for the cost of the Payment and Performance Bonds of EIGHT THOUSAND, FIVE HUNDRED THIRTY-FIVE DOLLARS AND EIGHTY-THREE CENTS (\$8,535.83).

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

3.2 The total compensation amount may not be exceeded without a written amendment to this Agreement. A retainage of five percent (5%) will be deducted from monthly payments until the project is complete. Retainage monies will be released upon satisfactory completion and final inspection of the work. CONTRACTOR shall invoice CITY. Invoices must bear the project name, project number, bid number and purchase order number. CITY has up to thirty (30) calendar days to review, approve and pay all invoices after receipt.

3.3 All payments shall be governed by the Local Government Prompt Payment Act, as set forth in Part VII, Chapter 218, Florida Statutes.

3.4 **Method of Billing and Payment.** The CITY shall within thirty (30) calendar days, from the date the City Engineer approves the Application for Payment, pay the CONTRACTOR the amount approved by the City Engineer or his or her designee. Payment will be made to

*City of Pembroke Pines*

CONTRACTOR at:

**Acosta Tractors Inc
11986 NW 97th Ave.,
Hialeah Gardens, FL 33018-1608**

4. **Waiver of Liens.** Prior to final payment of the amount due under the terms of this Agreement, to the extent permitted by law, a final waiver of lien shall be required to be submitted by the CONTRACTOR, as well as from all suppliers and subcontractors who have worked on the project that is the subject of this Agreement. Payment of the invoice and acceptance of such payment by CONTRACTOR shall release CITY from all claims of liability by CONTRACTOR in connection with this Agreement.
5. **Warranty.** CONTRACTOR warrants the work against defect for a period of one (1) year from the date of completion of work. In the event that defect occurs during this time, CONTRACTOR shall perform such steps as required to remedy the defects. CONTRACTOR shall be responsible for any damages caused by defect to the affected area or to interior structure. The one (1) year warranty period does not begin until Substantial Completion of the entire project as set forth in Section 7 herein, and the subsequent release of the Performance or Payment Bonds.
6. **Changes to Scope.** CITY or CONTRACTOR may request changes that would increase, decrease, or otherwise modify the scope of services, to be provided pursuant to this Agreement as described in **Exhibit "A"**, and **Exhibit "B"**, These changes may affect the monthly compensation accordingly. Such changes or additional services must be in accordance with the provisions of CITY's Code of Ordinances and must be contained in a written amendment, executed by the Parties hereto prior to any deviation from the terms of this Agreement, including the initiation of any additional or extra work. In no event will the CONTRACTOR be compensated for any work which has not been described either herein, in a purchase order, or in a separate written agreement executed by the Parties hereto. CONTRACTOR shall continue work when seeking change order unless work has not been authorized herein, or by written amendment or change order, executed by the Parties hereto.
7. **Time of Commencement and Substantial Completion.** The work to be performed pursuant to this Agreement shall be commenced after CITY execution of the Agreement and not later than ten (10) calendar days after CONTRACTOR receives CITY's Notice to Proceed. The work shall be completed within **one hundred (100) 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 "Substantial Completion" shall mean the pivotal moment in a construction project, indicating that the work is nearly finished, and the structure or facility can be occupied or used for its intended purpose. In essence, the CITY obtains beneficial use of the structure or facility while some minor work may still be pending. Substantial Completion will be deemed achieved via a formal, written confirmation from the Consultant/Engineer of Record and/or the CITY. "Final Completion" shall mean the absolute conclusion of the construction project. At this



stage, all work (major and minor) has been completed as per the contract. All outstanding deficiencies, punch list items, or corrective work have been resolved, and the CONTRACTOR has fulfilled its obligations in full.

8. Payment and Performance Bond.

- a. Within fifteen (15) calendar days after Notice of Award and in any event prior to commencing work, the CONTRACTOR shall execute and furnish to CITY a Payment Bond and a Performance Bond, each written by a corporate surety, having a resident agent in the State of Florida and having been in business with a record of successful continuous operation for at least five (5) years. The Performance Bond and Payment Bond shall at all times be valid and in force to cover the Work being performed. The surety shall hold a current certificate of authority from the Secretary of Treasury of the United States as an acceptable surety on federal bonds in accordance with United States Department of Treasury Circular No. 570. If the amount of the bonds exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the circular and the excess risks must be protected by coinsurance, reinsurance, or other methods, in accordance with Treasury Circular 297, revised September 1, 1978 (31DFR, Section 223.10, Section 223.11). Further, the surety company shall provide CITY with evidence satisfactory to CITY, that such excess risk has been protected in an acceptable manner. The surety company shall have at least the following minimum qualification in accordance with the latest edition of A.M. Best's Insurance Guide, published by Alfred M. Best Company, Inc., Ambest Road, Oldwick, New Jersey 08858:

B+ to A+

- b. Two (2) separate bonds are required, and both must be approved by the CITY. **The penal sum stated in each bond shall be 100% of the contract value.** The Performance Bond shall be conditioned upon the CONTRACTOR's performance of the work in the time and manner prescribed in the Agreement. The Payment Bond shall be conditioned upon the CONTRACTOR's promptly making payments to all persons who supply the CONTRACTOR with labor, materials and supplies used directly or indirectly by the CONTRACTOR in the prosecution of the work provided for in this Agreement and shall provide that the surety shall pay the same in the amount not exceeding the sum provided in such bonds, together with interest at the maximum rate allowed by law; and that they shall indemnify and save harmless the CITY to the extent of any and all payments in connection with the carrying out of said Agreement which the CITY may be required to make under the law. Pursuant to the requirements of Section 255.05(1)(a), Florida Statutes, it shall be the duty of the CONTRACTOR to record the aforesaid payment and performance bonds in the public records of Broward County, and CONTRACTOR shall be responsible for payment of all recording costs.



9. **Termination of Agreement.**

9.1 **Termination for Convenience.** This Agreement may be terminated by CITY for convenience, upon seven (7) calendar days of written notice of such termination to CONTRACTOR. In such event, the CONTRACTOR shall be entitled to payment for all services and/or work properly performed up to the effective date of termination, together with reasonable costs directly associated with the orderly close-out and demobilization of the Work. The CITY may, at its sole discretion, require the CONTRACTOR to complete any portion of the Work that is necessary to protect the integrity, safety, or continuity of the Project, and the CONTRACTOR shall diligently perform such Work as directed until deemed by the CITY and Certifying parties as to meeting the Contract design specifications. The CONTRACTOR shall not be entitled to anticipated profit, unperformed overhead, or consequential damages resulting from such termination.

9.2 **Termination for Cause; Default.** In addition to all other remedies available to CITY, this Agreement shall be subject to termination by CITY for cause. In the event that CONTRACTOR abandons this Agreement or causes it to be terminated for cause, CONTRACTOR shall indemnify CITY against loss pertaining to such abandonment or termination. CITY reserves the right to recover any ascertainable actual damages incurred as a result of the failure of CONTRACTOR to perform in accordance with the requirements of this Agreement.

9.3 **Default of Contract and Remedies.**

9.3.1 Liquidated Damages.

9.1.1.1 Breach of Service. As a breach of the service provided by this Agreement would cause serious and substantial damage to CITY Property, and the nature of this Agreement would render it impracticable or extremely difficult to fix the actual damage sustained by CITY by such breach, it is agreed that, in case of breach of service wherein CONTRACTOR fails to maintain the Property, leaving the said property in disrepair, CITY may elect to collect liquidated damages for each such breach, and CONTRACTOR will pay CITY as liquidated damages, and not as penalty, ONE THOUSAND DOLLARS AND ZERO CENTS (\$1,000.00) for every calendar day of such malfunction. This sum is the agreed upon amount by which CITY will be damaged by the breach of such service.

9.1.1.2 Time is of the Essence. The Parties recognize that time is of the essence on this Agreement and that the CITY will suffer financial loss if the work is not completed within the time specified herein. They also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by the CITY if the work is not completed on time. Accordingly, instead



of requiring any such proof, the Parties agree that as liquidated damages for delay (but not as a penalty), the CONTRACTOR shall pay the ONE THOUSAND DOLLARS AND ZERO CENTS (\$1,000.00) for each calendar day that expires after the time herein for final completion and full acceptance is achieved. This sum is the agreed upon amount by which CITY will be damaged by the breach of such specified time.

An election to seek such remedies shall not be construed as a waiver of any legal remedies CITY may have as to any subsequent breach by CONTRACTOR pursuant to this Agreement. Liquidated damages are cumulative.

9.3.2 Correction of Work. If, in the judgment of CITY, work provided by CONTRACTOR does not conform to the requirements of this Agreement, or if the work exhibits poor workmanship, CITY reserves the right to require that CONTRACTOR correct all deficiencies in the work to bring the work 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 workmanship.

9.3.3 Default Events. The occurrence of any one or more of the following events shall constitute a default and breach of this agreement by CONTRACTOR:

9.3.3.1 The abandonment of the Property by CONTRACTOR for a period of more than seven (7) calendar days.

9.3.3.2 The abandonment, unnecessary delay, refusal of, or failure to correct deficiencies for a period of seven (7) calendar days after receipt by CONTRACTOR of written notice of such neglect or failure.

9.3.3.3 Assignment and/or transfer of this Agreement which is not expressly permitted here under or in writing by CITY.

9.3.3.4 The filing by or against CONTRACTOR of a petition to have CONTRACTOR adjudicated bankrupt (unless, the same is dismissed within sixty (60) calendar days of such filing).

9.3.4 Remedies in Default. In the event of default by CONTRACTOR, CITY shall notify CONTRACTOR, in writing, of such abandonment, delay, refusal, failure, neglect, or default and direct CONTRACTOR to comply with all provisions of the Agreement. A copy of such written notice shall be mailed to the Surety on the Performance Bond. 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 CONTRACTOR of such declaration of default and terminate the Agreement. The Surety on the Performance Bond shall within ten (10) calendar days of such declaration of default, rectify or cause to be rectified any mismanagement or breach of service in the Agreement and assume the work of



CONTRACTOR and proceed to perform services under the Agreement, at its own cost and expense.

9.3.4.1 Upon such declaration of default, all payments remaining due CONTRACTOR 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 Surety. Thereafter the Surety shall receive monthly payments equal to those that would have been paid by the CONTRACTOR had the CONTRACTOR continued to perform the services under the Agreement.

9.3.4.2 CITY may complete the Agreement, or any part thereof, either by day labor or re-letting a contract for the same, and procure the equipment and the facilities necessary for the completion of the Agreement, and charge the cost of same to CONTRACTOR and/or the Surety together with the costs incident thereto to such default.

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

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

10. **Insurance.**

10.1 CONTRACTOR expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the CONTRACTOR 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 required.

10.2 CONTRACTOR AND ALL SUBCONTRACTORS, SHALL NOT BE ALLOWED TO commence work under this AGREEMENT until the Contractor 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 SUBCONTRACTOR be allowed to commence work under this AGREEMENT until the SUBCONTRACTOR 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.

- 10.3 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.
- 10.4 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 CONTRACTOR or their Insurance Broker must agree to provide notice.
- 10.5 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 CONTRACTOR 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 CONTRACTOR shall neither commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. CONTRACTOR shall be liable to CITY for any lapses in service resulting from a gap in insurance coverage.
- 10.6 **Required Insurance.** CONTRACTOR shall be required to obtain all applicable insurance coverage, as indicated below, prior to commencing any work pursuant to this Agreement:

Yes No

✓ ☐

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

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

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



City of Pembroke Pines

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

✓ ☐

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

Yes No

✓ ☐

10.6.3 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

✓ ☐

10.6.4 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.**

10.7 REQUIRED ENDORSEMENTS

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

10.7.2 Waiver of all Rights of Subrogation against the CITY.

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

10.7.4 CONTRACTOR's policies shall be Primary & Non-Contributory.

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

10.7.6 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.

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

10.9 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.

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

11. **Indemnification.** The CONTRACTOR shall indemnify, save harmless and undertake the defense of CITY, its City Commissioners, agents, servants and employees from and against any and all claims, suits, actions, damages, or causes of action arising during the term of this Agreement for any personal or bodily injury, loss of life, or damage to property arising directly or indirectly from CONTRACTOR's operation pursuant to this Agreement and from and against all costs, counsel fees, expenses and liabilities incurred in and about any such claims, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders or judgements which may be entered therein. CITY shall notify CONTRACTOR within ten (10) calendar days of receipt by CITY of any claim, suit or action against CITY arising directly or indirectly from the operations of CONTRACTOR hereunder, for which CITY may be entitled to a claim or indemnity against CONTRACTOR, under the provisions of this Agreement. CONTRACTOR shall have the right to control the defense of



any such claim, suit, or actions. CONTRACTOR shall also be liable to CITY for all costs, expenses, attorney's fees and damages which may be incurred or sustained by CITY by reason of CONTRACTOR's breach of any of the provisions of the Agreement. CONTRACTOR shall not be responsible for negligent acts of CITY or its employees.

11.1 Upon completion of all services, obligations and duties provided for in this Agreement, or in the event of termination of this Agreement for any reason, the terms and conditions of this Article shall survive indefinitely.

11.2 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 CONTRACTOR.

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

12. **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.

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

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



15. **Non-Discrimination & Equal Opportunity Employment.** During the performance of the Agreement, neither CONTRACTOR 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. CONTRACTOR 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. CONTRACTOR 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. CONTRACTOR further agrees that CONTRACTOR will ensure that subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause.
16. **Uncontrollable Forces.** Neither CITY nor CONTRACTOR 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.
17. **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.
18. **Assignments; Amendments.** This Agreement, and any interests herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by CONTRACTOR without the prior written consent of CITY. For purposes of this Agreement, any change of ownership of CONTRACTOR shall constitute an assignment which requires CITY approval. 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 by the Parties hereto.



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

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

19.2 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;

19.3 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, CONTRACTOR shall destroy all copies of such confidential and exempt records remaining in its possession after CONTRACTOR transfers the records in its possession to the CITY; and

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

19.5 The failure of CONTRACTOR 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 CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'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
gfernandez@ppines.com**

20. **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, CITY designates the following as the respective places for giving of notice:



City of Pembroke Pines

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

CONTRACTOR: **Jessica A. Vigoa, Secretary**
Acosta Tractors Inc
11986 NW 97 Ave.
Hialeah Gardens, FL 33018-1608
Telephone No. (305) 556-0473
E-Mail: javigoa@acostatractors.com

21. **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.
22. **Protection of CITY Property.** At all times during the performance of this Agreement, CONTRACTOR shall protect CITY's property from all damage whatsoever on account of the work being carried on under this Agreement.
23. **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.
24. **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:
 - 24.1 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



City of Pembroke Pines

Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or

24.2 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:

24.2.1 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

24.2.2 Is engaged in business operations in Syria.

25. **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.

25.1 **Definitions for this Section.**

25.1.1 "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.

25.1.2 "Subcontractor" includes, but is not limited to, a vendor or consultant.

25.1.3 "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.

25.1.4 "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.

25.2 **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:

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

25.2.2 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

25.2.3 The Contractor shall comply with the provisions of Section 448.095, Florida Statutes., "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 Agreement, 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 Agreement 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.

26. **Records and Audit.** CITY may, upon prior written notice and at a mutually agreed upon date for a period of up to five (5) years following the date of final performance of services by CONTRACTOR under this Agreement, review those books and records of CONTRACTOR which are related to CONTRACTOR's performance under this Agreement. CONTRACTOR agrees to maintain all such books and records at its relevant branch location for a period of five (5) years after final payment is made under this Agreement, or as otherwise required by applicable law.
27. **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.
28. **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.
29. **Compliance with Laws.** It shall be the CONTRACTOR'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.
30. **Entire Agreement.** These terms, together with **Exhibit "A"** and **Exhibit "B"**, incorporated herein by reference, set forth the entire understanding of the Parties and supersede all prior agreements, whether written or oral, with request to such subject matter. All references to "Town" or "County" in **Exhibit "A"** shall be construed as a reference to CITY, and all terms and conditions shall be deemed as having been available for use by the City of Pembroke Pines.



31. **Conflict of Terms.** In the event of any conflict or ambiguity by and between the terms set forth in **Exhibit “A”** and **Exhibit “B”** with the terms set forth herein, the terms of this Agreement shall prevail, followed by **Exhibit “B”** and then **Exhibit “A”**.
32. **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 CONTRACTOR represents and warrants that it does not use coercion for labor or services as provided by state law.
33. **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 CONTRACTOR represents and warrants that neither it nor any of its affiliates is currently on the discriminatory vendor list.
34. **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, CONTRACTOR 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.
35. **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 Agreement, the CONTRACTOR represents and warrants that neither it nor any of its affiliates is currently on the convicted vendor list.

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

- a. 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);
- b. The government of a foreign country of concern does not have a controlling interest in Entity. (Source: § 287.138(2)(b), Florida Statutes);
- c. 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);
- d. 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);
- e. Entity is not a foreign principal, as defined in Section 692.201, Florida Statutes. (Source: § 692.202(5)(a)(1), Florida Statutes); and,
- f. 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**



City of Pembroke Pines

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

CITY:

CITY OF PEMBROKE PINES, FLORIDA

APPROVED AS TO FORM:

Print Name: _____
OFFICE OF THE CITY ATTORNEY

BY: _____

MAYOR ANGELO CASTILLO

ATTEST:

GABRIEL FERNANDEZ, CITY CLERK

BY: _____

CHARLES F. DODGE, CITY MANAGER

CONTRACTOR:

ACOSTA TRACTORS INC

Signed By: _____
Signed by: *Jessica A. Vigoa*

Printed Name: _____
A75371B66C1B461...
Jessica A. Vigoa

Title: _____
Secretary

December 3, 2025



City of Pembroke Pines

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: December 3, 2025

ENTITY: **ACOSTA TRACTORS INC**

SIGNED BY: Signed by:
Jessica A. Vigoa
A75371B66C1B461...

NAME: Jessica A. Vigoa

TITLE: Secretary