



City of Pembroke Pines

**AGREEMENT BETWEEN
THE CITY OF PEMBROKE PINES AND
RS PHOTOGRAPHY, LLC D/B/A TSS PHOTOGRAPHY**

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, Florida 33025** (hereinafter referred to as the "CITY")

and

RS PHOTOGRAPHY, LLC., d/b/a TSS PHOTOGRAPHY, a limited liability company, authorized to do business in the State of Florida, with a business address of **2000 Banks Road, Suite #E-1, Margate, FL 33063** (hereinafter referred to as the "CONTRACTOR"). CITY and CONTRACTOR may hereinafter be referred to collectively as the "Parties."

WITNESSETH:

In consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and CONTRACTOR 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 The CITY operates the **CITY's Recreational Soccer Program (the "Program")** located at 350 SW 196 Avenue, Pembroke Pines, FL 33029 and is in need of photography services for this program.

1.2 The CITY desires to engage a contractor to provide photography services as more particularly described in **Exhibit "A"** attached hereto and by this reference made a part hereof.

1.3 Pursuant to Section 35.18 (C)(7)(c) of the Procurement Code, the proper CITY officials negotiated and enter into an agreement with CONTRACTOR to render the services more particularly described herein below.

1.4 The Agreement provides for zero cost to the CITY, and will provide revenue to the CITY.

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1.5 CONTRACTOR possesses specific knowledge, skills, abilities, experiences, and expertise in the required areas that would particularly benefit CITY.

1.6 The CITY desires to engage CONTRACTOR to perform the services required herein for the CITY.

ARTICLE 2

SERVICES AND RESPONSIBILITIES

2.1 CONTRACTOR hereby agrees to perform the services in accordance with and as more particularly described in **Exhibit "A"** attached hereto and by this reference made apart hereof, of youth program participants and teams sponsored by the CITY's Recreation and Cultural Arts Department for all programs conducted during the term of this Agreement and in accordance with the Scope of Services outlined in **Exhibit "A"**. CONTRACTOR agrees to do everything required by this Agreement.

2.2 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 under this Agreement shall be done in a professional manner.

2.3 CONTRACTOR shall operate a booth at the participating location, which shall be West Pines Soccer Park, 350 SW 196 Avenue, Pembroke Pines, Florida, during selected practice and game days as assigned by the CITY's Recreation and Cultural Arts Director, or his/her designee(s), where assignment shall be provided at least two (2) weeks in advance to CONTRACTOR. The booth shall serve to provide information as well as accept orders for still photography. The CITY shall be provided with a copy of all order forms received by CONTRACTOR at the booth. Blank order forms shall be provided to the CITY's Recreation and Cultural Arts Director, or his/her designee(s) by CONTRACTOR, no later than two (2) weeks prior to a scheduled photo shoot. CONTRACTOR shall be able to offer photo options to the parents or guardians of the Program participants in accordance with the requirements of **Exhibit "A"**.

2.4 CONTRACTOR shall guarantee the quality of all work to all Program participants. The CITY and CONTRACTOR agree that the Program participants and teams reserve the right to have photos re-shot if they are not satisfied with the quality of the work. CONTRACTOR shall have all finished work back to the Program participants and teams within three (3) weeks after the initial photo shoot.

2.5 CONTRACTOR shall provide the CITY's Recreation and Cultural Arts Department with one free download of a photo for each coach and their respective son/daughter. CONTRACTOR shall also provide to the CITY's Recreation and Cultural Arts Department one (1) 8x10 plaque with team photo and custom name plate at no cost.

2.6 CONTRACTOR shall supervise its employees, agents, and subcontractors to ensure that all of its employees, agents, and subcontractors conduct themselves and perform their work in a safe and professional manner. CONTRACTOR shall perform Level II criminal records check on



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all employees, agents, and subcontractors involved with CONTRACTOR'S performance of this Agreement and shall provide results of the background screening to the CITY's Parks and Recreation Department. This Agreement shall not commence until those results are provided to and accepted by the CITY.

2.7 CITY shall grant to CONTRACTOR an exclusive right to take all team and individual "still" photographs. This right does not include action photos. Any photographs taken by CONTRACTOR that are to be used by the CITY must include an appropriate release from the CITY providing that the parent or guardian of the Program participant releases the photo for use by the CITY. Releases shall not be given by Program participants in the CITY's program to CONTRACTOR. CITY shall provide to CONTRACTOR at CONTRACTOR's request the appropriate release form for CONTRACTOR's use.

2.8 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 of this Agreement, allowing the CITY to terminate this Agreement.

ARTICLE 3 TERM AND TERMINATION

3.1 CONTRACTOR shall perform the services as identified herein and in Article 2 hereof, for an initial period commencing on the **date of execution and ending on November 30, 2023**.

3.2 This Agreement may be renewed for **two (2) additional one (1) year terms** upon the mutual consent of the Parties, evidenced by a written Amendment to this Agreement extending the term thereof.

3.3 *Post Contractual Obligations:* In the event that the term of this agreement expires, the CONTRACTOR agrees to continue providing services, at the current rates, on a month to month basis until the CITY establishes a new contract for services.

3.4 *Termination for Convenience:* This Agreement may be terminated by CITY for cause or convenience upon seven (7) days written notice for such termination in which event CONTRACTOR shall be paid its compensation for services performed to termination date, including services reasonably related to termination. In the event that the CONTRACTOR abandons this Agreement or causes it to be terminated, CONTRACTOR shall indemnify the CITY against any loss pertaining to this termination.

3.5 CONTRACTOR shall be paid in full regardless of whether the event is canceled or postponed due to inclement weather unless this Agreement is terminated pursuant to the terms set forth herein.

3.6 *Default by CONTRACTOR:* In addition to all other remedies available to CITY, this Agreement shall be subject to cancellation by CITY for cause, should CONTRACTOR neglect or



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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) days after receipt by CONTRACTOR of written notice of such neglect or failure.

ARTICLE 4

COMPENSATION AND METHOD OF PAYMENT

4.1 CONTRACTOR shall remit payment to the CITY in the amount of **TWENTY ONE percent (21%)** of the net sales (excluding taxes) for all action photography no later than **thirty (30) days** after the photo shoots are completed.

4.2 The CITY shall not be responsible for any payments unless the CITY executes a written amendment to this Agreement that provides for an increase in the consideration to be paid by the CITY.

4.3 Payments to the CITY shall be delivered to:

**City of Pembroke Pines
Recreation & Cultural Arts Department
601 City Center Way
Pembroke Pines, FL 33025**

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

ARTICLE 5

RESERVED

ARTICLE 6

RESERVED

ARTICLE 7

CHANGES IN SCOPE OF WORK

7.1 CITY or CONTRACTOR 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 of this Agreement. These changes may affect the monthly compensation accordingly. Such changes or additional services must be in accordance with the provisions of the Code of Ordinances of the CITY, and must be contained in a written amendment, executed by the Parties hereto, with the same formality, equality and dignity herewith prior to any deviation from the terms of this Agreement, including the initiation of any additional or extra work.

7.2 In no event will the CONTRACTOR be compensated for any work which has not been described either herein or in a separate written agreement executed by the Parties hereto.



ARTICLE 8

INDEMNIFICATION

8.1 The CONTRACTOR agrees to release the CITY from and against any and all liability and responsibility in connection with the above mentioned matters. The CONTRACTOR further agrees not to sue or seek any money or damages from CITY in connection with the above mentioned matters.

8.2 The CONTRACTOR agrees at all times to indemnify, hold harmless, and at the CITY's option, defend or pay for any attorney selected by the CITY to defend the CITY, its trustees, elected and appointed officers, agents, servants, assigns, employees, consultants, separate contractors, any of their subcontractors, sub-subcontractors, agents and employees from and against any and all claims, demands, or causes of action whatsoever, and the resulting losses, damages, costs and expenses, including but not limited to attorneys' fees, including paralegal expenses and appellate fees, liabilities, damages, orders, judgments, or decrees, sustained by the CITY or any third party arising out of or resulting from the CONTRACTOR's negligent acts, errors or omissions.

8.3 The Parties recognize that various provisions of this Agreement, including but not necessarily limited to this Section, provide for indemnification by the CONTRACTOR and that Florida Statute §725.06 requires a specific consideration be given therefor. The Parties therefore agree that the sum of Ten Dollars and 00/100 (\$10.00), receipt of which is hereby acknowledged, is the specific consideration for such indemnities and the providing of such indemnities is deemed to be part of the specifications with respect to the services to be provided by CONTRACTOR. Furthermore, the Parties understand and agree that the covenants and representations relating to this indemnification provision shall serve the term of this Agreement and continue in full force and effect as to the party's responsibility to indemnify.

8.4 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.

8.5 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.

8.6 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 9

INSURANCE

9.1 The CONTRACTOR shall indemnify and hold harmless the CITY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including



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attorneys' fees and costs of defense, which the CITY or its officers, employees, agents or instrumentalities 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 performance of this Agreement by the CONTRACTOR or its employees, agents, servants, partners, principals or subcontractors. The CONTRACTOR 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 attorney's fees which may issue thereon. The 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 provided.

9.2 CONTRACTOR shall not commence work under this Agreement until it has obtained all insurance required under this Article and such insurance has been approved by the Risk Manager of the CITY nor shall the CONTRACTOR allow any subcontractor to commence work on any subcontract until all similar such insurance required of the subcontractor has been obtained and similarly approved.

9.3 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.

9.4 Policies shall be endorsed to provide the CITY thirty (30) days' notice of cancellation or the CONTRACTOR shall obtain written agreement from its Agent to provide the CITY thirty (30) days' notice of cancellation.

9.5 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, then in that event, the CONTRACTOR 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 CONTRACTOR shall not 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.

9.6 REQUIRED INSURANCE

9.6.1 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:



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1. Each Occurrence Limit - \$1,000,000
3. Personal & Advertising Injury Limit - \$1,000,000
4. General Aggregate Limit - \$2,000,000
5. Products & Completed Operations Aggregate Limit - \$2,000,000
6. Sexual abuse shall not be excluded from the liability policy

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

9.6.2 Worker's 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 his 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.

9.7 REQUIRED ENDORSEMENTS

- 9.7.1 The City of Pembroke Pines shall be named as an Additional Insured on each of the General Liability and Cyber Liability policies required herein
- 9.7.2 Waiver of all Rights of Subrogation against the CITY
- 9.7.3 30 Day Notice of Cancellation or Non-Renewal to the CITY
- 9.7.4 CONTRACTOR's policies shall be Primary & Non-Contributory
- 9.7.5 All policies shall contain a "severability of interest" or "cross liability" liability clause without obligation for premium payment of the CITY

9.8 CONTRACTOR shall name the CITY, as an additional insured on each of the General Liability policies required herein and shall hold the CITY, its agents, officers and employees harmless on account of claims for damages to persons, property or premises arising out of the services provided hereunder.

9.9 Any 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,



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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.

9.10 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. The required limits of insurance do not in any way limit the CONTRACTOR's indemnification of the CITY as described herein.

ARTICLE 10

NON-DISCRIMINATION & EQUAL OPPORTUNITY EMPLOYMENT

10.1 During the performance of the Agreement, neither CONTRACTOR nor its 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 he/she/it will ensure that subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause.

ARTICLE 11

INDEPENDENT CONTRACTOR

11.1 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, H.U.D., or United States 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.

ARTICLE 12

UNCONTROLLABLE FORCES

12.1 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.

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

ARTICLE 13

RESERVED

ARTICLE 14

GOVERNING LAW AND VENUE

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

ARTICLE 15

SIGNATORY AUTHORITY

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

ARTICLE 16

MERGER; AMENDMENT

16.1 This Agreement constitutes the entire agreement between CONTRACTOR and CITY, and all negotiations and oral understandings between the Parties are merged herein. This Agreement, or any interest herein, shall not be assigned, transferred or otherwise encumbered under any

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circumstance, by CONTRACTOR without the prior written consent of CITY. For purposes of this Agreement any sale or transfer of assets, stocks or worth of CONTRACTOR shall be deemed a prohibited assignment and will result in the automatic termination of this agreement. However, this Agreement shall run to the CITY and its successors and assigns.

16.2 It is further agreed that the terms and conditions of this Agreement can be supplemented or amended only by a written document executed by both CONTRACTOR and CITY with the same formality and equal dignity herewith.

ARTICLE 17
RESERVED

ARTICLE 18
BANKRUPTCY

18.1 It is agreed that if CONTRACTOR 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 19
DISPUTE RESOLUTION

19.1 **Arbitration.** In addition to any other remedy provided hereunder, CITY, at its option, may use arbitration to resolve any controversy or claim arising out of or relating to this Agreement if arbitration is elected by CITY. Any controversy or claim arising out of or relating to this Agreement, or breach thereof, may be settled by arbitration in accordance with the rules of the American Arbitration Association and judgment upon the award rendered by the arbitrators may be entered into by any court having jurisdiction thereof. In the event arbitration is elected by CITY, such controversy or claim shall be submitted to one arbitrator selected from the National Panel of The American Arbitration Association.

19.2 **Operations During Dispute.**

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

19.2.2 CONTRACTOR expressly recognizes the paramount right and duty of CITY to provide adequate maintenance of CITY's property, and further agrees, in consideration for the execution of this Agreement, that in the event of such a dispute, if any, it will not seek injunctive relief in any court, but will negotiate with CITY for an adjustment on the matter or matters in dispute and, upon failure of said negotiations to resolve the dispute, may present the matter to a court of competent jurisdiction in an appropriate suit therefore instituted by it or by CITY.



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19.2.3 Notwithstanding the other provisions in this Section, 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 calendar (14) days of the receipt by CONTRACTOR of such notice from CITY.

ARTICLE 20
PUBLIC RECORDS

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

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

20.1.2 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, Fla. Stat., or as otherwise provided by law;

20.1.3 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 if the CONTRACTOR does not transfer the records to the CITY; and

21.1.4 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 the 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.

20.2 The failure of CONTRACTOR to comply with the provisions set forth in this Article shall constitute a Default and Breach of this Agreement and the CITY shall enforce the Default in accordance with the provisions set forth in Article 18.

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

**CITY CLERK
601 CITY CENTER WAY, 4TH FLOOR
PEMBROKE PINES, FL 33025**



City of Pembroke Pines

(954) 450-1050

mgraham@ppines.com

ARTICLE 21
MISCELLANEOUS

21.1 **Ownership of Documents.** Reports, surveys, 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.

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

21.3 **Records.** CONTRACTOR 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 CONTRACTOR expects to be reimbursed. Such books and records will be available at all reasonable times for examination and audit by CITY and shall be kept for a period of ten (10) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by CITY of any fees or expenses based upon such entries.

21.4 **No Contingent Fees.** CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONTRACTOR 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 CONTRACTOR 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 Agreement price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

21.5 **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, CONTRACTOR 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



City of Pembroke Pines

Pembroke Pines, Florida 33025
Telephone No. (954) 431-4884
Facsimile No. (954) 437-1149

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) 771-4900
Facsimile No. (954) 771-4923

CONTRACTOR **RS Photography, LLC. d/b/a TSS Photography**
~~2000 Banks Road, Suite #E-1~~ *1001 W. Cypress Creek Road*
~~Margate, FL 33063~~ *Suite 120*
Fort Lauderdale, FL 33309
Rachel Sherman
Telephone No. 954-649-3032
E-mail: rachel@tss.photography
Telephone No. 954-933-0986 Ext. 101
E-mail: customerservice@tss.photography

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

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

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

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

21.10 **Extent of Agreement.** This Agreement represents the entire and integrated agreement between CITY and CONTRACTOR and supersedes all prior negotiations, representations or agreements, either written or oral.

21.11 **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 constructed as a waiver or relinquishment for the future of any such provision, condition, or right, but the same shall remain in full force and effect.



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

21.13 **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.

21.14 **Florida Information Protection Act.** CONTRACTOR agrees and understands that the services and/or goods provided under this Agreement consist, at least in part, of "customer records" that contain "personal information," as defined in the Florida Information Protection Act, section 501.171, Florida Statutes (the "Act"). Accordingly, as required by the Act, CONTRACTOR agrees to implement safeguards to protect customer records containing personal information, in whatever form retained and stored, from a breach of security. If customer records in CONTRACTOR's possession are breached in the manner set forth in the Act, CONTRACTOR shall immediately notify CITY as required by law, and CONTRACTOR shall work with CITY as required by the Act to assist in any of the following actions:

21.14.1 Investigate the alleged breach and determine if an actual breach has occurred, which may include the use of law enforcement officials as needed and as determined by CITY;

21.14.2 Provide notice to any and all consumers whose personal information has been breached;

21.14.3 Provide any and all other notices to governmental agencies that may be applicable under the Act, if a breach has reached a particular threshold, as defined in the Act, which may include but is not limited to: credit reporting agencies and the Florida Department of Legal Affairs;

21.14.4 Ensure that CONTRACTOR's third-party agents are made aware of the Act and any requirement to comply with the Act, and require that those third-party agents that store customer records of CITY who experience a breach notify CITY immediately, and work with CONTRACTOR and CITY as outlined in this section of the Addendum.

The procedures specified herein shall not supersede any requirement specified by the Act. The provisions of the Act, as may be amended from time to time, shall prevail in the event of any conflict.

21.15 **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 the Iran Petroleum Energy Sector List, or is engaged in business operations with Syria. In accordance with Florida Statute 287.135, 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



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governmental entity for goods or services if:

21.15.1 Any amount of, 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 s. 215.4725 or is engaged in a boycott of Israel; or

21.15.2 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:

21.15.2.1 Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473; or

21.15.2.2 Is engaged in business operations in Syria.

21.16. **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.

21.16.1 Definitions for this Section:

21.16.1.1 "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.

21.16.1.2 "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.

21.16.1.3 "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.

21.16.2 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:

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

21.16.2.2 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



City of Pembroke Pines

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

21.16.2.3 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.

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HAS BEEN INTENTIONALLY LEFT BLANK**



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

ATTEST:

MARLENE D. GRAHAM, CITY CLERK

BY: MAYOR FRANK C. ORTIS

APPROVED AS TO FORM.

Samuel S. Goren, 11/17/2022

BY: CHARLES F. DODGE, CITY MANAGER

Print Name: SAMUEL S. GOREN
OFFICE OF THE CITY ATTORNEY

CONTRACTOR

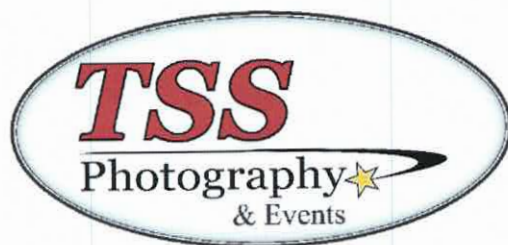
RS PHOTOGRAPHY, LLC., d/b/a TSS
PHOTOGRAPHY

Signed By:

Name: Rachel Sherman

Title: Owner

Exhibit "A"



Photography Bid 2023

1. Your advantage, what it means to have you do our photos
 - a. TSS is located in Broward County. All field staff are background checked on a yearly basis.
2. Who you are
 - a. TSS Photography is a locally owned and operated youth photography company that provides quality products and services to youth sports leagues and schools in the tri-county area.
3. Products and Services
 - a. Individual photos (including memory mates, magazine covers, pennant mates, superstar plaques, trading cards, mugs, key chains, prints and much more), team photos, plaques, trophies, personal customer service, 100% satisfaction guarantee.
4. Delivery and Distribution
 - a. All products purchased are mailed to the individual's homes.
5. Customer Service
 - a. Our offices are open 8am-5pm M-F.
 - i. Office: (954) 933-0986 X201
 - ii. email: customerservice@tss.photography
 - iii. 100% Satisfaction Guarantee
6. Professional Quality
 - a. All orders are processed at our State of the Art Professional Photography Lab. All prints are on professional grade photo paper.
7. Company History
 - a. TSS Photography is locally owned and operated. Serving the tri-county area since 1992. Over the years, TSS has continued to develop new products and services to insure our leagues/schools have the best products available.

8. Financial Contribution: Rebate/Refund/Percentage back at end of shoot
 - a. TSS Photography will offer a rebate of 21% of net sales
9. Special Packages: Price listing of your services
 - a. We offer 4 value packages along with an additional 80 items.
 - i. Basic Pack: Team Mate, 1-5x7, 2-3x5's & Key Chain - \$38
 - ii. All Star: Textured Memory Mate, 2-5x7's - \$29
 - iii. Grandparent: 1-8x10, 2-5x7, 4-3x5, Key Chain & Team Photo - \$49
 - iv. MVP: Sports Mate, 2-3x5 Magnets, 8 Trading Cards - \$46
 - b. A digital download of the individual photo can be added to any of the above packages for \$10
10. Action Photography: do you provide:
 - a. We specialize in still photos. However there is a special event that you want action photos at we can provide those services.
11. Who sets up the Photo shoot?
 - a. TSS contacts your league director (or the individual the league put in charge of picture) to secure a picture day. Once the date is selected, TSS will compose a picture schedule (based on the games schedule) along with a PDF of the order forms to be emailed to the teams.
12. Do you shoot prior to a game?
 - a. TSS can do whichever the league prefers. We can photograph prior to their games on game day or over a set time period on a non game day.
13. Do you use a real goal background or a backdrop to take your photos?
 - a. TSS has both options available. We can photograph the individual & teams outdoor with a goal at your park or indoors with lights and soccer backdrops.
14. We must copy each and every packet you photograph/sell on picture day so we can compare amounts to be sure we get back the right amount of rebate.
 - a. 100% Satisfaction Guarantee. A TSS representative will make sure this is completed before we leave your field.