



**PROFESSIONAL CONSULTING SERVICES AGREEMENT**

**THIS IS AN AGREEMENT ("Agreement")**, dated the \_\_\_\_\_ day of \_\_\_\_\_, 2019 *nunc pro tunc*, July 1, 2019, 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

**A LOVE FOR LANGUAGE, INC.**, a for profit company authorized to do business in the State of Florida, with a business address of **15251 SW 51<sup>st</sup> St., Miramar, FL 33027** (hereinafter referred to as the "CONSULTANT"). CITY and CONSULTANT may hereinafter be referred to collectively as the "Parties."

**R E C I T A L S:**

**WHEREAS**, the CITY operates Charter Schools and requires the services of a part-time Speech/Language Pathologist to serve its student population; and,

**WHEREAS**, the CITY desires to engage a consultant to provide speech/language pathology services; and,

**WHEREAS**, these are specialized and intricate areas of expertise requiring specific knowledge and skill; and,

**WHEREAS**, CONSULTANT maintains all required licenses necessary to perform the services required by this Agreement; and,

**WHEREAS**, CONSULTANT possesses specific knowledge, skills, abilities, experiences, and expertise in the areas of speech/language pathology that would particularly benefit CITY; and,

**WHEREAS**, the City procured pricing for this service under Section 35.18(C)(2), entitled "Professional Services," of the Procurement Code; and,

**WHEREAS**, Section 35.18(C)(2) of the Procurement Code authorizes the City to enter into contracts for professional services involving peculiar skill, ability, experience or expertise, which are in their nature unique, without formal bidding procedures; however, state laws, such as the Consultants' Competitive Negotiation Act of the state statutes, as may be amended from time to time to the extent applicable, shall be followed; and,

**WHEREAS**, CITY desires to engage CONSULTANT to perform the services required herein for the CITY.



**WITNESSETH:**

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

**ARTICLE 1**  
**PREAMBLE**

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

**ARTICLE 2**  
**SERVICES AND RESPONSIBILITIES**

2.1 CONSULTANT hereby agrees to perform the speech/language pathology services for the CITY, including but not limited to evaluation of students, consultation with parents and staff, preparing written reports to the CITY, or other services which may otherwise be required. CONSULTANT agrees to provide speech/language pathology services to the CITY as such services are requested by the CITY in accordance with that description of such services as more particularly described in **Exhibit "A"** attached hereto and by this reference made a part hereof.

2.2 CONSULTANT shall furnish all services, labor, equipment, and materials necessary and as may be required in the performance of this Agreement, except as otherwise specifically provided for herein, and all work performed under this Agreement shall be done in a professional manner. CITY shall provide assessments and protocols as needed by CONSULTANT in the performance of her duties.

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

2.4 CITY agrees to assist and cooperate with CONSULTANT in the performance of this Agreement by providing CONSULTANT with all necessary information required in the performance of CONSULTANT's services hereunder.

2.5 CONSULTANT assumes professional and technical responsibility for performance of its services to be provided hereunder in accordance with recognized professional and ethical guidelines established by their profession. If within one year following completion of its services, such services fail to meet the aforesaid standards, and the CITY promptly advises CONSULTANT thereof in writing, CITY can terminate the agreement.

2.6 The relationship between CITY and CONSULTANT created hereunder and the services to be provided by CONSULTANT pursuant to this Agreement are non-exclusive. CITY shall be free to pursue and engage similar relationships with other contractors to perform the same or similar



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

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

2.8 CONSULTANT agrees to comply with the applicable provisions of the Federal Privacy Rule promulgated by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) as contained in 45 CFR Parts 160 and 164 ("the HIPAA Privacy Rule"). CONSULTANT agrees not to use or further disclose any protected health information ("PHI"), as defined in 45 CFR 164.504, other than as permitted by this Agreement and the requirements of the HIPAA Privacy Rule. CONSULTANT will implement appropriate safeguards to prevent the use or disclosure of PHI other than as provided for by this Agreement. CONSULTANT will promptly report to CITY any use or disclosure of PHI not provided for by this Agreement or in violation of the HIPAA Privacy Rule of which CONSULTANT becomes aware. If CONSULTANT contracts with any agents to whom CONSULTANT provides PHI, CONSULTANT will include provisions in such agreements whereby the CONSULTANT and agent agree to the same restrictions and conditions that apply to CONSULTANT with respect to uses and disclosures of PHI. CONSULTANT will make its internal practices, books and records relating to the use and disclosure of PHI available to the Secretary of the Department of Health and Human Services to the extent required for compliance with the HIPAA Privacy Rule. CONSULTANT may de-identify any and all PHI for educational purposes created or received by CONSULTANT under this Agreement, provided, however, that the de-identification conforms to the requirements of the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and 164, Subparts A and E. To the extent that information has not been de-identified, CONSULTANT will either return or destroy the information. To the extent that it is not feasible to return or destroy the information, CONSULTANT will continue to safeguard the PHI beyond the termination of this Agreement to the extent required for compliance with HIPAA Privacy Rule and not use or disclose the PHI for purposes other than those which make the return or destruction infeasible. To this end, CONSULTANT shall execute a HIPAA Business Associate Agreement, a copy of which is attached hereto as **Exhibit "B"** and by this reference incorporated herein.

2.9 CITY shall make available to CONSULTANT student records in so far as such records are necessary for CONSULTANT to provide services pursuant to this Agreement and such services have a legitimate educational purpose pursuant to 20 USC § 1232 (g), the Family Educational Rights and Privacy Act (FERPA). All records created under this Agreement shall become the property of the CITY. CONSULTANT shall be responsible for complying with all federal, state and local regulations with respect to educational, medical and public records, including, but not limited to Chapter 119, Florida Statutes.

2.10 CONSULTANT hereby confirms that it will abide by the professional and ethical guidelines established by its profession. Specifically, the Parties to this Agreement agree and understand that



they are utilizing the services of a licensed language and speech-language pathologies, licensed and insured under the laws of the State of Florida. CONSULTANT's services are subject to several specific Florida laws, including but not limited to Chapters 39, 456, and 491, Florida Statutes; Chapter 64B-4, Florida Administrative Code, and other state and federal guidelines. Should CONSULTANT's license be suspended, revoked or subject to other discipline, CONSULTANT must immediately notify CITY of such occurrence, and CONSULTANT shall have at its sole option the right to terminate this Agreement without penalty effective immediately.

2.11 CONSULTANT agrees to comply with all requirements of Sections 1012.321, or 1012.465, Florida Statutes, and any and all of its personnel who (1) are to be permitted access to CITY grounds when students are present, (2) will have direct contact with students, or (3) have access or control of CITY funds. Further, CONSULTANT shall successfully complete the background screening requirements of the referenced statutes and meet the standards established by the statutes prior to commencing performance under this Agreement. The CONSULTANT shall bear the cost of acquiring the background screening and shall submit evidence of compliance with this requirement. The Parties agree that the failure of the CONSULTANT to perform any of the duties described in this section or to immediately notify CITY of any change of status of CONSULTANT or its employees with respect to such background screening clearance shall constitute a material breach of this Agreement entitling CITY to terminate immediately with no further responsibilities or duties to perform under this Agreement. The CONSULTANT agrees to indemnify and hold harmless CITY, its elected and appointed officials, officers, employees, and agents from any liability in the form of physical or mental injury, death, or property damage resulting from the CONSULTANT's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

### **ARTICLE 3**

#### **TERM AND TERMINATION**

3.1 This Agreement shall commence on July 1, 2019 and terminate on June 30, 2020 (the "Term"). This Agreement may be renewed for one (1) additional two (2) year term upon the mutual consent of the Parties, evidenced by a written Amendment to this Agreement extending the term thereof. CONSULTANT shall provide services to CITY on an as needed basis during this term.

3.2 This Agreement may be terminated by either party for cause, or by either party for convenience. If terminated for convenience, the terminating party shall provide to the other party seven (7) days' written notice, in which event the CONSULTANT shall be paid its compensation for services performed to termination date. [NOTE: CONSULTANT may not terminate existing assignments for convenience after they have been accepted as addendums to this Agreement.] In the event that the CONSULTANT abandons this Agreement or causes it to be terminated, CONSULTANT shall indemnify the CITY against any loss pertaining to this termination up to a maximum of the full contracted fee amount. All finished or unfinished documents, data, studies, plans, surveys, and reports prepared by CONSULTANT shall become the property of CITY and shall be delivered by CONSULTANT to CITY immediately.



**ARTICLE 4**  
**COMPENSATION AND METHOD OF PAYMENT**

4.1 CONSULTANT shall be entitled to invoice CITY on a monthly basis for services performed. The invoice shall include, but not be limited to, date of service, the amount of time spent, a description of the service, and any other information reasonably required by CITY. The compensation shall not exceed **the rate of fifty dollars (\$50.00) for one (1) hour.**

4.2 CITY will make its best efforts to pay CONSULTANT within thirty (30) days of receipt of proper invoice the total shown to be due on such invoice.

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

4.4 The Fee does not include out-of-pocket or travel expenses, which shall not be separately reimbursable.

4.5 All charges due to the CONSULTANT by the CITY are irrespective of whether or not a student is present when the schedule visit takes place. Any cancellation of appointment must be made at least twenty-four (24) hours in advance of the scheduled visit.

4.6 CONSULTANT shall be permitted to meet with CITY's students at the CITY's schools, the student's home or such other agreed upon location.

4.7 Payment will be made to CONSULTANT at:

**A Love For Language, Inc.**  
**15251 SW 51<sup>st</sup> Street**  
**Miramar, FL 33027**

**ARTICLE 5**  
**CHANGES TO SCOPE OF WORK AND ADDITIONAL WORK**

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

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



## **ARTICLE 6**

### **INDEMNIFICATION**

6.1 CONSULTANT shall indemnify and save harmless the CITY, its trustees, elected and appointed officials, agents, servants and employees from and against any and all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, sustained by the CITY, its trustees, elected and appointed officials, agents, servants or employees arising out of, or by reason of, or resulting from the negligence, recklessness, or intentionally wrongful conduct of CONSULTANT, its agents, servants or employees in the performance under this Agreement.

6.2 Reserved.

6.3 CONSULTANT'S aggregate liability shall not exceed the proceeds of insurance required to be placed pursuant to this Agreement plus the compensation received by CONSULTANT, or extend to any claims brought subsequent to the expiration of warranty period outlined above. The CITY's rights and remedies and CONSULTANT's liabilities as set forth in this Agreement, are exclusive, and the CITY hereby releases CONSULTANT from all further or subsequent liability, whether based in contract or tort and irrespective of fault, negligence, or strict liability.

6.4 The Parties recognize that various provisions of this Agreement, including but not necessarily limited to this section, provide for indemnification by the CONSULTANT and that §725.06, Florida Statutes, 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 CONSULTANT. 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.

## **ARTICLE 7**

### **INSURANCE**

7.1 The CONSULTANT shall indemnify and hold harmless the CITY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including 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 CONSULTANT or its employees, agents, servants, partners principals or subcontractors. The CONSULTANT shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the CITY, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The CONSULTANT expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the CONSULTANT shall in no way limit the responsibility to indemnify, keep and save harmless and defend the CITY or its officers, employees, agents and instrumentalities as herein provided.



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

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

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

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

#### 7.6 REQUIRED INSURANCE

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

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

**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.**

7.6.2 Workers' Compensation and Employers Liability Insurance covering all employees, and/or volunteers of the CONSULTANT engaged in the performance of the scope of work associated with this Agreement shall be maintained by the CONSULTANT.



In the case any work is sublet, the CONSULTANT shall require the subcontractors similarly to provide Workers Compensation Insurance for all the latter's employees unless such employees are covered by the protection afforded by the CONSULTANT. Coverage for the CONSULTANT and all subcontractors shall be in accordance with applicable state and/or federal laws that may apply to Workers' Compensation Insurance with limits of liability no less than:

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

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

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

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

7.6.4 Professional Liability/Errors & Omissions Insurance, when applicable, with a limit of liability no less than \$1,000,000 per wrongful act. This coverage shall be maintained for a period of no less than two (2) years after final payment of the contract.

7.6.5 Sexual Abuse may not be excluded from any policy.

## 7.7 REQUIRED ENDORSEMENTS

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





7.8 CONSULTANT 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.

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

7.10 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.

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

## **ARTICLE 8**

### **NON-DISCRIMINATION AND EQUAL OPPORTUNITY EMPLOYMENT**

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

## **ARTICLE 9**

### **INDEPENDENT CONTRACTOR**

9.1 This Agreement does not create an employee/employer relationship between the Parties. It is the intent of the Parties that the CONSULTANT is an independent contractor under this Agreement and not the CITY's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue



Code, the State Workers' Compensation Act, and the State unemployment insurance law. The CONSULTANT shall retain sole and absolute discretion in the judgment of the manner and means of carrying out CONSULTANT's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT, which policies of CONSULTANT shall not conflict with CITY, State, H.U.D., or United States policies, rules or regulations relating to the use of CONSULTANT's Funds provided for herein. The CONSULTANT agrees that it is a separate and independent enterprise from the CITY, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between the CONSULTANT and the CITY and the CITY will not be liable for any obligation incurred by CONSULTANT, including but not limited to unpaid minimum wages and/or overtime premiums.

## **ARTICLE 10**

### **GOVERNING LAW & VENUE**

10.1 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 claims or actions arising out of or related to this Agreement shall be in Broward County, Florida.

## **ARTICLE 11**

### **PUBLIC RECORDS**

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

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

11.1.2 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;

11.1.3 Ensure that public records that are exempt or that are confidential and exempt from public record disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and, following completion of the Agreement, CONSULTANT shall destroy all copies of such confidential and exempt records remaining in its possession after the CONSULTANT transfers the records in its possession to the CITY; and

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



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

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

**CITY CLERK  
601 CITY CENTER WAY, 4<sup>th</sup> FLOOR  
PEMBROKE PINES, FL 33025  
(954) 450-1050  
[mgraham@ppines.com](mailto:mgraham@ppines.com)**

**ARTICLE 12  
MISCELLANEOUS**

12.1 **Ownership of Documents.** Reports, surveys, plans, studies and other data provided in connection with this Agreement are and shall remain the property of CITY whether or not the project for which they are made is completed. CITY hereby agrees to use CONSULTANT's work product for its intended purposes.

12.2 **Records.** CONSULTANT shall keep such records and accounts and require any and all subcontractors to keep records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged to this engagement, and any expenses for which CONSULTANT expects to be reimbursed. Such books and records will be available at all reasonable times for examination and audit by CITY and shall be kept for a period of ten (10) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by CITY of any fees or expenses based upon such entries. All records shall be maintained and available for disclosure, as appropriate, in accordance with Chapter 119, F.S.

12.3 **Assignments; Amendments.** This Agreement, and any interests herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by CONSULTANT without the prior written consent of CITY. For purposes of this Agreement, any change of ownership of CONSULTANT shall constitute an assignment which requires CITY approval. However, this Agreement shall run to the benefit of CITY and its successors and assigns.

It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.



12.4 **No Contingent Fees.** CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONSULTANT any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, CITY shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

12.5 **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, CONSULTANT and CITY designate the following as the respective places for giving of notice:

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

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

CONSULTANT            **A Love For Language, Inc.**  
**Lucy Windevoxhel**  
**15251 SW 51<sup>st</sup> Street**  
**Miramar, FL 33027**  
**Telephone No.:            (305) 206-2873**  
**Facsimile No.:            (954) 391-5055**  
**Email:                      [aloveforlanguage@gmail.com](mailto:aloveforlanguage@gmail.com)**

12.6 **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.

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



12.8 **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.

12.9 **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.

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

12.11 **Legal Representation.** It is acknowledged that each party was represented by counsel in the preparation of and contributed equally to the terms and conditions 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.

12.12 **Counterparts and Execution.** This Agreement may be executed 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.

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

12.14 PURSUANT TO SECTION 558.0035, FLORIDA STATUTES, AN INDIVIDUAL EMPLOYEE OR AGENT OF THE CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR ECONOMIC DAMAGES RESULTING FROM NEGLIGENCE UNDER THIS AGREEMENT IF THE CONDITIONS OF SECTION 558.0035, F.S., as amended from time to time, ARE SATISFIED.

12.15 **Scrutinized Companies.** CONSULTANT, its principals or owners, certify that they are not listed on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in 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 governmental entity for goods or services if:

12.15.1 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

12.15.2 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:

12.15.2.1 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

12.15.2.2 Is engaged in business operations in Syria.

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

12.17 **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.

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

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

12.19.1 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, been 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.

12.20 **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.

12.21 **Compliance With Statutes.** It shall be CONSULTANT's responsibility to be aware of and comply with all applicable statutes, ordinances, rules, orders, regulations and requirements of all state and federal agencies, as applicable; specifically the Jessica Lunsford Act – Chapter 1012, Florida Statutes, which provides for the screening of individuals who are vendors or licensees with a Florida public school or district.

**THE REMAINDER OF THIS PAGE**

**HAS BEEN INTENTIONALLY LEFT BLANK**





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

ATTEST:

MARLENE D. GRAHAM, CITY CLERK

By: CHARLES F. DODGE, CITY MANAGER

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

**CONSULTANT:**

A LOVE FOR LANGUAGE, INC.

By: Lucy M. Winderoxhel

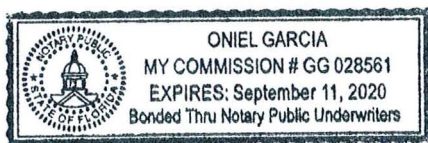
Name: Lucy M. Winderoxhel

Title: Speech-Language Pathologist/owner

STATE OF Florida  
COUNTY OF Broward

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared Lucy M. Winderoxhel as owner of A LOVE FOR LANGUAGE, INC., a company authorized to conduct business in the State of Florida, and acknowledged execution of the foregoing Agreement as the proper official of A LOVE FOR LANGUAGE, INC. for the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 1<sup>st</sup> day of August, 2019.



Oniel Garcia  
NOTARY PUBLIC

Oniel Garcia  
(Name of Notary Typed, Printed or Stamped)



## **EXHIBIT "A"**

### **SCOPE OF SERVICES AND RESPONSIBILITIES**

#### **Speech and Language Pathologist Role and Responsibilities:**

- Evaluate for: speech delays/disorders, language delays/disorders, and fluency disorders (stuttering)
- Write Individual Education Plans
- Provide speech/ language therapy as prescribed in the IEP
- Document services provided through the EASY IEP database
- Document and monitor students' progress regarding their S/L goals
- Collaborate with teachers
- Communicate with Parents
- Collaborate with the ESE team
- Participate in IEP meetings