

AGREEMENT FOR DISASTER DEBRIS MONITORING SERVICES

THIS AGREEMENT made and entered into on this _____ day of _____, 2018 by and between:

CITY OF PEMBROKE PINES, FLORIDA, 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 "CITY"
and

TETRA TECH, INC., a Delaware corporation authorized to do business in the State of Florida with a business address of 3475 E. Foothill Blvd., Pasadena, CA 91107 hereinafter referred to as "CONTRACTOR". CITY and CONTRACTOR may be collectively referred to as the "Parties."

WITNESSETH:

WHEREAS, the CITY may experience massive destruction wrought by the impact of a hurricane landfall, violent storms, spawning tornadoes as well as other natural and/or man-made disasters (hereinafter "Catastrophic Events"); and

WHEREAS, it may be necessary to provide debris removal, disaster recovery, and financial recovery technical assistance to appointed and elected officials within the CITY, resulting from these Catastrophic Events; and

WHEREAS, should the need arise, the CITY may find it necessary to contract with Debris Recovery Contractors in order to remove disaster generated debris from public property and public rights of way so as to protect the public health and safety, minimize economic and environmental impacts and facilitate the restoration of normal public services following a Catastrophic Event; and

WHEREAS, it is foreseen that the CITY will require the services of Disaster Debris Monitoring and Financial Recovery Services CONTRACTORS to support the oversight and management of the Debris Recovery Contractors being utilized by and under contract with the CITY in the event of a Catastrophic Event; and

WHEREAS, the CITY publicly submitted a Request for Proposal No. AD-18-04 - Disaster/Debris Monitoring Services and Financial Recovery Assistance (hereinafter "RFP"), for Disaster Debris Monitoring and Financial Recovery Services on an as needed basis, a copy of which is attached hereto as **Exhibit "A"** and incorporated herein by reference; and

WHEREAS, the City Commission, at the June 13, 2018 commission meeting awarded a contract pursuant to the RFP to **Tetra Tech, Inc.** as the primary vendor and **Rostan Solutions, LLC** as the secondary vendor to be utilized in an emergency situation resulting from catastrophic

events; and

WHEREAS, CITY is desirous of using the CONTRACTOR for Disaster Debris Monitoring and Financial Recovery Services as recommended by CITY staff should the need arise; and

WHEREAS, the services to be provided by the CONTRACTOR will support the oversight and management of Debris Recovery Contractors being utilized by the CITY during a Catastrophic Event and assist the CITY in financial recovery after a Catastrophic Event. Also, the CONTRACTOR will provide a range of related services including damage assessment, training, emergency planning and other services as needed and requested by the CITY; and

WHEREAS, other services of the CONTRACTOR may include facilitating communication with the Federal Emergency Management Agency (hereinafter "FEMA"), the Federal Highway Administration (hereinafter "FHWA"), Broward County, the State of Florida and other federal, state or local agencies, and coordination with state insurance representatives; and

WHEREAS, the CONTRACTOR desires to perform such services subject to the terms of this Agreement; and

WHEREAS, FEMA's regulations require that the CITY has a written contract with its CONTRACTORS to be used following Catastrophic Events, as described above; and

WHEREAS, the CITY and the CONTRACTOR have reached a mutual agreement as to the terms and conditions of such services; and

WHEREAS, this Agreement does not preclude the CITY's from using other vendors which provide the same or similar services as provided by the CONTRACTOR on an as needed basis; and

WHEREAS, this Agreement would potentially be invoked for City, County, State and Federally declared emergency disaster events and where the services will only be required when an emergency situation exists which threatens the life, safety or welfare of the citizens of Pembroke Pines; and

WHEREAS, the City Commission of the City of Pembroke Pines, Florida deems it in the best interest of the citizens and residents of the CITY to enter into an agreement with CONTRACTOR for Disaster Debris Monitoring and Financial Recovery Services.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, understandings, conditions, premises, covenants, and payment hereinafter set forth, and intending to be legally bound, the Parties hereby 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 foregoing 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.

ARTICLE 2
SERVICES AND RESPONSIBILITIES

2.1 CONTRACTOR hereby agrees to perform the following services for the CITY:

See the scope of services included in the RFP for AD-18-04 - Disaster/Debris Monitoring Services and Financial Recovery Assistance and the CONTRACTOR's Response to the RFP ("Proposal") which is attached hereto as **Exhibit "B"** and incorporated herein by this reference. To the extent of any conflict between the terms of this Agreement, the RFP and the Proposal, this Agreement shall prevail over the RFP and the Proposal, and the RFP shall prevail over the Proposal. The terms, conditions and requirements of the RFP are incorporated herein by this reference.

2.2 CONTRACTOR shall furnish all Services, labor, equipment, and materials necessary and as may be required in the performance of this Agreement and all work performed under this Agreement shall be done in a professional manner. All necessary permits, licenses and certificates required for the execution of this Agreement shall be secured and paid for by the CONTRACTOR.

2.3 CONTRACTOR hereby represents to CITY, with full knowledge that CITY is relying upon these representations when entering into this Agreement with CONTRACTOR, that CONTRACTOR has the professional expertise, experience, resources and staff to perform the Services.

2.4 CONTRACTOR assumes professional and technical responsibility for performance of the Services in accordance with recognized standards. If within one year following completion of its Services, such Services fail to meet the aforesaid standards, and the CITY promptly advises CONTRACTOR thereof in writing, CONTRACTOR agrees to re-perform such deficient Services without charge to the CITY.

2.5 CONTRACTOR shall not utilize the services of any Sub-CONTRACTOR without the prior written approval of CITY.

2.6 Event Closure: CONTRACTOR will assist the CITY in preparing final reports necessary for reimbursement by FEMA, FHWA and any other applicable agencies for disaster recovery efforts by CITY staff and designated Debris Removal Contractors. The CONTRACTOR will

assist in review and processing requests for payment by the Disaster Debris Removal Contractors.

2.7 Services and Facilities: It is understood that, except as otherwise specifically stated in this Agreement and Attachments to this agreement, the CONTRACTOR shall provide and pay for all labor, tools, equipment, transportation, supervision, and all other services and facilities of any nature whatsoever necessary to execute, complete and deliver the services within the time specified in the Notice-To-Proceed as agreed upon by both parties.

2.8 Supervision by CONTRACTOR: The CONTRACTOR will supervise and direct all Services. The CONTRACTOR is solely responsible for the means, methods, techniques, sequences, safety program and procedures. The CONTRACTOR will employ and maintain on the worksite a qualified supervisor(s) who shall have full authority to act on behalf of the CONTRACTOR and all communications given to the supervisor(s) by the CITY's Authorized Representative shall be as binding as if given to the CONTRACTOR. The name(s) of the supervisor(s) will be supplied to the CITY for each issuance of a Notice to Proceed through an attachment to this Agreement in the form of a Memorandum for the Record.

2.9 Changes in the Scope of Services: The CITY and CONTRACTOR may at any time order changes within the scope of services without invalidating this Agreement. All changes affecting the project's costs or modifications of the terms, conditions, and the scopes of services of this Agreement shall be authorized by means of an official written Contract Change Order that is mutually agreed upon and signed by the CITY and the CONTRACTOR. All changes must be recorded on a written Contract Change Order before CONTRACTOR may proceed with the changes to the services provided. All changes must be allowable, allocable, within the scope of FEMA's grant or cooperative agreement, and reasonable for the completion of the Project. CITY's Signatory Authority for such changes shall be as set for in the CITY's Code of Ordinances.

ARTICLE 3 TERM

3.1 Term: This Agreement shall be effective for an initial three (3) year period commencing with the date of execution by both Parties.

3.2 Renewal: The Agreement may be renewed for up to two (2) additional, three (3) year periods, evidenced by a written Amendment to this Agreement extending the term hereof.

3.3 Contract Pricing: The pricing negotiated with the CONTRACTOR shall remain firm during the initial Agreement period as evidenced in **Exhibit "B"** attached hereto and incorporated herein by reference. Prices for renewal periods shall be based on the FEMA regulation guidelines.

ARTICLE 4 PAYMENT

4.1 Pricing for all services shall be done in accordance with CONTRACTOR's Proposal

incorporated herein by reference.

4.2 Schedule: CONTRACTOR will provide continuous services for fee, not to exceed a negotiated amount, for the period specified in the notice to proceed. A mutual 'not to exceed amount' will be negotiated for each operation based on the hourly rates proposed CONTRACTOR's Proposal incorporated herein, which shall not exceed FEMA reimbursement rates for the services. Should these services be required for a longer period, CONTRACTOR will prepare and submit a proposal for additional costs, consistent with the rates in the Cost Proposal Forms. A revised cost will be negotiated.

4.3 Travel and Subsistence Policy and Allowances: No cost for travel and associated expense shall be incurred without the express written approval of the CITY. Costs for approval travel per diem or mileage expenses shall be in strict accordance with this Agreement and Section 112.061, Florida Statutes.

4.4 Invoices shall be submitted in duplicate to the Director of Public Services, City of Pembroke Pines, 13975 Pembroke Road, Pembroke Pines, Florida 33027, no more than once every fifteen (15) days. Each invoice shall contain a detailed description of services and fees.

4.5 The CITY shall make payment on all invoices in accordance with the Florida Prompt Payment Act, Sections 218.70 through 218.79, Florida Statutes, inclusive.

4.6 Other than the fees set forth herein, the CONTRACTOR shall not be entitled to payment for expenses, fees, or other costs it may incur at any time and in any connection with its performance hereunder.

ARTICLE 5 CHANGES TO SCOPE OF WORK AND ADDITIONAL WORK

CITY or CONTRACTOR may request changes that would increase, decrease or otherwise modify the scope of Services to be provided under this Agreement. Such changes or additional services must be in accordance with the provisions of the Code or Ordinances of the CITY and must be contained in a written amendment, executed by the parties hereto, with the same formality and with equality and dignity 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 in a separate written Agreement executed by the parties hereto.

ARTICLE 6 MISCELLANEOUS

6.1 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 CONTRACTOR's work product for its intended purposes.

6.2 Termination. This Agreement may be terminated by either party for cause after providing

notice of default to the party in default and a reasonable period of time to cure the default. This Agreement may be terminated by CITY for convenience, upon thirty (30) days written notice to CONTRACTOR. In event of termination for convenience, the CONTRACTOR shall be paid its compensation for Services performed to the termination date. In the event that the CONTRACTOR abandons this Agreement or causes it to be terminated, it shall indemnify the CITY against any loss pertaining to this termination. All finished or unfinished documents, data, studies, plans, surveys, and reports prepared by CONTRACTOR shall become the property of CITY and shall be delivered by CONTRACTOR to CITY immediately.

6.3 Indemnification. The CONTRACTOR shall indemnify and hold harmless the CITY, its trustees, elected and appointed officers, agents, servants, assigns and employees, from and against any and all claims, demands, or causes of action whatsoever, and the resulting losses, costs, expenses, reasonable attorneys' fees, including paralegal expenses, liabilities, damages, orders, judgments, or decrees, sustained by the CITY or any third party arising out of, by reason of, or resulting from the CONTRACTOR's acts, errors, or omissions or the failure of the CONTRACTOR to take out and maintain insurance as required under this Agreement.

6.3.1 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.

6.3.2 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.

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

6.4 Insurance. 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 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.

6.4.1 CONTRACTOR 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 CONTRACTOR allow any subcontractor to commence

work on his subcontract until all similar such insurance required of the subcontractor has been obtained and similarly approved.

6.4.2 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.

6.4.3 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.

6.4.4 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.

6.4.5 REQUIRED INSURANCE

6.4.5.1 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

Products & Completed Operations Coverage shall be maintained for two (2) years after the final payment under this contract.

The City of Pembroke Pines must be shown as an additional insured with respect to this coverage.

6.4.5.2 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.

6.4.5.3 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

6.4.5.4 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.

6.4.5.5 Sexual Abuse may not be excluded from any policy.

6.4.6 REQUIRED ENDORSEMENTS

6.4.6.1 The City of Pembroke Pines shall be named as an Additional Insured on each of the General Liability policies required herein

6.4.6.2 Waiver of all Rights of Subrogation against the CITY

6.4.6.3 30 Day Notice of Cancellation or Non-Renewal to the CITY

6.4.6.4 CONTRACTORS' policies shall be Primary & Non-Contributory

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

6.4.6.6 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.

6.4.7 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.

6.4.8 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, 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.

6.4.9 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 Contract..

6.5 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, H.U.D., or United States policies, rules or regulations relating to the use of CONTRACTOR's Funds provided for herein.. The CONTRACTOR agree that it is a separate and independent enterprise from the CITY, that it has full opportunity to find other business, that it has make 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.

6.6 Assignments; Amendments.

6.6.1 This Agreement, or any interest 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. However, this Agreement shall run to the CITY and its successors and assigns.

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

6.7 Notice. Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by United States Mail - Certified Return Receipt and addressed to the party for whom it is intended and the remaining party at the place 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, the CONTRACTOR and the CITY designate the following as the respective places for giving of notice:

CITY: City Manager
City of Pembroke Pines
601 City Center Way
Pembroke Pines, Florida 33025

Copy To: City Attorney
Goren, Cherof, Doody & Ezrol, P.A.
3099 East Commercial Boulevard, Suite 200
Fort Lauderdale, Florida 33308

CONTRACTOR: Contracts Administrator
Tetra Tech, Inc.
2301 Lucien Way, Suite 120
Maitland, FL 32751

6.8 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.

6.9 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.

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

6.11 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.

6.12 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.

6.13 Governing Law. This Agreement shall be governed by the laws of the State of Florida with venue lying in Broward County, Florida.

6.14 Extent of Agreement. This Agreement represents the entire and integrated Agreement between the CITY and the CONTRACTOR and supersedes all prior negotiations, representations or Agreements, either written or oral.

6.15 Facsimile or Electronic Signature Deemed Original. This Agreement and any addendum thereto, may be executed and distributed by facsimile or electronically by pdf and a copy of this Agreement executed and distributed by facsimile or electronically by pdf shall be deemed an original for all purposes. The Agreement and any addendum thereto may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

ARTICLE 7 FEMA REQUIREMENTS

Any reference made to CONTRACTOR in this section shall also apply to any Subcontractor under the terms of this Contract. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses:

7.1 CONTRACTOR shall assist CITY in completing any and all forms necessary for reimbursements from state or federal agencies, including but not limited to FEMA, relating to costs arising out of Disaster and Debris Monitoring Services. This may include, but is not limited to, the timely completion and submittal of reimbursement requests, preparation and submittal of any and all necessary cost substantiation and preparing replies to any and all agency denial or inquiries. CONTRACTOR responsibilities in this regard are set forth in **Exhibit "A"**.

7.2 If reimbursement is denied to CITY due to CONTRACTOR's negligence collecting or removing debris, completing project worksheets and load tickets, or documenting work performed, CONTRACTOR upon notification from FEMA or the Florida Division of Emergency Management of such denial and upon written demand by the CITY, shall reimburse CITY for amounts denied due to CONTRACTOR's negligence. This obligation shall survive the term or termination of this Agreement.

7.3 Notwithstanding anything to the contrary set forth herein, CONTRACTOR shall comply with the following federally required standard provisions, as set forth in 2 C.F.R. Sec.200.326 and 2 C.F.R. Part 200. In the event of any conflicts, the provisions of this section shall prevail.

6.3.1 **Equal Employment Opportunity:** During the performance of this contract, CONTRACTOR agrees as follows:

(1) CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity,

or national origin. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, 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 agrees 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.

(2) CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with CONTRACTOR's legal duty to furnish information.

(4) CONTRACTOR will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of CONTRACTOR's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of CONTRACTOR's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and CONTRACTOR may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) CONTRACTOR will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. CONTRACTOR will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided*, however, that in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

7.3.2 Davis-Bacon Act: Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor Regulations (29 CFR Part 5). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.

7.3.3 Copeland "Anti-Kickback" Act: CONTRACTOR shall comply with the Copeland "Anti-Kickback" Act, (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). CONTRACTOR must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. CITY must report all suspected or reported violations to the Federal awarding agency.

7.3.4 Contract Work Hours and Safety Standards Act. (40 U.S.C. 3701- 3708). Where applicable, pursuant to 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5) CONTRACTOR must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary,

hazardous or dangerous.

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. CITY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

7.3.5 Clean Air Act: Pursuant to 42 U.S.C. 7401- 7671q. and the Federal Water Pollution Control Act (33 U.S.C. 1251- 1387), as amended CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). CITY will report violations to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Clean Air Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The contractor agrees to report each violation to CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the State, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The contractor agrees to report each violation to the CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the State, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.”

7.3.6. Suspension and Debarment. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935)

- (1) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. This certification is a material representation of fact relied upon by CITY. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to State and CITY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (2) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer.

The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

7.3.7. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.”

7.3.8 Compliance with State Energy Policy and Conservation Act. Contractor shall comply with all mandatory standards and policies relating to energy efficiency contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163, 89 Stat. 871).

7.3.9 Recovered Materials.

(1) In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired

(i) Competitively within a timeframe providing for compliance with the contract performance schedule

(ii) Meeting Contract performance requirements; or

(iii) At a reasonable price.

(2) Information about this requirement, along with the list of EPA-designated items, is available at EPA’s Comprehensive Procurement Guidelines web site, <http://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

7.3.10 Pursuant to 44 CFR 13.36(i)(7), Contractor shall comply with FEMA requirements and regulations pertaining to reporting, including but not limited to those set forth at 44 CFR 40 and 41

7.3.11 Pursuant to 44 CFR 13.36(i)(8), Contractor agrees that if this Agreement results in any copyrightable materials or inventions, in accordance with 44 CFR 13.34, FEMA reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use the copyright of said materials or inventions for Federal Government purposes

7.3.12 Access to Records. In accordance with 44 CFR 13.36(i)(11) and Chapters 119 and 257, Florida Statutes,

(1) The Contractor agrees to provide the City, State, FEMA, the Comptroller General of the United States or any of their authorized representatives access to any

books, documents, papers and records of the Contractor which are directly pertinent to the contract for the purposes of making audits, examinations, excerpts and transcriptions.

(2) The Contractor agrees to maintain all books, records, accounts and reports required under the contract for a period of not less than five (5) years after the date of termination or expiration of the contract, except in the event of litigation or settlement of claims arising from the performance of the contract, in which case Contractor agrees to maintain same until the City, the State, FEMA, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

(3) In order to comply with Florida's public records laws, the Contractor shall:

a. Keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the services under the Agreement.

b. Provide the public with access to public records on the same terms and conditions that the CITY would provide the records and at a cost that does not exceed the cost provided in Chapter 119 Florida Statutes or as otherwise provided by law.

c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

d. Meet all requirements for retaining public records and transfer, at no cost, to the CITY all public records in possession of Contractor upon termination of the Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the CITY in a format that is compatible with the information technology systems of the CITY.

IF THE COMPANY 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

**CUSTOMER CLERK
601 CUSTOMER CENTER WAY, 4th FLOOR
PEMBROKE PINES, FL 33026
(954) 450-1050
mgraham@ppines.com**

7.3.13 No Obligation by the Federal Government

(1) Absent the express written consent by the Federal Government, the Federal Government or FEMA is not a party to the contract and shall not be subject to any obligations or liabilities to the City, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FEMA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

7.3.14 DHS Seal, Logo, and Flags. The Contractor shall not use DHS(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

7.3.15 Compliance with Federal Law, Regulations, and Executive Orders. This is an acknowledgement that FEMA financial assistance will be used to fund the Contract only. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

7.3.16 Fraudulent Statements. The Contractor acknowledges that 31 U.S.C. Chap. 38 applies to the Contractor's actions pertaining to this Contract.

THE REST 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.

ATTEST:

CITY

BY:

MARLENE GRAHAM, CITY CLERK

MAYOR FRANK C. ORTIS

APPROVED AS TO FORM

BY:

Samuel S. Goren, 8/29/19.
SAMUEL S. GOREN
CITY ATTORNEY

Charles F. Dodge
CHARLES F. DODGE
CITY MANAGER

CONTRACTOR

BY:

Print: Jonathan Burgiel

Title: Business Unit President

ATTEST:

CONTRACTS ADMINISTRATOR

STATE OF FLORIDA)

) S.S.

COUNTY OF ORANGE)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared Jonathan Burgiel, as Business Unit President of TETRA TECH, INC. and acknowledged he/she has executed the foregoing Agreement, who is personally known to me or has produced _____ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 28th day of August, ~~2018~~ 2019



NOTARY PUBLIC

03/09/22
My Commission Expires: