



**FIRST AMENDMENT TO AGREEMENT  
BETWEEN THE CITY OF PEMBROKE PINES AND  
MSL, P.A.**

**THIS IS AN AGREEMENT ("Agreement")**, dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between:

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

and

**MSL, P.A. F/K/A MOORE STEPHENS LOVELACE, P.A.**, a Florida Profit Corporation as listed with the Florida Division of Corporations, and with a business address of **255 S. Orange Avenue, Suite #600, Orlando, FL 32801**, hereinafter referred to as "COMMISSION AUDITOR". "CITY" and "COMMISSION AUDITOR" may hereafter be collectively referred to as the "Parties".

**WHEREAS**, on **July 12<sup>th</sup>, 2016**, the CITY and COMMISSION AUDITOR entered into the Original Agreement ("Original Agreement") for an initial **seven (7) years period**, expiring on **August 2<sup>nd</sup>, 2023**; and,

**WHEREAS**, Moore Stephens Lovelace, P.A. changed its corporate name to MSL, P.A. as set forth on **Exhibit "C"** attached hereto and by this reference made a part hereof; and,

**WHEREAS**, to date the Parties have been satisfied with the performance and execution of the Agreement and desire to amend the Original Agreement as set forth herein; and,

**WHEREAS**, the Parties further desire to amend the Original Agreement to include certain provisions required by statutory amendments imposed since the Parties entered into the Original Agreement; and,

**W I T N E S S E T H**

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

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



**SECTION 2.** Article 3 is hereby amended to add Section (e) as set forth below:

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

**SECTION 3.** Section 7. (a) is hereby repealed and replace as set forth below:

(a) *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, COMMISSION AUDITOR 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, 4<sup>th</sup> Floor  
Pembroke Pines, Florida 33025  
Telephone No. (954) 450-1040

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

COMMISSION AUDITOR Daniel O'Keefe  
MSL, P.A.  
255 S. Orange Avenue, Suite 600,  
Orlando, FL 32801  
E-mail: dokeefe@mslcpa.com  
Telephone No: (407) 740-5400

**SECTION 3.** Article 7 entitled "Miscellaneous" is hereby amended by the addition of Section (p) and Section (q), as set forth below:

(p) *Non-Discrimination and Equal Opportunity Employment.* During the performance of this Agreement, neither the COMMISSION AUDITOR 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. COMMISSION AUDITOR 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. COMMISSION AUDITOR 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. COMMISSION AUDITOR further agrees that he/she/it will ensure that subcontractors, if any, will be made aware of and will comply with this non-discrimination clause.

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

**SECTION 4.** The Original Agreement, is hereby amended to add Article 9 as set forth below:

9. Scrutinized Companies

(a) COMMISSION AUDITOR, 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 Section 287.135, Florida Statutes, as amended, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with any agency or local governmental entity for goods or services if:



(i) 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 Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or

(ii) 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:

(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 Section 215.473, Florida Statutes; or

(2) Is engaged in business operations in Syria.

**SECTION 5.** In the event of any conflict or ambiguity by and between the terms and provisions of this First Amendment, and the Original Agreement, the terms and provisions of this First Amendment shall control to the extent of any such conflict or ambiguity.

**SECTION 6.** The Parties agree that in all other respects the Original Agreement, as amended by this First Amendment, shall remain in full force and effect, except as specifically modified herein.

**SECTION 7.** Each exhibit referred to in the Original Agreement, except as repealed herein, 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.

**SECTION 8.** This Agreement may be executed by hand or electronically in multiple originals or counterparts, each of which shall be deemed to be an original and together shall constitute one and the same agreement. Execution and delivery of this Agreement by the Parties shall be legally binding, valid and effective upon delivery of the executed documents to the other party through facsimile transmission, email, or other electronic delivery.

**SECTION 9.** Each party agrees that electronic signatures, whether digital or encrypted, of the parties included in this Agreement are intended to authenticate this Agreement and to have the same force and effect as manual signatures. Delivery of a copy of this Agreement or any other document contemplated hereby bearing an original or electronic signature by facsimile transmission (whether directly from one facsimile device to another by means of a dial-up connection or whether mediated by the worldwide web), by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original or electronic signature.

**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.

ATTEST:

**CITY:**

CITY OF PEMBROKE PINES

BY: \_\_\_\_\_

\_\_\_\_\_  
MARLENE D. GRAHAM,  
CITY CLERK

\_\_\_\_\_  
CHARLES F. DODGE  
CITY MANAGER

APPROVED AS TO FORM

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
OFFICE OF THE CITY ATTORNEY

**COMMISSION AUDITOR:**

MSL, P.A.

By: Daniel J. O'Keefe  
Name: Daniel J. O'Keefe  
Title: Shareholder, Vice-Chairman