

**CITY OF PORT SAINT LUCIE
CONTRACT #20190082**

This Employee Group Dental Administrative Services contract, executed this 22nd day of July, 2019, by and between the CITY OF PORT ST. LUCIE, FLORIDA, a municipal corporation, duly organized under the laws of the State of Florida, hereinafter called "City" party of the first part, and name of *Florida Combined Life, 4800 Deerwood Campus Parkway, Jacksonville, Florida 32246*, Telephone No.(904)866-4152 Fax No.(904) 302-8128, hereinafter called "Contractor" or "Provider", party of the second part.

**SECTION I
RECITALS**

In consideration of the below agreements and covenants set forth herein, the parties agree as follows:

WHEREAS, Contractor is licensed in the State of Florida; and

WHEREAS, the City wishes to contract with a Contractor for Employee Group Dental Administrative Services for the employees of the City, retirees and their dependents based on the terms and conditions contained herein; and

WHEREAS, Contractor is qualified, willing and able to provide the Scope of Services and work for dental administrative services on the terms and conditions set forth herein; and

WHEREAS, the City desires to enter into this contract with Contractor to perform the Scope of Services and work / dental administrative services specified and, in an amount, agreed to below.

NOW THEREFORE, in consideration of the premises and the mutual covenants herein name, the Parties agree as follows:

The Recitals set forth above are hereby incorporated into this Contract and made a part of hereof for reference.

**SECTION II
NOTICES**

All notices or other communications hereunder shall be in writing and shall be deemed duly given if delivered in person, sent by certified mail with return receipt request, email or fax and addressed as follows unless written notice of a change of address is given pursuant to the provisions of this Contract.

Firm/Contractor: Tracey Carbonell
Strategic Account Manager
4350 West Cypress Street, Suite 400
Tampa, Florida 33607
Telephone: (904) 305-8106 / Fax: (904) 425-7106
Email: Tracey.Carbonell@fclife.com

City Contract Administrator: Lenora Sevillian, MBA, CIPP, CPPP, CPCM
Division Director -Procurement Management Department
121 SW Port St. Lucie Boulevard

Port St. Lucie, FL 34984-5099
Telephone: (772)-871-7390 / Fax: (772)-871-7337
E-mail: lsevillian@cityofpsl.com

City Project Manager: Claudia McCaskill, B.S., GBA, PHRP, PHR, SHRM-CP
Human Resources Department
City of Port St. Lucie
121 SW Port St. Lucie, Blvd.
Port St. Lucie, FL 34984
Telephone: 772-344-4081 / Fax: 772-871-5274
Email: cmccaskill@cityofpsl.com

SECTION III **DESCRIPTION OF SERVICES**

SCOPE OF SERVICES

The City seeks a Contractor to provide the following coverages and services as outlined.

A. Dental Benefits: The City's desire is to continue a similar dental benefits program under the current ASO arrangement for City employees and their dependents, (See attached current plan benefits for further details) although the City will also consider comparable Fully Insured proposals.

B. Dental Benefits Administration: This portion of the E-RFP is to describe the dental benefits administration services desired. The administrator is expected to provide a variety of services usually associated with administration of a self-funded insured group benefits plans. The City's current dental plan is an Indemnity base fees schedule product providing preventive at 100%, basic at 80%, major at 50%, and orthodontia at 50% of set reimbursements fees.

C. Compliance with Federal Law, Florida Statutes: Proposers are expected to assure that proposed programs will meet the City's obligations set forth by any Federal or State legislation in effect at, or after, contract inception. Proposers shall comply with all applicable Florida Statutes, including but not limited to Chapters 112 and 627, regarding insurance or self-insurance of group benefits.

D. General Administration Services: The City expects that the insurer will perform general administration services. Claims handling and statistical reporting services, recommendations of rates and premiums to be charged and other services normally provided by professional administrators should be proposed.

E. Program Implementation: The successful proposer will be expected to participate in the reenrollment process, to conduct employee orientation meetings and to present cost containment explanations and instructions. The successful proposer will be expected to provide a plan document, benefits I.D. cards, certificates or booklets, and any other appropriate literature available (especially for orientation meetings) to describe the benefits to employees. Literature distributed to employees should be in layman's terms.

F. Claim Service: Proposers are expected to provide prompt claims service for benefits which require submission of claims. The City expects claims turnaround time to be ten (10) calendar days or less. The preferred definition should be from the date a claim is submitted by the City until payment is received by the City, participants or dental Contractors. **A toll-free telephone number** should be made available or the City or plan participants should be allowed to call the administrator collect regarding group administration problems, questions, etc. Where claims are involved, the administrator shall perform the following functions with regard to dental claims submitted by participants in the City's group program:

- Verify coverage and eligibility for benefits.
- Make any necessary investigations or consultations with plan participants, dental care providers or others necessary to assure claim validity.
- Establish and maintain complete claims files on each claim.
- Coordinate with preferred providers, review services and others who have an effect on claims activity.
- Properly review, process and pay claims.
- Provide for direct payment to dental care providers upon assignment by participants.
- Provide for coordination of benefits with all other available sources, so long as not prohibited by law.
- Provide Explanations of Benefits (EOBs) to plan participants.
- Continuously advice regarding actions, procedures, etc. which will result in control of claims and cost containment.

The administrator shall use its best judgment in applying plan coverage and shall pay or deny claims accordingly. Proposers shall agree that the City shall be held harmless and shall not be charged within the contract term or upon renewal rereating for any payments in excess of valid claims. The City reserves the right to audit claims, at the City's expense, as it deems necessary and proposers are expected to state their agreement in the group contract.

H. COBRA Benefits: Proposers shall make mandated COBRA benefits available to participants and shall state if they will administer COBRA enrollments and assure compliance with COBRA law.

I. Premium/Claims Experience Records: The Proposer will provide the City regular and timely reports for review of details of its experience and to detect trends in benefit utilization which can be managed to reduce ultimate group benefits program costs. Please provide sample reports which include, at the minimum, premium paid, total claims paid by employee and dependents; preventive, basic, major or orthodontic procedures; in-network vs out-of-network if available. Claim reports should be provided additionally for three (3) months after plan termination or until there are no run-out claims. Be specific regarding capability and cost to modify existing report formats to comply with the City's desire for premium/claim experience information.

J. HIPAA Compliance: Please provide an overview of your program to assure compliance with HIPAA.

Include in your overview the steps your firm has taken to assure compliance and how those steps would be Applied to the City's contract.

3.1 **Additional Services:**

1. Supply all postage required to service the City's account.
2. Create an EOB that meets with the City's approval that uses a format and terminology such that a person not of a dental or insurance background can easily understand the content.
3. Review evidence of insurance on late enrollees.
4. Send correspondence using City approved pre-formatted letters to the claimant or provider. The content of these letters must be easily understandable by a person not of a dental or insurance background.
5. Outline the claims payment checking account arrangement for the City, to be utilized in making authorized payment of benefits under the plan.
6. Fax or e-mail a check register to the City twice a month.
7. Reconcile the statements of the payment account monthly and maintain canceled checks, unclaimed check detail, and other records relating to bank reconciliation. Prepare an unclaimed check report for presentation to the State of Florida.
8. Provide the City, monthly, a copy of the statement accompanied by a copy of the completed reconciliation within five (5) working days from receipt of bank statement.
9. Maintain all records of business transacted in accordance with this E-RFP. At the end of the contract period, all documents, papers, records, canceled checks, and claims history shall be captured in such a manner for media storage and delivered to the City.
10. Provide access to archived data within ten (10) working days of a request by the City.
11. Provide reports inclusive of data elements specified by the City, and in mutually agreed upon formats. The required standard reports include, but are not limited to, the following:
 - a. Monthly reports are due on the fifteenth (15th) workday following the end of the "report" month. These reports should include: check stop-pay listing, check registers, paid claims summaries (separated by employee, dependent, retiree, and COBRA beneficiary).
 - b. Quarterly and Year-to-Date Reports are due on the fifteenth (15th) working day following the "report" quarter. These reports should include: claim lag, benefit payment summaries, utilization reports, paid claims by coverage tier (preventive, basic, major or orthodontic, COB savings, in-network vs. out-of-network utilization, and service inquiries).

3.2 **Dental Wellness Program and Dental Preventative Management Services** - The City is interested in proactive dental wellness and preventive management initiatives, including participation incentives, including but not limited to dental screenings and dental benefit

rollover programs. Please provide details in your proposal of all current program offerings including, if applicable, any additional cost. Proposals should detail the support staff and other assistance that will be provided. Additionally, please outline any dental wellness services that you feel would be advantageous to the City and why.

Required Services - The proposer selected should provide the following services:
(Proposals

Assist in the coordination of the implementation of the new dental program, including coordination of enrollment materials, planning of enrollment meetings, staffing enrollment meetings.

- a. Assist in planning and staffing each annual enrollment process.
- b. Assist with the implementation of changes, including preparation of communication materials as needed.
- c. Respond to questions regarding the dental plan as submitted by the City and by employees.
- d. Be available on-site, as needed, for meetings. At the City's request, attend scheduled employee benefit meetings.
- e. Provide, or coordinate with other vendors to provide, an estimated renewal projection about one hundred-eighty (180) days in advance of renewal based upon standard underwriting formulas.
- f. Present, or coordinate with other vendors to present, final renewal pricing on a schedule agreed upon with City human resources staff.
- g. If the City conducts a procurement process for dental coverage or any related services, promptly assist in coordination of necessary documentation, background and rating data, premiums/claims history as needed.
- h. Compare and contrast the City's plan and performance with other similar plans, as requested by the City.
- i. Provide, and/or coordinate with the City and other vendors to provide, annual benefit statements for employees.
- j. The City automates the benefits enrollment process and ongoing administration for their group insurance plans through Bentek. The City provides for its employees, COBRA participants, and retirees the ability to enroll online for group insurance plans in following instances: new hire orientation, annual open enrollment, qualifying life event change. All proposers must accept eligibility via file transmission.
- k. Other services, as agreed between Proposer and City.

3.3 Exposure, Loss Data, and Contract Provisions

- Source of Information - The City of Port St. Lucie Human Resources Department supplied all data and statistical information. In some instances, it has been retyped for clarity. If there are omissions, additional data is not readily available.

- Current Data - Experience Reports, current rates, census data, summary plan description/coverage outlines will be added to this RFP document as a separate attachment.

3.4 Performance - Performance may be evaluated on a variety of issues, such as:

- Timely delivery of finalized contracts for the selected program.
- Timely delivery of identification cards, at and after initial enrollment.
- Timely delivery of provider directories, at and after initial enrollment.
- Timely delivery of plan documents.
- Claims turnaround time.
- Accuracy of claims coding and payments.
- Telephone response time and abandonments.
- Quality of service to plan participants as measured by periodic surveys.
- Quality and timeliness of claims experience reports.
- Network provider participation, with penalties for drops below pre-specified levels.
- Rate of provider turnovers.
- Collection or other threats to participants by providers not paid by the insurer.

SECTION IV
TIME OF PERFORMANCE

The initial Contract term shall be **October 1, 2019 through September 30, 2024** upon approval of Council and is valid for five (5) year period. The work shall begin with a Notice to Proceed on the date specified by the Project Manager.

SECTION V
RENEWAL OPTION

The Contract period will be for a five (5) year period with an option to renew for one (1) additional five (5) year period as appropriations allow in the budget. Renewals shall be based on mutual agreement between the City and the Contractor to provide the identical services required under this Contract as outlined in the Scope of Services and maintain the same terms, conditions, and cost structure as delineated herein. All renewals must be offered in writing at least one hundred eighty (180) days prior to the termination of this Contract period.

NOTE: Contractor may exercise the option to renew by submitting a written submission one hundred eighty (180) days prior to the termination of the contract period.

**SECTION VI
COMPENSATION**

The total amount to be paid by the City to the Contractor is \$4.50* Per Eligible Employee Per Month (PEPM), is subject to a performance guarantee up to 2% of this fee based on the Dental Performance Objectives included in the Contractors proposal submission. Note: Performance is reported quarterly, and payments are based on the annual results, payable annually. Payments will be disbursed in the following manner; based on the cost schedule herein included as (Exhibit I), payment in-full upon completion of service(s), provided contract Project Manager approves the expenses delineated on the invoice. *[PEPM Rate guaranteed for five years.]

Exhibit I.

ADMINISTRATIVE SERVICES ONLY (ASO) DENTAL PPO PLAN RESPONSE FORM				
Deductible	Current Plan Design		Proposed Plan Design	
	In Network	Out of Network	In Network	Out of Network
Per Person Per Calendar Year	\$50	\$50	\$50	\$50
Per Family Per Calendar Year	\$100	\$100	\$100	\$100
Benefits Payable	In Network	Out of Network	In Network	Out of Network
Preventive Services	100%	100%	100%	100%
Basic Services	80%	80%	80%	80%
Major Services	50%	50%	50%	50%
Periodic Oral Evaluation (0120)	Preventive		Preventive	
Comprehensive Oral Evaluation (0150)	Preventive		Preventive	
Bitewing X-rays, two films (0272)	Preventive		Preventive	
Cleanings - Adult/Child (1110, 1120)	Preventive		Preventive	
Fluoride Treatment - Child (1203)	Preventive		Preventive	
X-rays - Intraoral/Complete Series (0210)	Preventive		Preventive	
Amalgam Restorations (Silver Fillings) (2140)	Basic		Basic	
Resin-Based Restorations - Anterior (2330)	Basic		Basic	
Extractions - Routine and Surgical (7140)	Basic		Basic	
Root Canal Molar (3330)	Basic		Basic	
Periodontal Scaling & Root Planing-per quad (4341)	Basic		Basic	
Crowns - Porcelain fused to noble metal (2752)	Major		Major	
Complete Dentures (5110, 5120)	Major		Major	
Pontic - Porcelain fused to noble metal (6242)	Major		Major	
Partial Dentures (5213, 5214)	Major		Major	
Orthodontia Services	All Insureds 50%		All Insureds 50%	
Waiting Periods				
Major Services	None		None	
Orthodontia Benefits	None		None	
Maximum Benefits				
Calendar Year (per person)	\$1,500		\$1,500	
Lifetime Orthodontia (per person)	\$1,000		\$1,000	
Deductible Waived for Preventive Services	Yes		Yes	
Dental Rollover	No		No	
Proposed Rate Guarantee Period			10/1/2019 thru 9/30/2024	
ASO Monthly PEPM			\$4.50	

Invoices for services shall be submitted once a month, by the 15th of the month, and payments shall be made net forty-five (45) days unless Contractor has chosen to take advantage of the Purchasing Card Program, which guarantees payment within several days. Payments shall be made provided the submitted invoice is accompanied by adequate supporting documentation and approved by Project Manager.

SECTION VII **WORK CHANGES**

The City reserves the right to order work changes in the nature of additions, deletions or modifications without invalidating the Contract, and agrees to make corresponding adjustments in the contract price and time for completion. Any and all changes must be authorized by a written change order signed by the City's Purchasing Agent or his designee as representing the City. Work shall be changed and the contract price and completion time shall be modified only as set out in the written change order. Any adjustment in the contract price resulting in a credit or a charge to the City shall be determined by mutual agreement of the parties before starting the work involved in the change.

SECTION VIII **CONFORMANCE WITH PROPOSAL**

It is understood that the materials and/or work required herein are in accordance with the proposal made by the Contractor pursuant to the Request for Proposal and Specifications on file in the Procurement Management Department of the City. All documents submitted by the Contractor in relation to said proposal, and all documents promulgated by the City for inviting proposals are, by reference, made a part hereof as if set forth herein in full.

SECTION IX **INDEMNIFICATION/HOLD HARMLESS**

Contractor agrees to indemnify, defend and hold harmless, the City, its officers, agents, and employees from, and against any and all claims, actions, liabilities, losses and expenses including, but not limited to, attorney's fees for personal, economic or bodily injury, wrongful death, loss of or damage to property, at law or in equity, which may arise or may be alleged to have risen from the negligent acts, errors, omissions or other wrongful conduct of Contractor, agents, laborers, subcontractors or other personnel entity acting under Contractor control in connection with the Contractor's performance of services under this Contract and to that extent Contractor shall pay such claims and losses and shall pay all such costs and judgments which may issue from any lawsuit arising from such claims and losses including wrongful termination or allegations of discrimination or harassment, and shall pay all costs and attorney's fees expended by the City in defense of such claims and losses including appeals. That the aforesaid hold-harmless Contract by Contractor shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations of Contractor or any agent laborers, subcontractors or employee of Contractor regardless of whether such insurance policies shall have been determined to be applicable to any of such damages or claims for damages. Contractor shall be held responsible for any violation of laws, rules, regulations or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by Contractor on the work. This indemnification shall survive the termination of this Contract.

SECTION X **SOVEREIGN IMMUNITY**

Nothing contained in this Contract shall be deemed or otherwise interpreted as waiving the City's sovereign immunity protections existing under the laws of the State of Florida, or as increasing the limits of liability as set forth in Section 768.28, Florida Statutes.

SECTION XI **INSURANCE**

The Contractor shall, on a primary basis and at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverage, limits, including endorsements, as described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by Contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Contractor under the Contract.

The parties agree and recognize that it is not the intent of the City of Port St. Lucie that any insurance policy/coverage that it may obtain pursuant to any provision of this Contract will provide insurance coverage to any entity, corporation, business, person, or organization, other than the City of Port St. Lucie and the City shall not be obligated to provide any insurance coverage other than for the City of Port St. Lucie or extend its sovereign immunity pursuant to Section 768.28, Florida Statutes, under its self-insured program. Any provision contained herein to the contrary shall be considered void and unenforceable by any party. This provision does not apply to any obligation imposed on any other party to obtain insurance coverage for this project, any obligation to name the City of Port St. Lucie as an additional insured under any other insurance policy, or otherwise protect the interests of the City of Port St. Lucie as specified in this Contract.

Workers' Compensation Insurance & Employer's Liability: The Contractor shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with Section 440, Florida Statutes. Employers' Liability and must include limits of at least \$100,000.00 each accident, \$100,000.00 each disease/employee, \$500,000.00 each disease/maximum. A Waiver of Subrogation endorsement shall be provided. Coverage shall apply on a primary basis. Should scope of work performed by Contractor qualify its employee for benefits under Federal Workers' Compensation Statute (example, U.S. Longshore & Harbor Workers Act or Merchant Marine Act), proof of appropriate Federal Act coverage must be provided.

Commercial General Liability Insurance: The Contractor shall agree to maintain Commercial General Liability insurance issued under an Occurrence form basis, including Contractual liability, to cover the hold harmless agreement set forth herein, with limits of not less than:

Each occurrence	\$1,000,000
Personal/advertising injury	\$1,000,000
Products/completed operations aggregate	\$2,000,000
General aggregate	\$2,000,000
Fire damage	\$100,000 any 1 fire
Medical expense	\$10,000 any 1 person

Additional Insured: Coverage is to be written on an occurrence form basis and shall apply as primary. Defense costs are to be in addition to the limit of liability. A waiver of subrogation shall be provided in favor of the City. Coverage shall extend to independent Contractors and fellow employees if utilized in conjunction with this

contract. Contractual Liability is to be included. Coverage is to include a cross liability or severability of interests' provision as provided under the standard ISO form separation of insurers clause.

Except as to Workers' Compensation and Employers' Liability, said Certificate(s) and policies shall clearly state that coverage required by the Contract include the City of Port St. Lucie, a municipality of the State of Florida, its officers, agents and employees as Additional Insured added to its Commercial General Liability policy and Business Auto policy. The name for the Additional Insured endorsement issued by the insurer shall read **"City of Port St. Lucie, a municipality of the State of Florida, its officers, employees and agents shall be listed as additionally insured."** The Policy shall be specifically endorsed to provide thirty (30) day written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. In the event that the statutory liability of the City is amended during the term of this Contract to exceed the above limits, the Contractor shall be required, upon thirty (30) days written notice by the City, to provide coverage at least equal to the amended statutory limit of liability of the City. Reference of the Additional Insured provisions shall be included on the Certificate of Insurance.

Automobile Liability Insurance: The Contractor shall agree to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000.00 each accident covering any auto, owned, non-owned and hired automobiles. In the event, the Contractor does not own any automobiles; the Business Auto Liability requirement shall be amended allowing Contractor to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. Certificate holder must be listed as additional insured. A waiver of subrogation shall be provided. Coverage shall apply on a primary basis.

Professional Liability: Contractor shall agree to maintain Professional Liability, or equivalent Errors & Omissions Liability at a limit of liability not less than \$2,000,000 Per Occurrence. For policies written on a "Claims-Made" basis, the Contractor warrants the retroactive date equals or precedes the effective date of this Contract. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this Contract, Contractor shall agree to purchase a SERP with a minimum reporting period not less than three (3) years. If policy contains an exclusion for dishonest or criminal acts, defense coverage for the same shall be provided.

Cyber Liability: Contractor shall agree to maintain Cyber Liability in limits not less \$1,000,000 Per Occurrence for direct loss, legal liability and consequential loss resulting from cyber security breaches. Coverage to include coverage for Privacy & Security Liability, Security Breach Response / Customer Breach Notice Expense, Cyber Extortion and Electronic Media Liability. The City of Port St. Lucie must be listed as an additional insured. Coverage shall apply on a primary basis.

Waiver of Subrogation: The Contractor shall agree by entering into this Contract to a Waiver of Subrogation for each required policy except Professional Liability and Cyber Liability. When required by the insurer or should a policy condition not permit an Insured to enter into a pre-loss Contract to waive subrogation without an endorsement then Contractor shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy where a condition to the policy specifically prohibits such an endorsement, or voids coverage should Contractor enter into such a Contract on a pre-loss basis.

Deductibles: All deductible amounts shall be paid for and be the responsibility of the Contractor for any and all claims under this Contract.

The Contractor may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employers' Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employers' Liability. When required by the insurer, or when Umbrella or Excess Liability is written on Non-Follow Form," the City shall be endorsed as an "Additional Insured."

The City, by and through its Risk Management Department, reserves the right, but not obligation, to review, modify, reject, or accept any required policies of insurance including limits, coverages or endorsements, herein from time to time throughout the term of this contract. All insurance carriers must have an AM Best rating of at least A: VII or better.

A failure on the part of the Contractor to execute the contract and/or punctually deliver the required insurance, and other documentation may be cause for annulment of the award.

SECTION XII **ACTS OF GOD**

The Contractor shall be responsible for all preparation of the site for Acts of God, including but not limited to; earthquake, flood, tropical storm, hurricane or other cataclysmic phenomenon of nature, rain, wind or other natural phenomenon of normal intensity, including extreme rainfall. No reparation shall be made to the Contractor for damages to the Work resulting from these Acts. The City is not responsible for any costs associated with pre or post preparations for any Acts of God.

Emergencies – In the event of emergencies affecting the safety of persons, the work, or property, at the site or adjacent thereto, the Contractor, or his designee, without special instruction or authorization from the City, is obligated to act to prevent threatened damage, injury or loss. In the event such actions are taken, the Contractor shall promptly give to the City written notice and contact immediately by phone, of any significant changes in work or deviations from the Contract documents caused thereby, and if such action is deemed appropriate by the City a written authorization signed by the City covering the approved changes and deviations will be issued.

SECTION XIII **PROHIBITION AGAINST FILING OR MAINTAINING LIENS AND SUITS**

Subject to the laws of the State of Florida and of the United States, neither Contractor nor any Sub-Contractor supplier of materials, laborer or other person shall file or maintain any lien for labor or materials delivered in the performance of this Contract against the City. The right to maintain such lien for any or all of the above parties is hereby expressly waived.

SECTION XIV COMPLIANCE WITH LAWS

The Contractor shall give all notices required by and shall otherwise comply with all applicable laws, ordinances, and codes and shall, at his own expense, secure and pay the fees and charges for all permits required for the performance of the Contract. All materials furnished and works done are to comply with all federal, state, and local laws and regulations. Contractor will comply with all requirements of 28 C.F.R. § 35.151. Contractors and Sub-Contractor, shall comply with § 119.0701, Fla. Stat. (2013). The Contractor and Sub-Contractor, are to allow public access to all documents, papers, letters, or other material made or received by the Contractor in conjunction with this Contract, unless the records are exempt from Art. I, § 24(a), Fla. Const. and § 119.07(1)(a), Fla. Stat. (2013). Pursuant to § 119.10(2)(a), Fla. Stat. (2013), any person who willfully and knowingly violates any of the provisions of Ch. 119, Laws of Fla., commits a misdemeanor of the first degree, punishable as provided in § 775.082 and § 775.083 Fla. Stat. (2013).

RECORDS

The City of Port St. Lucie is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. CONTRACTOR'S RESPONSIBILITY FOR COMPLIANCE WITH CHAPTER 119, FLORIDA STATUTES. Pursuant to Section 119.0701, F.S.

Contractor agrees to comply with all public records laws, specifically to:

Keep and maintain public records required by the City in order to perform the service;

1. The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies. (See <http://dos.dos.state.fl.us/library-archives/records-management/general-records-schedules/>).
2. During the term of the contract, the Contractor shall maintain all books, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The form of all records and reports shall be subject to the approval of the City.
3. Records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the City. Contractor's records under this Contract include but are not limited to, supplier/subcontractor invoices and contracts, project documents, meeting notes, emails and all other documentation generated during this Agreement.
4. The Contractor agrees to make available to the City, during normal business hours all books of account, reports and records relating to this contract.
5. A Contractor who fails to provide the public records to the City within a reasonable time may also be subject to penalties under Section 119.10, Florida Statutes.

Upon request from the City's custodian of public records, provide the public agency 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 this chapter or as otherwise provided by law.

Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City.

Upon completion of the contract, transfer, at no cost to the City, all public records in possession of the Contractor, or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically 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.

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

**CITY CLERK
121 SW Port St. Lucie Blvd.
Port St. Lucie, FL 34984
(772) 871 5157
pr@cityofpsl.com**

**SECTION XV
INSPECTION AND CORRECTION OF DEFECTS**

Deductions - In the event the City deems it expedient to perform work which has not been done by the Contractor(s) as required by these Specifications, or to correct work which has been improperly and/or inadequately performed by the Contractor(s) as required in these Specifications, all expenses thus incurred by the City, in the City's option, will be invoiced to the Contractor(s) and/or may be deducted from payments due to the Contractor(s). Deductions thus made will not excuse the Contractor(s) from other penalties and conditions contained in the Contract.

**SECTION XVI
SCRUTINIZED COMPANIES**

Section 287.135, Florida Statutes, prohibits agencies from contracting with companies, for goods or services over \$1,000,000 that are on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran petroleum Energy Sector List, or do any business with Cuba or Syria.

Both lists are created pursuant to section 215.473, Florida Statutes. https://www.sbafla.com/fsb/Portals/FSB/Content/Performance/Quarterly/2017_12_13_Web_Update_PFIA_Prohibited_List.pdf?ver=2017-12-13-144624-667

SECTION XVII ADDITIONAL REQUIREMENTS

In the event of any conflict between the terms and conditions, appearing on any purchase order issued relative to this Contract, and those contained in this Contract and the Specifications herein referenced, the terms of this Contract and Specifications herein referenced shall apply.

City's Public Relations Image – The Contractor's personnel shall at all times handle complaints and any public contact with due regard to the City's relationship with the public. Any personnel in the employ of the Contractor involved in the execution of work that is deemed to be conducting him/her self in an unacceptable manner shall be removed from the project at the request of the City Manager.

Dress Code – All personnel in the employ of the Contractor(s) shall be appropriately attired. Employees engaged in the course of work shall wear company uniforms neat and clean in appearance, readily identifiable to all City employees and the public. No tee shirts with obscene pictures or writings will be allowed. Swimsuits, tank tops, shorts and sandals are also prohibited. Safety toed shoes shall be worn at all times.

Patent Fees, Royalties, and Licenses – If the Contractor requires or desires to use any design, trademark, device, material or process covered by letters of patent or copyright, the Contractor and his surety shall indemnify and hold harmless the City from any and all claims for infringement in connection with the work agreed to be performed. The Contractor shall indemnify the City from any cost, expense, royalty or damage which the City may be obligated to pay by reason of any infringement at any time during the prosecution of or after completion of the work.

Permits - The selected Proposer shall be responsible for obtaining all permits, licenses, certifications, etc., required by Federal, State, County, and Municipal laws, regulations, codes, and ordinances for the performance of the work required in these specifications and to conform with the requirements of said legislation. The selected Proposer shall be required to complete a **W-9 Taxpayer Identification Form**, provided with the City's contract, and return it with the signed contract and insurance documents

Material Safety Data Sheets - The Proposer shall provide MSDS and description literature for each chemical/compound/mixture used in the performance of the Contract to the City before the commencement of any work. All MSDS shall be of the latest version and comply with 29 CFR 1910.1200. Hazardous products shall not be used except with prior approval of the City and must be disposed of properly by the Proposer in accordance with U.S. Environmental Protection Agency 40-CFR 260-265. The Proposer shall maintain and have readily accessible on-site a complete MSDS book of all chemicals, compounds/mixtures used in the execution of the contract.

Personal Protective Equipment (PPE) - All personnel are required to wear PPE in the process of the work including eye protection, hearing protection, respiratory protection as necessary, gloves, and any other PPE as necessary for the work.

Cooperative Purchasing Agreement - This contract may be expanded to include other governmental agencies provided a cooperative purchasing agreement exists or an inter-local agreement for joint purchasing exists between the City of Port St. Lucie and other public agencies. Contractor(s) may agree to allow other public agencies the same items at the same terms and conditions as this contract, during the period of time that this contract is in effect. Each political entity will be responsible for execution of its own requirements with the Contractor.

Contractual Relations - The Contractor(s) are advised that nothing contained in the contract or specifications shall create any contractual relations between the City and Sub-Contractor of the Contractor(s).

Standard Production Items - All products offered must be standard production items that have been available to the trade for a period of not less than two (2) years and are expected to remain available in future years.

SECTION XVIII **ASSIGNMENT**

Contractor shall not delegate, assign or subcontract any part of the work under this Contract or assign any monies due him hereunder without first obtaining the written consent of the City.

SECTION XIX **TERMINATION, DELAYS AND LIQUIDATED DAMAGES**

If the Contractor refuses or fails to prosecute the work with such diligence as will insure its completion within the time specified in this Contract, or as may be modified in accordance with this Contract, the City by written notice to the Contractor, may terminate Contractor's rights to proceed. On such termination, the City may take over the work and prosecute the same to completion, by contract or otherwise, and the Contractor and his sureties shall be liable to the City for any additional cost incurred by it in its completion of the work.

The City may terminate this Contract with or without cause by giving the Contractor thirty (30) days' notice in writing. Upon delivery of said notice, the Contractor shall discontinue all services in connection with the performance of this Contract and shall proceed to promptly cancel all related existing third-party contracts. Termination of the Contract by the City pursuant to this paragraph shall terminate all of the City's obligations hereunder, and no charges, penalties or other costs shall be due Contractor except for work timely completed.

The obligation to provide further services under this Contract may be terminated by either party upon thirty (30) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination, the terminating party will be paid all compensation earned for services performed through the date of cancellation.

SECTION XX **LAW, VENUE AND WAIVER OF JURY TRIAL**

This Contract is to be construed as though made in and to be performed in the State of Florida and is to be governed by the laws of Florida in all respects without reference to the laws of any other state or nation. The venue of any action taken to enforce this Contract shall be in St. Lucie County, Florida.

The Parties to this Contract hereby freely, voluntarily and expressly, waive their respective rights to trial by jury on any issues so triable after having the opportunity to consult with an attorney.

SECTION XXI
APPROPRIATION APPROVAL

The Contractor acknowledges that the City of Port St Lucie's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. The Contractor agrees that, in the event such appropriation is not forthcoming, this Contract may be terminated by the City and that no charges, penalties or other costs shall be assessed.

SECTION XXII
TRUTH-IN-NEGOTIATIONS

In accordance with the provisions of Section 287.055, Florida Statutes, the Contractor agrees to execute a truth-in-negotiations certificate and agrees that the original Contract price and any additions may be adjusted to exclude any significant sums by which the Contract price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs.

SECTION XXIII
CONFLICT OF INTEREST

The City hereby acknowledges that the Contractor may be performing professional services for private developers within the Treasure Coast area. Should a conflict of interest arise between providing services to the City and/or other clients, the Contractor shall terminate its relationship with the other client to resolve the conflict of interest. The City Manager shall determine whether a conflict of interest exists. At the time of each Project Proposal the Contractor shall disclose all of its Treasure Coast clients and related Scope of Work.

SECTION XXIV
PUBLIC RECORDS / TRADE SECRETS / COPYRIGHT

The Proposer's response to the RFP is a public record pursuant to Florida law, which is subject to disclosure by the City under the State of Florida Public Records Law, Florida Statutes Chapter 119.07 ("Public Records Law"). The City shall permit public access to all documents, papers, letters or other material submitted in connection with this RFP and the Contract to be executed for this RFP, subject to the provisions of Chapter 119.07 of the Florida Statutes.

Any language contained in the Proposer's response to the RFP purporting to require confidentiality of any portion of the Proposer's response to the RFP, except to the extent that certain information is in the City's opinion a Trade Secret pursuant to Florida law, shall be void. If a Proposer submits any documents or other information to the City which the Proposer claims is Trade Secret information and exempt from Florida Statutes Chapter 119.07 ("Public Records Laws"), the Proposer shall clearly designate that it is a Trade Secret and that it is asserting that the document or information is exempt. The Proposer must specifically identify the exemption being claimed under Florida Statutes 119.07. The City shall be the final arbiter of whether any information contained in the Proposer's response to the RFP constitutes a Trade Secret. The

city's determination of whether an exemption applies shall be final, and the proposer agrees to defend, indemnify, and hold harmless the city and the city's officers, employees, and agent, against any loss or damages incurred by any person or entity as a result of the city's treatment of records as public records. Proposals purporting to be subject to copyright protection in full or in part will be rejected.

EXCEPT FOR CLEARLY MARKED PORTIONS THAT ARE BONA FIDE TRADE SECRETS PURSUANT TO FLORIDA LAW, DO NOT MARK YOUR RESPONSE TO THE RFP AS PROPRIETARY OR CONFIDENTIAL. DO NOT MARK YOUR RESPONSE TO THE RFP OR ANY PART THEREOF AS COPYRIGHTED.

SECTION XXV **PROHIBITION AGAINST CONTINGENT FEES**

The Contractor warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Contract and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Contractor any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

SECTION XXVI **ATTORNEY'S FEES**

If this matter is placed in the hands of an attorney for collection, or in the event suit or action is instituted by the City to enforce any of the terms or conditions of the Contract, Contractor shall pay to the City, in such suit or action in both trial court and appellate court, the City's costs, and reasonable attorney's fees for the anticipated cost of collection and judgment enforcement.

SECTION XXVII **CODE OF ETHICS**

Contractor warrants and represents that its employees will abide by any applicable provisions of the State of Florida Code of Ethics in Chapter 112.311 et seq., Florida Statutes, and Code of Ethics Ordinances in Section 9.14 of the City of Port St. Lucie Code.

SECTION XXVIII **POLICY OF NON-DISCRIMINATION**

Contractor shall not discriminate against any person in its operations, activities or delivery of services under this Contract. Contractor shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

SECTION XXIX
SEVERABILITY

The Parties to this Contract expressly agree that it is not their intention to violate any public policy, statutory or common law rules, regulations, or decisions of any governmental or regulatory body. If any provision of this Contract is judicially or administratively interpreted or construed as being in violation of any such policy, rule, regulation, or decision, the provision, sections, sentence, word, clause, or combination thereof causing such violation will be inoperative (and in lieu thereof there will be inserted such provision, section, sentence, word, clause, or combination thereof as may be valid and consistent with the intent of the Parties under this Contract) and the remainder of this Contract, as amended, will remain binding upon the Parties, unless the inoperative provision would cause enforcement of the remainder of this Contract to be inequitable under the circumstances.

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SECTION XXX
ENTIRE AGREEMENT

The written terms and provisions of this Contract shall supersede any and all prior verbal or written statements of any official or other representative of the City. Such statements shall not be effective or be construed as entering into, or forming a part of, or altering in any manner whatsoever, this Contract or Contract documents.

IN WITNESS WHEREOF, the parties have executed this contract, the day and year first above written.

CITY OF PORT ST. LUCIE FLORIDA

CONTRACTOR

By: _____
Purchasing Agent

By: Ari Jolly
Authorized Representative

State of: Florida County of: Duval

Before me personally appeared: Ari Jolly
(Please print)

Please check one:

Personally known X
Produced Identification: _____
(Type of identification)

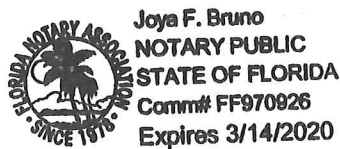
and known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that _____ executed said instrument for the purposes therein expressed.
(s/he) Ari Jolly

WITNESS my hand and official seal, this 10 day of July, 2019.

Joya F. Bruno
Notary Signature

Notary Public State of Florida at Large.

My Commission Expires 3/14/2020.



(seal)