

**CITY OF PORT ST. LUCIE
CONTRACT# 202000125**

This Contract, executed this _____ day of _____, 2021, 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", and South Florida Carefree Catering, Inc. hereinafter called "Contractor" or "Provider".

**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 to provide the Scope of Services and products / services based on the terms and subject to the conditions contained herein; and

WHEREAS, Contractor is qualified, willing and able to provide the Scope of Services and products / services specified 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 product / services specified and, with a monthly rental amount to be paid as agreed upon below.

NOW THEREFORE, in consideration of the premises and the mutual covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, 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
DEFINITIONS**

A "Commission Fees" -means the compensation to be paid to the City by the Contractor.

B. "Direct Operating Expenses"- means the following costs incurred by the Contractor which are directly related to Dining and Catering sales and operations:

- I. the cost of products sold at the Restaurant;
- II. the cost of paper and plastic products, small wares, condiment and similar items relating to or associated with the sale and operation of food & beverage products and services;
- III. total payroll costs, including reasonable fringe benefits, of Contractor's employees directly engaged in the performance of the Contractor's responsibilities hereunder;

IV. other direct costs incurred exclusively in the performance of the Contractor's obligations hereunder, including, but not limited to, costs of supplies, uniforms, insurance, maintenance and repairs, audits, license fees and taxes. Under the Agreement, Direct Operating Expenses will also include the cost of location manager, field staff or supervisory personnel. All financial procedures, including the calculation of Direct Operating Expenses shall be in accordance with the "Generally Accepted Accounting Principles" (GAAP) as consistently applied and as defined herein.

C. "GAAP"- means those certain generally accepted accounting principles as promulgated and defined by the American Institute of Certified Public Accountants (AICPA).

D. "Gross Receipts"- means for any particular Fiscal Year all revenues of any kind, cash or non-cash, realized by Contractor from Dining and Catering Sales pursuant.

E. "Net Revenues"- means Gross Receipts less the Direct Operating Expenses.

SECTION III **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.

Contractor: Bernard Ryan
President, South Florida Carefree Catering, Inc.
140 NE 1st Street
Delray Beach, FL 33444
561-703-6998
Email: irish1227@aol.com

City Contract Administrator: Matthew Shiver
Director- Procurement Management Department
121 SW Port St. Lucie Boulevard
Port St. Lucie, FL 34984-5099
772-871-7390 / FAX 772-871-7337
E-mail: mshiver@cityofpsl.com

City Project Manager: Sherman Conrad, Director
Port St. Lucie Community Center
City of Port St. Lucie
2195 SE Airoso Blvd
Port St. Lucie, FL 34984
Telephone 772-871-5083 Fax 772-871-5290
Email: shermanc@cityofpsl.com

SECTION IV
DESCRIPTION OF SERVICES TO BE PROVIDED

Introduction. The Saints Golf Course is owned and operated by the City at 2601 S.E. Morningside Blvd. and is nestled in a tranquil residential neighborhood. The Saints Golf Course consists of an exceptional 18-hole championship course, driving range and practice area. The Saints' clubhouse houses a fully stocked pro shop and a 1,455 sq. ft. full-service restaurant and bar, 2,907 sq. ft. rentable banquet room and 1,450 sq. ft. covered terrace for outside dining. The area seats 66 in the dining area, 44 in the outside covered and screened in patio, and 152 individuals within the banquet area.

Scope of Work. The City has engaged Contractor, on an exclusive basis to provide year-round dining and catering services to patrons at the aforementioned location of services. The facilities under this contract (also referenced as contracted facilities) shall mean a 1,455 sq. ft. full-service restaurant and bar, 2,907 sq. ft. rentable banquet room and 1,450 sq. ft. covered terrace for outside dining all located at 2601 S.E. Morningside Boulevard, Port St. Lucie, FL 34952. In addition, the Contractor shall provide food cart services as stipulated in this contract. The Contractor provided services will achieve continuous improvement in the satisfaction of the golfing community at The Saints. The City shall make available to Contractor, suitable food service facilities completely equipped and ready to operate. The Contractor shall provide Services as specified throughout this contract.

Hours of Operations. The Golf Course is open to the public during normal operation hours from dawn to dusk, unless otherwise changed by the City, the Contract Project Manager, or their designee. All dining facilities shall be open to the public seven days per week, fifty-two (52) weeks per year; except that all dining facilities may be closed on certain City Holidays, or other days as deemed necessary by the Contract Project Manager, or their designee, including Christmas Day, December 25th. The parties agree that the Contract Project Manager shall provide the Contractor with notice of closure of the golf course and restaurant premises no later than 5:00 p.m. on the day prior to the date the golf course will be closed. As referenced below, the Contractor at a minimum shall be open:

Dining Facilities- Hours of Operations

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
9AM-9PM	9AM-9PM	9AM-9PM	9AM-9PM	9AM-9PM	9AM-9PM	9AM-9PM

Mobile Cart- Hours of Operations

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
10AM-5PM	10AM-5PM	10AM-5PM	10AM-5PM	10AM-5PM	10AM-5PM	10AM-5PM

Catered Events- Outside Patrons. All catering at the aforementioned location of services is exclusive to the Contractor. The right to provide catering elsewhere on the City's property is non-exclusive. The Contractor may schedule catered events which can be held within the contracted areas as established by this contract. Scheduling of such events shall not prohibit or interfere with the use of the golf facilities by golfers during the normal operating hours as established by Contract Project Manager, or their designee. The Contractor shall keep a booking record of all catering functions. All food and beverage negotiations, contracts, and change order requests for all catering functions shall be provided to the Project Manager prior to each event.

Catered Events- City. The City reserves the right to host a minimum of twelve (12) events/programs that are sponsored and/or operated by the City each year. The City shall not be charged for the rental of the facilities. The City shall provide a minimum of a fourteen (14) days written notice to the Contractor for the utilization of the facilities. The Contractor shall be required to staff and cater all City events/programs that are hosted on the premises. Pricing for the events shall, unless otherwise mutually agreed, be based upon Contractor's current catering guide and pricing structure. Contractor shall provide the City with a 15% discount on all City sponsored events.

Dining. Contractor at a minimum shall provide lunch and dinner services following all specifications, terms and conditions as set forth herein.

Entertainment. The Contractor must provide weekly entertainment. At a minimum, the Contractor will provide performance through live bands, karaoke, dancing, and other entertainment as mutually agreed upon by the City and the Contractor. Contractor shall provide the City Project Manager with an updated entertainment schedule every three months.

Inventory. Upon execution of this contract, the City and Contractor shall perform an inventory of all equipment and non-expendable supplies. The inventoried items may be used by the Contractor; however, all inventoried items will remain property of the City. The Contractor shall be responsible for cleaning of all City owned equipment. The City and Contractor shall perform a yearly inventory of equipment and non-expendable supplies. Each yearly inventory must be reviewed and signed off by both parties. The Contractor must replace or reimburse the City for any items that are either missing or have been damaged due to Contractor's negligence.

Staffing. Contractor shall employ a sufficient number of personnel so that all levels of service are not adversely affected. Contractor warrants that all persons assigned to perform Services under this Contract are lawful employees of Contractor. Contractor is solely responsible for training and supervising all employees with regards to safe work habits and proper use of all equipment. All costs of hiring, training and employment shall be a Direct Operating Expense to the Contractor. All safety incidents will be reported immediately to the City. All persons assigned to perform Services under this Contract shall be qualified and legally authorized to perform such Services. Personnel assigned by Contractor shall have all professional licenses required to perform the Services.

Contractor employees shall maintain a neat appearance, exercise good public relations skills, respond to customer complaints and questions, have excellent telephone manners, speak positively about the facility and its operations, and conduct themselves in a high standard that is acceptable to the City. Contractor employees engaged in the course of work shall be dressed appropriately and be clean in appearance, readily identifiable to all City employees and the public. No shirts with obscene pictures or writings will be allowed. Swimsuits, tank tops, shorts and sandals are also prohibited. Any uniform costs shall be a Direct Operating Expense to the Contractor.

Contractor shall comply with all applicable federal, state and local laws and regulations regarding employment, compensation, and payment of personnel. Such compliance shall include, without limitation, maintenance of unemployment insurance, worker's compensation and other taxes, health examinations, permits and licenses in amounts and type enumerated by law. Contractor shall pay as its own Direct Operating Expense all social security, unemployment insurance, retirement, and other federal and state taxes

which are required by law. Contractor shall act as an Independent Contractor, and not an agent of the City in all aspects of any management and operational duties and responsibility in its delivery of food services.

Contractor shall be solely liable for, and shall independently undertake to defend, any and all unfair labor practice charges, grievances, judicial actions, or other employee or union claims, as well as general liability and personal liability, based on conduct alleged to have been committed by its employees, agents, or supervisors at any time. However, the City and the Contractor will cooperate in good faith in the investigation and defense of any unfair labor practice charge, grievance, judicial action or other employee or union claim which may be filed against anyone of them, jointly or separately.

Alcoholic Beverages. For events or dining operations where alcoholic beverages are served by Contractor employees, such Contractor employees will be trained in the service of alcohol and certified according to federal, state, and local requirements. Upon the City's request, the Contractor shall provide the City with proof of relevant employees' certification. In the event of any suspension of the liquor license, Contractor shall, with approval of the City, secure an Interim Caterer/Concessionaire or make other arrangements to ensure the uninterrupted sale of alcoholic beverages, at Contractor's sole expense. Suspension of the liquor license shall not excuse payment to the City. Should the City's revenue be adversely affected by a loss of Gross Receipts based upon the performance of the Interim Caterer/Concessionaire or the failure to maintain a liquor license, or should the City suffer a loss of revenues due to the loss of the liquor license, then the City shall be made whole by the Contractor. Contractor and City agree to cooperate to determine an Interim Caterer/Concessionaire to sell or dispense alcoholic beverages. If the Contractor's license to sell alcoholic beverages is cancelled or revoked, Contractor will be in breach of the established contract and the City may terminate the contract and seek proper damages.

The Contractor and its employees serving alcoholic beverages shall comply with the following:

- I. Contractor shall securely store all alcoholic beverages;
- II. Any selected Contractor employee serving alcoholic beverages at licensed premises shall be 21 years of age or older and they must have up to date TIPS or T.E.A.M. training; and
- III. Any serving of alcoholic beverages shall be done in accordance with all applicable federal, state and local laws, including restricting access to alcoholic beverages by persons under the age to consume and by those who are actually or apparently impaired.

Food Preparation. All food purchases shall meet requirements of the United States Department of Agriculture (USDA) Food and Drug Administration (FDA) and National Sanitation Foundation (NSF). The Contractor must prepare excellent quality food with ingredients, recipes, and fresh preparation methods that follow industry standard guidelines. Wholly microwaved food shall not be served. Hot food shall be served hot and cold foods shall be served cold in accordance with local, state, and regional mandated standards. Whenever feasible, the Contractor will use just in time or cook to order food preparation methods.

SECTION V

DESCRIPTION OF BUSINESS OPERATIONS TO BE PROVIDED

Custodial. Cleaning must always be sufficient to provide protective maintenance against unnecessary deterioration and provide a clean and neat appearance. Contractor shall at a minimum, perform the following maintenance on a regular or as specified basis:

I. Daily Housekeeping.

- i. The Contractor will maintain the facilities throughout the service hours to include wiping down tables, cleaning spills, daily sweeping, maintaining non-carpeted floors, vacuuming and spot cleaning any carpets and furniture in all dining facilities;
- ii. Contractor shall provide adequate refuse containers in all operating areas and shall regularly service all trash cans. The trash cans shall be emptied into the Contractor provided dumpster on a regular basis in order to prevent the trash cans from overflowing;
- iii. At a minimum, these facilities shall include, but not be limited to, production and serving areas, dining rooms, catering kitchens, bakeries, refrigerators, freezers, receiving docks, storage areas, restrooms, trash and dumpster areas used by the Contractor.

II. Weekly Housekeeping. The Contractor shall be responsible for:

- i. Routine weekly cleaning of the hoods, filters and pipes;
- ii. Weekly reporting to City of damages to furniture and facilities used in Contractor's assigned area. Contractor will be responsible for repair and replacement costs for any damages caused by an employee of the Contractor or an independent contractor used by the Contractor.

III. Regular Periodic Cleaning and Maintenance. All periodic maintenance shall be done by industry standard and in a satisfactory manner as determined by the City.

- i. Semi-annual stripping, sealing, and waxing of hard floor surfaces, extraction cleaning of carpeted areas, and furniture in all dining facilities;
- ii. Quarterly cleaning of draperies, blinds, ceilings and interior windows, air distribution devices and light fixtures;
- iii. Quarterly deep cleaning of the facilities and equipment by a licensed cleaning contractor;
- iv. Quarterly or as needed through inspection by licensed contractor, the vent hood system should be cleaned and serviced. If found to be contaminated with deposits from grease-laden vapors, the entire hood system must be cleaned and recertified by a properly trained, qualified, and certified contractor.

IV. Facilities Sanitation. The Contractor shall be responsible for performing cleaning, sanitizing, and decontamination of the below items per all applicable regulations:

- i. Any item used in food preparation such as kitchen utensils, slicers, grinders, mixers, and smallwares;

- ii. After each use, all food preparation areas, kitchen tables, bar countertops, mobile bar, dining tables, catering tables and chairs, mobile cart and patio tables;
- iii. Maintain griddles, grills, and other cooking equipment by daily scrubbing and elimination of any grease residue.

Methods of Patron Payment. Contractor at a minimum shall accept cash, credit, and bank debit. The Contractor shall be responsible for all expenses and collection of debts resulting from cash, credit card, and bank debit card transactions. All tendered payments must be logged into an electronic point of sales (POS) system. The POS system utilized must be mutually agreed upon by both parties. The City provided POS system shall be the only mechanism for financial transactions. Contractor shall not place any type of Automatic Teller Machine (ATM) or utilize any other cash distribution mechanism on City property.

The City shall provide all POS hardware and software. The Contractor must provide all POS related consumables such as but not limited to register tape, mobile or stationary screen covers, extension cords, and network connectivity services. The City shall only have view access to the POS system that will allow transaction review and printing of reports.

Maintenance-Building. City agrees to repair and maintain in good order and condition, ordinary wear and tear excepted, the building infrastructure, water and sewer lines outside the building, (except for sewer lines clogged by grease or other Contractor created problems), air conditioning, heating, and plumbing systems, and fire suppression system serving the whole facility. City shall maintain the Golf Course Area, except for any damage caused by, resulting from, or in any way arising out of, Contractor's operation or use of the contracted facilities, whether such damage is caused by Contractor, its agents, or its invitees. City shall maintain all parking areas adjacent to the Saints' Clubhouse.

Maintenance- Kitchen Equipment. Contractor shall perform proper use and care for the equipment and facilities with which it is entrusted under this contract and/or uses in the performance of its daily duties, as specified by equipment manufacturers. Contractor must perform first level (operator) preventive maintenance (PM) on all equipment, fixtures, and furnishings. PM includes daily cleaning and inspections of all equipment, fixtures, and furnishings. The Contractor must report in writing to the Project Manager of any equipment that is malfunctioning or not operating. At its sole discretion, the City shall have the authority to repair or replace any equipment .

Office Equipment. Contractor at its cost, will provide any office machines necessary for the management of Service operations including computers (and software), printers, copy machines, calculators and other similar items.

SECTION VI
INITIAL CONTRACT TERM

The initial term of the contract is for five (5) calendar years. The Contract shall cover the period from _____.

SECTION VII
RENEWAL OPTION

At the end of the initial contract term, the City shall have one, three (3) year option to renew, which options shall be exercisable at the sole discretion of the City. Renewal will be accomplished through the issuance of Notice of Award Amendment. In the event that the contract shall terminate or be likely to terminate prior to the making of an award for a new contract for the identified products and/or services, the City may, with the written consent of the awarded Contractor extend the contract for such period of time as may be necessary to permit the City's continued supply of the identified products and/or services. The contract(s) may be amended in writing from time to time by mutual consent of the parties. Unless this contract states otherwise, the resulting award of the contract(s) does not guarantee volume or a commitment of funds.

NOTE: For issuance of either of the renewals set forth herein, Contractor shall submit a request in writing no more than 120 days nor less than 90 days prior to termination of the initial contract period (for the first renewal) or the renewed contract period (for the second renewal).

**SECTION VIII
FINANCIAL ARRANGEMENTS**

Contractor shall pay Commission Fees to the City in accordance with the schedule set forth below. Commissions Fees to the City, shall be paid on Gross Revenue; furthermore, Commission Fees shall be a percentage of the following sales without regard to actual collections by Contractor.

Description	Commission Rate
Dining Room (Combined Food and Alcohol)	10%
Catering Sales (Combined Food and Alcohol)	12%
Mobile Cart Sales (Combined Food and Alcohol)	12%

Commission Fees. Commission Fees shall be paid to the City within ten (10) business days following the last day of each month for all sales and Gross Receipts, including but not limited to Dining, Catering, and Mobile Cart sales for the immediately preceding calendar month. The Commission Fees shall be paid to the City and shall then be considered Gross Revenue of the City upon deposit in an account designated by the City.

Financial Statement. Contractor shall furnish to the City, no later than ten (10) business days following the last day of each month, a computerized financial statement showing:

- copies of bank statements
- total gross sales
- gross receipts by source of sales
- commissions owed to the City
- the Direct Operating Expenses and Net Revenues for all sales during the immediately preceding calendar month.

Payments by the Contractor to the City made pursuant to this Contract shall be made in such manner as the City shall direct, either by check, draft, bank transfer or other manner.

In the event Contractor's funds are insufficient to satisfy the Contractor's Direct Operating Expenses, Contractor will pay, when due, sufficient amounts of money from its own other funds to satisfy its payment obligations hereunder. Notwithstanding the foregoing or any provision of this Agreement to the contrary,

the City shall have no obligation of payment or otherwise for any service or program not provided by the City.

Taxes. Contractor is responsible for all federal, state, and local taxes and other charges related to the performance of this contract.

SECTION IX
CONTRACTOR EXPENSES

Data-Television. The Contractor shall provide all televisions, appropriate hardware, and services to ensure that the restaurant has the ability and at a minimum to televise the Golf Channel.

Grease Storage and Disposal. Contractor shall be responsible for grease storage and disposal. Contractor shall be responsible for all maintenance and pumping as required on the grease trap system.

Internet. Contractor is responsible for establishing and payment of Internet services with a local provider for all network/Internet requirements in Dining Services.

Pest Control. The Contractor shall be responsible for sourcing and payment of expert and professional exterminating services in all applicable contracted areas.

Utilities. The Saints Clubhouse receives a monthly bill for the utilities that are listed below. The Contractor shall pay a portion of each bill as referenced in the below chart.

Electric	65% Contractor/ 35% City
Propane	100% Paid by Contractor
Water and Sewer	50/50 (Split with City)

The City does not warrant that there shall be an uninterrupted supply of water, electricity, air conditioning, or heating; however, the City shall be diligent in restoring services following any interruption insofar as it has the ability to effect restoration. The City shall not be liable to the Contractor or others for any loss, cost, or expense, which may result from the interruption or failure of any such service.

SECTION X
SECURITY DEPOSIT

The Contractor shall pay a cash security deposit or provide an irrevocable letter of credit in the amount of Eight Thousand Dollars (\$8,000.00) to the City. The cash security deposit or irrevocable letter of credit shall be returned to the Contractor upon faithful performance and completion of this agreed upon contract. However, should Contractor fail to meet the terms and conditions for which the cash security deposit or irrevocable letter of credit are intended to secure, then the City shall be entitled to demand payment from the lending institution or shall be entitled to retain all or such portion of the cash security deposit as is required to meet the obligations of the contract.

SECTION XI
AUDITS

The City shall have the right to make periodic audits and inspections of Contractor records of gross receipts at any reasonable time without notice. Such audit may include, and is not limited to, inventory control at all applicable locations, personnel accounting controls, methods of recording, checking and reporting sales, route and internal control of cash handling, internal audit, accounting and cash collection, commission statements, etc. In addition, the City shall require supplemental information as needed to perform and conclude an audit. Contractor must keep and maintain all such records for a period of three (3) years from the termination of this Contract, or longer if required by Section XVII of this Contract.

The City or their designee may audit at the City's expense (except as otherwise noted below), with seventy-two (72) hours prior notice to Contractor, all accounting and financial records and procedures of the Contractor and all funds and accounts governed by this Agreement. The audit will take place during normal business hours at the Contractor's home office or such place as the records shall be kept and maintained by the Contractor. Any discrepancies shall be noted and, except in case of theft, criminal conduct amounting to a felony, actionable fraud (as opposed to negligent misrepresentation), willful or wanton misconduct or (with respect to handling funds or financial obligations), the Contractor shall have thirty (30) days within which to comply with proper procedures and reconcile all discrepancies. Failure of the City to note any discrepancies with respect to the Contractor's accounting and financial procedures shall not relieve the Contractor of its obligation to comply with the accounting requirements contained in this Agreement or with the provisions of this Agreement. If the audit determines that the computation of Gross Receipts contained in the Final Accounting is understated by 5% or more, affecting the commissionable amount which shall be properly accounted for as Gross Receipts and thereupon deposited and/or credited to the City's account, or if the Net Revenue is understated by 5% or more, the Contractor shall bear the costs of the audit.

SECTION XII **INDEMNIFICATION/HOLD HARMLESS**

Notwithstanding that joint or concurrent liability may be imposed upon the parties by statute, ordinance, rule, regulation or order of court, Contractor will indemnify, defend, hold harmless and reimburse the City, its employees and agents from and against and for any and all liabilities, obligations, penalties, fines, suits, claims, demands, actions, costs and expenses of any kind or nature, including reasonable attorneys' fees, which may be imposed upon or asserted against the City by reason of any accident, injury or damage to person or property arising from the performance of this contract.

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 XIII **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 XIV **INSURANCE**

The Contractor shall, on a primary basis and at its sole expense, 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 the Contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the 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.

1. Workers' Compensation Insurance & Employer's Liability: The Contractor shall 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 the 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.
2. Commercial General Liability Insurance: The Contractor shall maintain Commercial General Liability insurance, inclusive of coverage for food contamination and food-borne illnesses, for the scope of the services provided 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

3. Additional Insured: An Additional Insured endorsement **must** be attached to the certificate of insurance (should be CG2026) under the General Liability policy. Coverage shall apply as primary and non-contributory. A waiver of subrogation shall be provided in favor of the City. Coverage shall extend to independent contractors and fellow employees. 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, Employers' Liability, and Professional Liability, said Certificate(s) and policies shall clearly state that coverage required by the Contract has been endorsed to 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 and shall include Contract # 202000125 – Dining and Event Catering Services at The Saints-shall be listed as additionally insured.**". The Policies 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. Copies of the Additional Insured endorsements shall be attached to the Certificate of Insurance.

4. Automobile Liability Insurance: The Contractor shall 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 the 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 and non-contributory basis.
5. Dram Shop Liability: Contractor shall maintain and, prior to commencement of this Contract, provide the City with evidence of insurance to cover Dram Shop Liability for the serving and selling of intoxicating beverages with limits of \$1,000,000 per occurrence. **City shall be listed as Additional Insured. Waiver of Subrogation is NOT required for this coverage.**
6. Professional Liability Insurance: Contractor shall maintain Professional Liability, or equivalent Errors & Omissions Liability at a limit of liability not less than \$2,000,000 Per Occurrence. When a self-insured retention (SIR) or deductible exceeds \$10,000, the City reserves the right, but not the obligation, to review and request a copy of Contractor's most recent annual report or audited financial statement. 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 four (4) years. If policy contains an exclusion for dishonest or criminal acts, defense coverage for the same shall be provided.
7. Waiver of Subrogation: The Contractor shall agree by entering into this Contract to a Waiver of Subrogation for each required policy. 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 the Contractor enter into such a Contract on a pre-loss basis.

8. Deductibles: All deductible amounts shall be paid for and be the responsibility of the Contractor for any and all claims under this Contract. Where an SIR or deductible exceeds \$5,000, the City of Port St. Lucie reserves the right, but not obligation, to review and request a copy of the bidder's most recent annual report or audited financial statement.

It shall be the responsibility of the Contractor to ensure that all contractors, independent contractors and/or subcontractors comply with the same insurance requirements referenced herein. It will be the responsibility of the Contractor to obtain Certificates of Insurance from all contractors, independent contractors, and subcontractors, listing the City as an Additional Insured without the language when required by written 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 contract.

SECTION XV **ACTS OF GOD/FORCE MAJEURE**

It is expressly understood and agreed that failure or delay on the part of either party hereto in the performance in whole or in part of the terms and conditions of this agreement will not constitute a breach hereof, nor a default hereunder, if such failure or delay is attributable to acts of God, pandemic, fire, floods, inevitable accidents, or riots, insurrections, public commotion, strikes or labor disturbances, embargo, emergency or governmental order, regulations, priority or other limitations or restrictions, or acts of God interfering with personnel, sales, sources of supplies, production, transportation or delivery or for any cause beyond the control of either party.

SECTION XVI **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 XVII 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.](#) 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.](#), 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.](#)

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](#).
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 contract.
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 XVII
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 XVIII
SCRUTINIZED COMPANIES**

[Section 287.135, Florida Statutes](https://www.sbafla.com/fsb/Portals/FSB/Content/GlobalGovernanceMandates/QuarterlyReports/GlobalGovernanceMandatesandFlorida%20Statutes20190129.pdf?ver=2019-01-29-130006-790), 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/GlobalGovernanceMandates/QuarterlyReports/GlobalGovernanceMandatesandFlorida%20Statutes20190129.pdf?ver=2019-01-29-130006-790)

SECTION XXIX

BACKGROUND CHECK INVESTIGATIONS

The City requires that a criminal background investigation be made of any and all Contractor personnel utilized to provide Services to the City. Contractor represents and warrants that Contractor shall refrain from assigning personnel to any task under this Contract if such investigation reveals a disregard for the law or other background that indicates an unacceptable security risk as determined by the City. The Contractor's employees, agents and subcontractors may be granted access to City computers, hardware, software, programs and/or information technology infrastructure or operations to the extent necessary to carry out the Contractor's responsibilities under the Contract. Such access may be terminated at the sole discretion of the City. The Contractor shall provide immediate notice to City of any employees, agents and/or subcontractors suspected of abusing or misusing such access privilege.

SECTION XX **ADDITIONAL CONTRACT TERMS**

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.

ADA Compliance. The Contractor shall comply with the Americans with Disabilities Act (ADA).

Building Security. Contractor shall be responsible for securing all entrance and exit doors to all Dining Facilities. Contractor shall be responsible for all risks for damage to premises or loss of merchandise of any kind at all times except to the extent such loss is a result of the sole negligence of the City.

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 themselves in an unacceptable manner shall be removed from the project at the request of the City Manager.

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

Contractor Conduct. The Contractor shall not commit or permit any reckless or dangerous conduct on City property at any time. This includes, but is not limited to, violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance.

Industry Standards. The Contractor represents and expressly warrants that all aspects of the Services provided or used by it shall at a minimum conform to the standards in the Contractor's industry. This requirement shall be in addition to any express warranties, representations, and specifications included in the Contract, which shall take precedence.

Litigation. Contractor affirms there are no pending, or to the knowledge of Contractor, threatened actions or proceedings before any court or administrative agency, to which Contractor is a party, questioning the validity of this Agreement or any document or action contemplated hereunder, or which are likely, in any single case or in the aggregate, to materially adversely affect Contractor's performance as required hereunder.

Marketing. Contractor shall work with the Project Manager or their designee to develop marketing strategies for the golfing and surrounding community to utilize the contracted facilities. At a minimum, the Contractor must create, publish, and operate a website that is solely dedicated to the restaurant at the aforementioned property location. The Contractor should use different social media platforms that will help market the restaurant. All marketing materials must be approved in advance by the City, in writing.

Notification of Compliance. The Contractor shall be responsible for adherence to all state and local laws and regulations. Any violations of laws or regulations on City property must be reported to the City within 24 hours. The Contractor must supply all health department and fire marshal inspection of the contracted facilities within 48 hour of receipt. All criminal activity must be reported immediately to the Project Manager or their designee.

Personal Property. Any and all personal property placed on City property by the Contractor, their employees, and/or subcontractors shall be at their own risk and the City shall not be held liable for any damages or losses to said personal property for any cause whatsoever.

Renovations. Any renovations or changes to dining facilities, including but not limited to facilities and fixed equipment and installation of new food concepts, must be approved by the City in writing prior to commencement of work and shall be at the Contractor's expense.

Signage. All signage will be professionally prepared. Cost for said signage and menus shall be a Direct Operating Expense to Contractor. All signage shall be approved by the City. No handwritten signs or banners shall be hung from any City property. Contractor must install and maintain all identifying signs at the contracted facilities that identify the hours of operation.

Site Visits. The City reserves the right to inspect contracted facilities at any time.

Third Party Obligations. The Contractor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to the Contract are or will be fully satisfied by the Contractor so that the City will not have any obligations with respect thereto.

Use of City Vehicles and/or Equipment. Unless expressly agreed upon in writing by the City, the Contractor shall not be allowed to utilize City owned vehicles and/or equipment. The Contractor shall be responsible for providing necessary transportation and equipment to perform all services.

Water Resources. The Contractor shall not discharge into waters of lakes, rivers, canals, waterways and ditches, any fuel, oils, bitumens, garbage, sewage, or other materials which may be harmful to fish, wildlife, or vegetation, or that may be detrimental to outdoor recreation. The Contractor shall be responsible for investigating and complying with all applicable Federal, State and local laws and regulations governing pollution of waters. All work under this Contract shall be performed in such a manner that objectionable conditions will not be created in waters through or adjacent to the project areas.

SECTION XXI **ASSIGNMENT**

The Contract may not be assigned, delegated, subcontracted, transferred or conveyed in whole or in part. For the purpose of construing this clause, a transfer of a controlling ownership or managerial interest in the Contractor shall be considered an assignment. In the event of such assignment, the City reserves the right to terminate this Contract pursuant to Section XXII.

SECTION XXII **DELAYS AND TERMINATION**

Termination for Cause. The occurrence of any one or more of the following events shall constitute cause for the City to declare the Contractor in default of its obligations under the Contract:

- I. The Contractor fails to deliver or has delivered nonconforming Services or fails to perform, to the City's satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;
- II. The Contractor fails to make substantial and timely progress toward performance of the Contract;
- III. In the event the Contractor is required to be certified or licensed as a condition precedent to providing the Services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;
- IV. The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the City reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
- V. The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Contract;
- VI. If the City determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, life, health or safety to be jeopardized;
- VII. The Contractor has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion;
- VIII. The Contractor furnished any statement, representation or certification in connection with the Contract, which is materially false, deceptive, incorrect or incomplete;
- IX. The Contractor assigns the Contract.

Notice of Default. If there is a default event caused by the Contractor, the City shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Contractor. If the breach or noncompliance is not remedied within the period of time specified in the written notice, the City may:

- I. Immediately terminate the Contract without additional written notice(s); and/or
- II. Enforce the terms and conditions of the Contract and seek any legal or reasonable remedies; and/or
- III. Procure substitute services from another source and charge the difference between the Contract and the substitute contract to the defaulting Contractor

Termination Without Cause. The City, in its sole discretion, may terminate this contract at any time without cause, by providing at least sixty (60) days' prior written notice to Contractor. Any such termination shall be accomplished by delivery in writing of a notice to Contractor. Following termination without cause, the Contractor shall be entitled to compensation upon submission of invoices and proper proof of claim, for services provided under the contract to the City up to the time of termination, pursuant to Florida law.

SECTION XXIII
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, having had the opportunity to consult with an attorney, hereby freely, voluntarily and expressly, waive their respective rights to trial by jury on any issues so triable.

SECTION XXIV
CONTRACT ADMINISTRATION

Amendments. The City and the Contractor agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of the Contract. The Contract may be amended in writing from time to time by mutual consent of the parties. All amendments to the Contract must be in writing and fully executed by duly authorized representatives of the City and the Contractor.

Fiscal Year- All reference to Fiscal Year shall mean the City's Fiscal Year. The City's Fiscal Year is from October 1st through September 30th.

Integration of Terms. This Contract represents the entire contract between the parties. The parties shall not rely on any representation that may have been made by either party which is not included in the Contract.

Joint Venture. Nothing in the Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the vested parties. Each party shall be deemed to be an independent contractor contracting for the services and acting toward the mutual benefits expected to be derived from the mutually agreed upon contract. Neither Contractor nor any of Contractor's agents, employees, subcontractors or contractors shall become or be deemed to become agents, or employees of the City. Contractor shall therefore be responsible for compliance with all laws, rules and regulations involving its employees and any subcontractors, including but not limited to employment of labor, hours of labor, health and safety, working conditions, workers' compensation insurance, and payment of wages. No party has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to the Contract.

Notice(s). Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Fed-EX, UPS, courier or other similar and reliable carrier which shall be

addressed to the person who signed the Contract on behalf of the party at the address identified in the contract. Each such notice shall be deemed to have been provided:

- I. Within one (1) day in the case of overnight hand delivery, courier or Services such as Fed-Ex or UPS with guaranteed next day delivery; or,
- II. Within seven (7) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail.

From time to time, the parties may change the name and address of the person designated to receive notice. Such change of the designated person or their designees and/or address shall be in writing to the other party and as provided herein.

Performance by Industry Standards. The Contractor represents and expressly warrants that all aspects of the Services provided or used by it shall, at a minimum, conform to the standards in the Contractor's industry. This requirement shall be in addition to any express warranties, representations, and specifications included in the Contract, which shall take precedence

Permits, Licenses, and Certifications. The Contractor 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 Liquor license shall be co-held by the City and Contractor. The Contractor must obtain and pay for all fees associated with the liquor license; furthermore, the City must be listed as the co-holder on the required license. The Contractor 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.

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.

Supersedes Former Contracts or Agreements. Unless otherwise specified in the Contract, this Contract supersedes all prior contracts or agreements between the City and the Contractor for the Services provided in connection with the Contract.

Use of Name or Intellectual Property. Contractor agrees it will not use the name or any intellectual property, including but not limited to, City trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of the City.

Waiver. Except as specifically provided for in a waiver signed by duly authorized representatives of the City and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach. Each waiver, if mutually agreed upon, shall be published as a contract amendment.

SECTION XXV

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 XXVI **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 XXVII **ATTORNEY'S FEES**

In the event that any suit or action is instituted to enforce or interpret any provision in this Contract, each party shall bear its own costs, expenses and attorney fees associated, without recourse.

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.

SECTION XXX **ORDER OF PREFERENCE**

In the case of any inconsistency or conflict among the specific provisions of the this Contract (including any amendments accepted by both the City and the Contractor attached hereto), the RFP (including any subsequent addenda and written responses to bidders' questions), and the Contractor's Response, any inconsistency or conflict shall be resolved as follows:

- (i) First, by giving preference to the specific provisions of this Contract.
- (ii) Second, by giving preference to the specific provisions of the eRFP.
- (iii) Third, by giving preference to the specific provisions of the Contractor's Response, except that objections or amendments by a contractor that have not been explicitly accepted by the City in writing shall not be included in this Contract and shall be given no weight or consideration.

SECTION XXXI
AUTHORIZATION OF SIGNATURE AUTHORITY

The individuals signing this Contract represent and warrant to the other parties that:

- I. It has the right, power and authority to enter into and perform its obligations under the Contract; and
- II. It has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of the Contract and the Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

**SECTION XXXII
ENTIRE CONTRACT**

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

By: _____
Purchasing Agent

By: _____
CONTRACTOR
Authorized Representative

State of: FLORIDA

County of: PALM BEACH

The foregoing instrument was acknowledged before me by physical presence or online notarization.

Please check one:

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

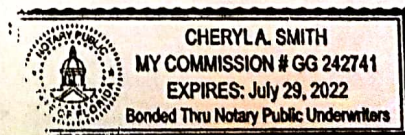
and known to me to be the person described in and who executed the foregoing instrument before me by physical presence or online notarization,

WITNESS my hand and official seal, this 21st day of JANUARY, 2021.

Cheryla Smith
Notary Signature

Notary Public State of FLORIDA at Large.

My Commission Expires GG242741
exp 7/29/2022



(seal)