

## **AGREEMENT TO PIGGYBACK A CONTRACT FOR PLAYGROUND AND RELATED EQUIPMENT**

**THIS AGREEMENT** is made and entered into on \_\_\_\_\_, by the City of Pompano Beach (“City”) and Topline Recreation Inc., a Florida Corporation whose principal place of business is 2922 Howland Blvd., Suite 4, Deltona, FL 32725 (“Contractor”).

**WHEREAS**, the School Board of Volusia County received bids or proposals in response to competitive solicitation MTS-906BC to purchase Playground and Related Equipment and

**WHEREAS**, on March 27, 2020, the School Board of Volusia County approved the award of MTS-906BC - Playground and Related Equipment, and an agreement was executed for a term of five (5) years effective March 27, 2020 through July 31, 2025; and

**WHEREAS**, the City’s Environmental Resources Department wishes to enter into an Agreement with Topline Recreation Inc. to purchase trash receptacles, which are included in the list of related equipment; and

**WHEREAS**, Section 32.41(C) of the City Code provides authority for the City Manager to piggyback the purchase of goods and services with state or local public contracts within certain codified guidelines, of which these guidelines have been met; and

**WHEREAS**, the parties wish to incorporate the terms and conditions of the solicitation and contractual arrangement with the same terms and conditions set forth in the agreement of MTS-906BC - Playground and Related Equipment between the School Board of Volusia County and Topline Recreation Inc., which is attached and incorporated in this Agreement as Exhibit “A” and adopted in its entirety by the City and the Contractor, together with and including contract renewals, amendments and change orders to the extent applicable; and

**WHEREAS**, the City has determined that piggybacking the agreement of MTS-906BC - Playground and Related Equipment between the School Board of Volusia County and Topline Recreation Inc. is necessary for the purchase of Playground and Related Equipment and is the most economically advantageous way to procure these necessary materials, products, and services in a timely and efficient manner.

**NOW THEREFORE**, in consideration of the mutual covenants set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

**1. RECITATIONS.**

The foregoing “WHEREAS” clauses are adopted and incorporated in this Agreement.

**2. TERM.**

The term of this Piggyback Agreement shall commence on April 1, 2025, and expire on July 31, 2025, unless it is terminated sooner pursuant to Section 4(F) of this agreement.

**3. RENEWAL.**

The Contractor affirms and ratifies the terms and conditions of the Agreement with the School Board of Volusia County and agrees to perform the services in that Contract with the School Board of Volusia County for the City in accordance with the terms for the agreed time period and any available renewal period.

**4. AS-NEEDED BASIS.**

The Contractor agrees to provide the services to the City of Pompano Beach on an as-needed basis, as requested by the City.

- A. City shall pay the Contractor no more than the unit prices set forth in the Agreement and in accordance with the provisions of the Agreement.
- B. If permits are required as part of the services being rendered, the Contractor shall submit complete and accurate permit applications to all applicable permitting agencies within five (5) business days of receiving all documents from the City necessary to file such permit applications. The City's Environmental Resources Department shall pay all permit and related fees directly to the permitting agencies, including any permit fees charged by the City.
- C. The City of Pompano Beach shall be deemed substituted for the School Board of Volusia County with regard to any and all provisions of the Contract, including, for example, and without limitation, with regard to bond requirements, insurance, indemnification, licensing, termination, default, and ownership of documents, including the additional provisions in sections D, E, and F, below. All recitals, representations, and warranties of the Contractor made in the Contract are restated as if fully set forth herein, made for the benefit of the City, and incorporated herein.
- D. Within 10 days of the execution of this Agreement, the Contractor shall furnish the City with a certificate of insurance in a form acceptable to the City and will be incorporated into this agreement as Exhibit "B." Such certificate provided by Contractor must state the City will be given thirty (30) days written notice prior to cancellation or material change in coverage. A copy of the additional insured endorsement must be attached and contain language on a form no more restrictive than ISO form CG 20 10 (Additional Insured – Owners, Lessees, or Contractor) combined with ISO form CG 20 37 (Additional Insured – Owners Lessees or Contractors – Completed Operations). The contractor shall not commence work unless and until the Contractor has fully met the requirements for insurance and appropriate evidence, in the City's sole discretion, has been provided to and approved by the City.
- E. Contractor shall indemnify and hold harmless the City, its elected officials, officers, employees, and agents, from and against all claims, suits, actions, damages, causes, or actions or judgments arising out of the terms of this Agreement for any personal injury, loss of life, or damage to property sustained as a result of the performance or non-performance of services, from and against any orders, judgments, or decrees, which may be entered against City, its elected officials, officers, employees, and agents and from and against all costs, attorney's fees, expenses, and other liabilities incurred in the defense of any such claim, suit, or action, and the investigation thereof. Nothing in the award, resulting agreement, contract, or purchase order shall be deemed to affect the rights, privileges, and immunities of the City as set forth in Florida Statute section 768.28. The parties agree that one percent (1%) of the total compensation paid to the Contractor for work under this Agreement shall constitute specific consideration to the Contractor for the indemnification to be provided under the contract.
- F. Both parties agree that the City may terminate this Agreement for any reason with ten (10) business days' written notice to the Contractor.

**5. NOTICE.**

Notice shall be provided in writing by certified mail return receipt requested, electronic mail, or customarily used overnight transmission with proof of delivery to the following parties, with mandatory copies, as provided below:

For City:

Gregory P. Harrison  
City Manager  
City of Pompano Beach  
100 W. Atlantic Blvd., 4<sup>th</sup> Floor  
Pompano Beach, Florida 33060

Natalie Holmes  
Contract Administrator  
City of Pompano Beach  
100 W. Atlantic Blvd.  
Pompano Beach, Florida 33060

For Contractor: Sonia Perkins  
Topline Recreation, Inc.  
2922 Howland Blvd Suite 4  
Deltona FL, 32725

**6. GOVERNING LAW; VENUE; WAIVER OF TRIAL BY JURY.**

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any litigation arising from, related to, or in connection with this Agreement shall be in the Seventeenth Judicial Circuit in and for Broward County, Florida, or in the United States District Court for the Southern District of Florida, or United States Bankruptcy Court for the Southern District of Florida, as applicable. BY ENTERING INTO THIS AGREEMENT, THE PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

**7. PUBLIC RECORDS.**

A. The City of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida’s Public Records Law, as amended. Specifically, the Contractor shall:

1. Keep and maintain public records required by the City in order to perform the service.
2. Upon request from the City’s custodian of public records, provide the City with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.
3. 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.

4. 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 City's information technology systems.
- B. Failure of the Contractor to provide the above-described public records to the City within a reasonable time may subject the Contractor to penalties under 119.10 Florida Statutes, as amended.

## **PUBLIC RECORDS CUSTODIAN**

**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**

**100 W. Atlantic Blvd., Suite 253**

**Pompano Beach, Florida 33060**

**(954) 786-4611**

**[RecordsCustodian@copbfl.com](mailto:RecordsCustodian@copbfl.com)**

## **8. ASSIGNMENT.**

Neither party may assign its rights or obligations under this Agreement without the consent of the other.

## **9. NONEXCLUSIVITY.**

No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and in addition to every other remedy given herein, now or hereafter existing at law or in equity or by statute or otherwise.

## **10. INDEPENDENT CONTRACTOR.**

Both the City and the Contractor agree that the Contractor is an independent contractor and not a City employee. City shall not be liable for any wages, salaries, debts, liabilities, or other obligations for Contractor's employees, agents, or other representatives performing obligations of Contractor. Except as otherwise provided, neither party is the agent of the other nor is authorized to act on behalf of the other in any matter.

## **11. COMPLIANCE WITH ALL LAWS.**

In the conduct of its activities under this Agreement, the Contractor shall comply with all applicable federal and state laws and regulations and all applicable county and city ordinances and regulations, including, but not limited to, compliance with the Americans with Disabilities Act. Ignorance on the Contractor's part shall in no way

relieve the Contractor from this responsibility. At its sole expense, the Contractor shall purchase all necessary licenses and permits required by the State of Florida, Broward County, and the City.

**12. ENTIRE AGREEMENT.**

This Agreement sets forth the entire agreement between Contractor and City with respect to the subject matter of this Agreement. This Agreement supersedes all prior and contemporaneous negotiations, understandings, and agreements, written or oral, between the parties. This Agreement may not be modified except by the parties' mutual agreement set forth in writing and signed by the parties.

**13. COUNTERPARTS.**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**14. INDEMNIFICATION.**

Except as expressly provided herein, no liability shall attach to the City by reason of entering into this Agreement.

- A. Contractor shall at all times indemnify, hold harmless, and defend the City, its officers, officials, employees, volunteers, and other authorized agents from and against any and all claims, demands, suits, damages, attorneys' fees, fines, losses, penalties, defense costs or liabilities suffered by the City arising directly or indirectly from any act, breach, omission, negligence, recklessness or misconduct of Contractor and/or any of its agents, officers, or employees hereunder, including any inaccuracy in or breach of any of the representations, warranties or covenants made by the Contractor, its agents, officers and/or employees, from the performance of services under this contract. The Contractor agrees to investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and to bear all other costs and expenses related thereto, even if the claim(s) is/are groundless, false, or fraudulent. To the extent considered necessary by City, any sums due Contractor hereunder may be retained by City until all of City's claims for indemnification hereunder have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by City.
  
- B. Contractor acknowledges and agrees that City would not enter into this Agreement without this indemnification of City by Contractor. The parties agree that one percent (1%) of the total compensation paid to the Contractor hereunder shall constitute specific consideration for the Contractor for the indemnification provided under this Article, and these provisions shall survive the expiration or early termination of this Agreement.

**15. SCRUTINIZED COMPANIES.**

By execution of this Agreement, in accordance with the requirements of F.S. 287.135 and F.S. 215.473, the Contractor certifies that the Contractor is not participating in a boycott of Israel. The Contractor further certifies that the Contractor is not on the Scrutinized Companies that Boycott Israel list, not on the Scrutinized Companies with Activities in Sudan List, and not on the Scrutinized Companies with Activities in Iran Terrorism Sectors List, nor has Contractor been engaged in business operations in Syria. Subject to limited exceptions provided in state law, the City will not contract for the provision of goods or services with any scrutinized company referred to above. In accordance with Section 287.135, Florida Statutes as amended, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with any agency or local government entity for goods or services of:

- A. Any amount if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or

- B. One million dollars (\$1,000,000.00) or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:
- i. Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, created pursuant to Section 215.473, Florida Statutes; or
  - ii. Is engaged in business operations in Syria.

Submitting a false certification or being placed on a list created pursuant to Section 215.473, Florida Statutes relating to scrutinized active business operations in Iran after the Contractor has submitted a certification shall be deemed a material breach of contract. The City shall provide notice, in writing, to the Contractor of the City's determination concerning the false certification. The Contractor shall have five (5) days from receipt of notice to refute the false certification allegation. If such false certification is discovered during the active contract term, the Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the City's determination of false certification was made in error, then the City shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes, as amended from time to time.

**16. AFFIDAVIT OF COMPLIANCE WITH ANTI-HUMAN TRAFFICKING LAWS.**

In accordance with section 787.06 (13), Florida Statutes, the undersigned, on behalf of the entity listed below ("Entity"), hereby attests under penalty of perjury that:

- A. Entity does not use coercion for labor or services as defined in Section 787.06, Florida Statutes, entitled "Human Trafficking."

**17. AFFIDAVIT OF COMPLIANCE WITH FOREIGN ENTITY LAWS.**

The undersigned, on behalf of the entity listed below ("Entity"), hereby attests under penalty of perjury as follows:

- A. Entity is not owned by the government of a foreign country of concern as defined in Section 287.138, Florida Statutes.
- B. The government of a foreign country of concern does not have a controlling interest in the Entity.
- C. Entity is not organized under the laws and does not have a principal place of business in a foreign country of concern.
- D. Entity is not owned or controlled by the government of a foreign country of concern, as defined in Section 692.201, Florida Statutes.
- E. Entity is not a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country of concern, as defined in Section 692.201, Florida Statutes, or a subsidiary of such entity.
- F. Entity is not a foreign principal, as defined in Section 692.201, Florida Statutes.
- G. Entity is in compliance with all applicable requirements of Sections 692.202, 692.203, and 692.204, Florida Statutes.
- H. The undersigned is authorized to execute this affidavit on behalf of Entity.

**18. SEVERABILITY.**

Should any provision of this Agreement or the applications of such provisions be rendered or declared invalid by court action or by reason of any existing or subsequently enacted legislation, the remaining parts of this Agreement shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the day and year first written above.

CITY OF POMPANO BEACH

By: \_\_\_\_\_  
REX HARDIN, MAYOR

By: \_\_\_\_\_  
GREGORY P. HARRISON, CITY MANAGER

Attest:

\_\_\_\_\_  
KERVIN ALFRED, CITY CLERK (SEAL)

Approved as to Form:

\_\_\_\_\_  
MARK E. BERMAN, CITY ATTORNEY



“CONTRACTOR”

Witnesses:

Topline Recreation Inc.

By: Sonia Perkins, President

*Sonia Perkins*

Terry Perkins  
(Signature)

TERRY PERKINS - VP  
(Print or Type Name)

*[Signature]*  
(Signature)

ROB WILSON - GM  
(Print or Type Name)

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization this 13 day of MARCH, 2025, by Sonia Perkins, as President of Topline Recreation Inc., a Florida Corporation, on behalf of the corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification.

NOTARY'S SEAL:

*Janelle*  
NOTARY PUBLIC, STATE OF FLORIDA

Jennifer Janelle  
(Name of Acknowledger Typed, Printed or Stamped)



JENNIFER JANELLE  
Commission # HH 379138  
Expires March 27, 2027

HH379138  
Commission Number