

REINSTATEMENT AND AMENDMENT NO. 1
To Agreement for Disaster Recovery Management Services

This Reinstatement and Amendment No. 1 ("Amendment") is made by and between **Witt O'Brien's, LLC**, with a mailing address of 818 Town & Country Blvd., Suite 200, Houston, Texas 77024 ("the Consultant"), and **City of Pompano Beach** (the "City"), collectively "the parties," modifies the **Agreement for Disaster Recovery Management Services** entered into by the parties on December 16, 2014 ("Original Agreement") and effective through December 16, 2019. This Amendment is retroactive back to the initial effective of the contract.

The parties hereby agree that the Original Agreement shall be amended as follows:

1. The Consultant and City desire to add FEDERAL STANDARD TERMS AND CONDITIONS FOR CONTRACTS AND GRANTS under Attachment E to the Original Agreement as shown below.
2. The City is entitled to exercise all administrative, contractual, or other remedies permitted by law to enforce Contractor's compliance with the terms of this Agreement, except to the extent expressly provided otherwise by this Agreement.
3. The City may, at its sole discretion, terminate this Agreement for cause or convenience in accordance with the procedures set forth in this Agreement.
4. Reinstatement of the Original Agreement is intended solely for the purposes of city's resolution of any and all outstanding financial compensation matters. All terms and conditions of this Amendment shall be applicable nunc pro tunc as if in existence at the time the Original Agreement was executed by the parties. This Agreement shall expire upon resolution of all pending city reimbursement claims related to Hurricane Irma, upon written termination by the city. However, in no event shall this contract extend beyond two (2) years.
5. This Agreement may be amended only by written document executed by a duly authorized representative of each of the parties.

Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, City and Consultant have caused this Amendment to be executed by their duly authorized representatives.

REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK
SIGNATURES ON FOLLOWING PAGES

"CONSULTANT":

Witnesses:

WITT O'BRIEN'S, LLC

Kelly Stouffer
Kelly Stouffer

Print Name
Alia Al Qaissy
Alia Al Qaissy
Print Name

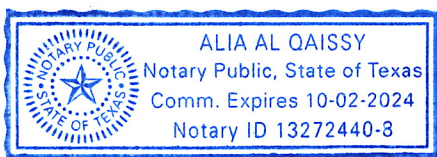
By: Jonathan Hoyes
Jonathan Hoyes
Typed or Printed Name
Senior Managing Director
Title:
(SEAL)

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☒ online notarization, this 20th day of July, 2021, by Jonathan Hoyes as Senior Managing Director of WITT O'BRIEN'S LLC, a Delaware limited liability company authorized to do business in the State of Florida, on behalf of the limited liability company. He/she is personally known to me or who has produced Driving License (type of identification) as identification.

NOTARY'S SEAL:



Alia Al Qaissy
NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

13272440-8
Commission Number

"CITY":

CITY OF POMPANO BEACH

By: _____
REX HARDIN, MAYOR

By: _____
GREGORY P. HARRISON, CITY MANAGER

Attest:

ASCELETA HAMMOND, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

MARK E. BERMAN, CITY ATTORNEY

MEB:jrm
6/30/21
L:agr/finance/2021-891

Attachment E
FEDERAL CLAUSES

FEDERAL STANDARD TERMS AND CONDITIONS FOR CONTRACTS AND GRANTS

The Parties shall comply with all federal laws and regulations applicable to the receipt of Federal grants, including, but not limited to the contractual procedures set forth in Title 2 of the Code of Federal Regulations, Part 200 ("2 CFR 200"), including Appendix II to such Part ("Appendix II").

In addition, the Parties agrees as follows:

1. City confirms that it is entitled to exercise all administrative, contractual, or other remedies permitted by law to enforce Consultant's compliance with the terms of this Agreement, except to the extent expressly provided otherwise by this Agreement.
2. City confirms that it may terminate this Agreement for cause or convenience in accordance with the procedures set forth in this Agreement.
3. Compliance with the Davis-Bacon Act and Copeland Anti-Kickback Act as applicable to the Services.
 - a. Consultant shall comply with 18 U.S.C. §874, 40 U.S.C. § 3145, and the requirements of 29 CFR Part 3 as may be applicable, which are incorporated by reference into this Agreement.
 - b. Subcontracts. Consultant and any subcontractors to Consultant shall insert in any subcontracts the clause above and such other clauses as Federal, State, Local regulations, Laws, and Policies may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontractors. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
 - c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 CFR §5.12.
4. Compliance with the Clean Air Act and the Federal Water Pollution Control Act.
 - a. Clean Air Act
 - (i) Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. §7401 et seq.
 - (ii) Consultant agrees to report each violation to CITY and understands and agrees that City will, in turn, report each violation as required to assure notification to the

appropriate Federal agency and the appropriate Environmental Protection Agency Regional Office.

- (iii) Consultant agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by the Federal government.

b. Federal Water Pollution Control Act

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

5. Suspension and Debarment

- a. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, Consultant is required to verify that none of Consultant, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- b. Consultant must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- c. This certification is a material representation of fact relied upon by City. If it is later determined that Consultant did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- d. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

6. Compliance with Byrd Anti-Lobbying Amendment

- a. Consultant hereby certifies to the best of its knowledge that:

- (i) No Federal appropriated funds have been paid or will be paid, by or on behalf of Consultant, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - (ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, Consultant shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - b. Consultant shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.
 - c. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
 - d. By executing this Agreement, Consultant hereby certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Consultant understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.
7. Procurement of Recovered Materials
- a. In the performance of this contract, Consultant shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired

- (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
 - (ii) Meeting contract performance requirements; or
 - (iii) At a reasonable price.
- b. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

8. Access to Records

The following access to records requirements apply to this Agreement:

- a. Consultant agrees to provide City, the Federal Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- b. Consultant agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- c. Consultant agrees to provide the Federal Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

9. Use of DHS Seal

Consultant shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific appropriate Federal agency pre-approval.

10. Compliance with Federal Law

This is an acknowledgement that Federal financial assistance may be used to fund the Agreement only. Consultant will comply with all applicable federal, state or local law, regulations, executive orders, policies, procedures, and directives.

11. Non-Obligation of Federal Government

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

12. Program Fraud and False or Fraudulent Statements or Related Acts

Consultant acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

13. Safeguarding of Sensitive Information and Information Technology Security and Privacy Training

(a) *Sensitive Information*, as used in this clause, means any information, which if lost, misused, disclosed, or, without authorization is accessed, or modified, could adversely affect the national or homeland security interest, the conduct of Federal programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy. This definition includes the following categories of information:

- (1) Protected Critical Infrastructure Information (PCII) as set out in the Critical Infrastructure Information Act of 2002 (Title II, Subtitle B, of the Homeland Security Act, Pub. L. 107-296, 196 Stat. 2135), as amended, the implementing regulations thereto (Title 6, Code of Federal Regulations, part 29) as amended, the applicable PCII Procedures Manual, as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the PCII Program Manager or his/her designee);
- (2) Sensitive Security Information (SSI), as defined in Title 49, Code of Federal Regulations, part 1520, as amended, "Policies and Procedures of Safeguarding and Control of SSI," as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the Assistant Secretary for the Transportation Security Administration or his/her designee);
- (3) Information designated as "For Official Use Only," which is unclassified information of a sensitive nature and the unauthorized disclosure of which could adversely impact a person's privacy or welfare, the conduct of Federal programs, or other programs or operations essential to the national or homeland security interest; and
- (4) Any information that is designated "sensitive" or subject to other controls, safeguards or protections in accordance with subsequently adopted homeland security information handling procedures.

(b) "Information Technology Resources" include, but are not limited to, computer equipment, networking equipment, telecommunications equipment, cabling, network

drives, computer drives, network software, computer software, software programs, intranet sites, and internet sites.

- (c) Contractor employees working on this contract must complete such forms as may be necessary for security or other reasons, including the conduct of background investigations to determine suitability. Completed forms shall be submitted as directed by the Contracting Officer. Upon the Contracting Officer's request, the Contractor's employees shall be fingerprinted, or subject to other investigations as required. All Contractor employees requiring recurring access to Government facilities or access to sensitive information or IT resources are required to have a favorably adjudicated background investigation prior to commencing work on this contract unless this requirement is waived under Departmental procedures.
- (d) The Contracting Officer may require the Contractor to prohibit individuals from working on the contract if the Government deems their initial or continued employment contrary to the public interest for any reason, including, but not limited to, carelessness, insubordination, incompetence, or security concerns.
- (e) Work under this contract may involve access to sensitive information. Therefore, the Contractor shall not disclose, orally or in writing, any sensitive information to any person unless authorized in writing by the Contracting Officer. For those Contractor employees authorized access to sensitive information, the Contractor shall ensure that these persons receive training concerning the protection and disclosure of sensitive information both during and after contract performance.
- (f) The Contractor shall include the substance of this clause in all subcontracts at any tier where the subcontractor may have access to Government facilities, sensitive information, or resources.

14. Domestic Preferences for Procurements

- (a) As appropriate and to the extent consistent with law, the non-federal entity should, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- (b) For purposes of this section:
 - (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products

such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

15. Small and Minority and Women's Business Enterprise, and Labor Surplus Area Firms Opportunity Program and Requirement (SWMBE) Utilization.

The City requires the prime contractor, if subcontracts are to be let, to take the affirmative steps listed below. These steps include:

- Placing qualified small and minority business and women's business enterprises on solicitation lists;
- Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business and women's business enterprises;
- Establishing delivery schedules where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration or the State of Florida Office of Supplier Diversity.