

AGREEMENT

Between

BROWARD COUNTY

and

THE CITY OF FORT LAUDERDALE

for

**IMPLEMENTATION OF PROJECTS
PURSUANT TO THE
ENHANCED MARINE LAW ENFORCEMENT GRANT**

GOVERNMENTAL ENTITY

FY 2012/2013

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AGREEMENT

Between

BROWARD COUNTY

and

THE CITY OF FORT LAUDERDALE

for

IMPLEMENTATION OF PROJECTS PURSUANT TO THE ENHANCED MARINE LAW ENFORCEMENT GRANT

This is an Agreement between: BROWARD COUNTY, a political subdivision of the state of Florida, hereinafter referred to as "COUNTY,"

AND

The CITY OF FORT LAUDERDALE, a municipal corporation existing under the laws of the state of Florida, hereinafter referred to as "GRANTEE."

IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, COUNTY and GRANTEE agree as follows:

ARTICLE 1

PURPOSE

- 1.1 In order to establish the background, context, and frame of reference for this Agreement, and to generally express the objectives and intentions of the respective parties herein, the following statements, representations, and explanations shall be expected as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.
- 1.2 Pursuant to the Local Option Vessel Registration Fee, Section 1-525, *et seq.*, of the Broward County Code of Ordinances, as may be amended from time to time, COUNTY imposed a registration fee on all vessels required to register with the state of Florida which obtain such registration in Broward County.
- 1.3 In accordance with the above-referenced sections, a portion of the monies collected by COUNTY from the vessel registration fees are to be expended

through the Enhanced Marine Law Enforcement Grant Program for the patrol and regulation of the lakes, rivers, and waters within Broward County.

1.4 COUNTY is desirous of disbursing the funds to GRANTEE. However, as administrators for the program, COUNTY desires to obtain the assurance from GRANTEE, and GRANTEE so assures COUNTY, that GRANTEE will comply with the statutes, rules, and regulations of the United States, the state of Florida, and applicable codes and regulations of COUNTY relating to the Project(s) as a condition precedent to the release of such funds to GRANTEE.

1.5 This Agreement is subject to the availability of funds as more specifically described in Article 10, hereof.

1.6 DEFINITIONS AND IDENTIFICATIONS

1.6.1 **Agreement** - means this document, Article 1 through 13, inclusive. Other terms and conditions are included in the exhibits and documents that are expressly incorporated by reference.

1.6.2 **Board** - The Broward County Board of County Commissioners.

1.6.3 **Contract Administrator** - The Director of the Broward County Parks and Recreation Division or his/her designee. The primary responsibilities of the Contract Administrator are to coordinate and communicate with GRANTEE and to manage and supervise execution and completion of the Scope of Services and the terms and conditions of this Agreement, as set forth herein. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely on the instructions or the determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services and/or Project(s).

1.6.4 **County Attorney** - The chief legal counsel for COUNTY who directs and supervises the Office of County Attorney pursuant to Section 2.10 of the Broward County Charter, as may be amended from time to time.

1.6.5 **Grant** - Funds that are provided in accordance with Local Option Registration Fees for Vessels to be used for improving boating safety in COUNTY by enhancing marine law enforcement and education.

1.6.6 **Project(s)** - The Project(s) consists of the services described in Article 2.

ARTICLE 2

PROJECT(S)/SCOPE OF SERVICES

- 2.1 GRANTEE hereby agrees to provide and implement the following eligible Project(s):

Such Project(s) and eligible costs are more specifically described and set forth in Exhibit "A," (attached hereto) and by this reference made a part hereof. It is specifically understood that travel time to and from a detail and administrative overhead costs, including scheduling time, do not constitute eligible costs.

- 2.2 GRANTEE shall perform all work identified in this Agreement and Exhibit "A." The parties agree that the Project(s)/Scope of Services is a description of GRANTEE's obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks which are such an inseparable part of the work described that exclusion would render performance by GRANTEE impractical, illogical, or unconscionable.

ARTICLE 3

TERM AND TIME OF PERFORMANCE

- 3.1 The term of this agreement shall commence on October 1, 2012, and shall terminate on September 30, 2013; provided, however, if the term of this Agreement extends beyond a single fiscal year of COUNTY, the continuation of this Agreement beyond the end of any fiscal year shall be subject to the availability of funds from COUNTY in accordance with Chapter 129, Florida Statutes, as may be amended from time to time.
- 3.2 All duties, obligations, and responsibilities of GRANTEE required by this Agreement shall be completed no later than September 30, 2013. Time will be deemed to be of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

ARTICLE 4

COMPENSATION

- 4.1 The maximum amount payable by COUNTY to GRANTEE under this Agreement shall be One Hundred and Fifty-Seven Thousand, Two Hundred and Thirty-Two Dollars (\$157,232.00). The funding rate for patrolling the waterways within Broward County shall be Forty-two Dollars (\$42.00) per hour per person. In the

event that GRANTEE requires two (2) persons per boat for safety or security reasons, the participating agency must provide written documentation explaining the need for two (2) officers per boat to the Contract Administrator before permitting any officers to work. Should Contract Administrator agree to provide GRANTEE funding for two (2) officers per boat, the number of patrol hours provided, reimbursed, or paid by COUNTY shall not exceed four (4) hours per one (1) officer per any one (1) given day, except in EMLEG Zone XI, where it shall not exceed six (6) hours. Accordingly, in the event that GRANTEE requires two (2) officers per boat, the two patrolling officers shall be limited to a combination of no more than eight (8) hours per day between the two (2) officers, except in Zone XI where it shall not exceed (12) hours. Unless by express written agreement approved by Contract Administrator, at no time, regardless of the number of officers needed per boat, will COUNTY pay more than eight (8) hours of patrolling time per day to GRANTEE, except in Zone XI, where the maximum is twelve (12) hours.

- 4.2 In accepting the amount of One Hundred and Fifty-Seven Thousand, Two Hundred and Thirty-Two Dollars (\$157,232.00), GRANTEE acknowledges and agrees that this is the maximum payable amount and this payment constitutes a limitation upon COUNTY's obligation to compensate GRANTEE for its services related to this Agreement. Additionally, this amount shall be accepted by GRANTEE as full compensation for all work actually performed and completed pursuant to this Agreement. This maximum amount, however, does not constitute a limitation, of any sort, upon GRANTEE's obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services and/or Project(s) provisions. Except as set forth in Section 4.3, no amount shall be paid to GRANTEE to reimburse its expenses unless expressly provided in this Agreement and/or within its attachments.
- 4.3 COUNTY agrees to reimburse GRANTEE for the Project(s) expenses as described in Article 2 and Exhibit "A," provided suspension of payment, as provided for in Article 11 hereof, has not occurred, and provided further that GRANTEE complies with the procedures for invoices and payments as set forth in Article 5, herein.

ARTICLE 5

METHOD OF BILLING AND PAYMENT

- 5.1 GRANTEE shall invoice COUNTY quarterly on the following basis:
- 5.1.1 GRANTEE shall submit to the COUNTY's Contract Administrator a certified copy of the officer's record/time card reflecting the services rendered, the

date the services were rendered, and appropriate approvals by the City or agency that employs the officer;

- 5.1.2 If the request for reimbursement is for an item purchased, GRANTEE shall submit a copy of the receipt for the item purchased. All items shall be purchased pursuant to the purchasing guidelines set forth in Chapter 287, Florida Statutes, as may be amended from time to time;
 - 5.1.3 GRANTEE administrator or his/her designated representative shall certify that the work or item that is being invoiced has been completed or purchased; and
 - 5.1.4 In addition, GRANTEE shall provide COUNTY with quarterly progress reports, on forms approved by the Contract Administrator or his/her designee.
- 5.2 Upon receiving the reports and other materials as described by Section 5.1, the Contract Administrator shall review such reports to determine whether the services and items invoiced have been completed and that the invoiced services and items are proper for payment. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by Contract Administrator. 5.3 Upon determination by the Contract Administrator that the services or material invoiced have been received or completed, the Contract Administrator shall authorize the Broward County Finance and Administrative Services Department to make payment to GRANTEE in the amount it determines, pursuant to the aforementioned review, to be payable. Payment shall be made payable to GRANTEE and not to employees or GRANTEES of GRANTEE.
- 5.4 For purposes of this section, the reports and other materials as described in Section 5.1 shall not be honored if received later than sixty (60) days after expiration or termination of this Agreement.
- 5.5 Notwithstanding any provision of this Agreement to the contrary, COUNTY may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work which has not been remedied or resolved in a manner satisfactory to Contract Administrator. Payment may also be withheld for failure of GRANTEE to comply with a term, condition, or requirement of this Agreement. The amount withheld shall not be subject to payment of interest by COUNTY.
- 5.6 GRANTEE agrees to expend the funds allocated to the Project(s) by September 30, 2013. If GRANTEE fails to expend at least seventy-five percent (75%) of the funds allocated to the Project(s) by September 30, 2013, GRANTEE may not be eligible to receive funds in the following fiscal year. Eligibility is

determined by COUNTY's Contract Administrator or his/her designee. All funds not expended within the term of this Agreement shall remain in the custody and control of COUNTY.

- 5.7 In the event the GRANTEE misses "REGULARLY SCHEDULED PATROL HOURS," as specified in Exhibit "A," the GRANTEE may request in writing to the Contract Administrator the conversion of regularly scheduled Patrol Hours to "AGGRESSIVE HOURS." The maximum number of regularly scheduled patrol hours that can be converted to AGGRESSIVE HOURS is twenty percent (20%) per fiscal year. Converted hours will be identified as "makeup hours," on the monthly payment voucher. Make-up hours are not intended to replace or alter times of concern; rather, they are to be used when the GRANTEE has fallen behind regularly specified hours. Further, make-up hours will not replace regular patrol hours provided by the GRANTEE, but will be in addition to normal patrol as enhanced hours.
- 5.8 Payment shall be made to GRANTEE at:

Tymira Mack, Public Safety Grants Manager
City of Fort Lauderdale
100 N. Andrews Avenue
Fort Lauderdale, Florida 33301

ARTICLE 6

FINANCIAL RESPONSIBILITY

- 6.1 GRANTEE hereby gives COUNTY, through any authorized representatives, access to and the right to examine all records, books, papers, or documents relating to the Project(s) in accordance with Section 13.2 below.
- 6.2 GRANTEE hereby agrees to maintain books, records, and documents in accordance with Article 13.2 below. GRANTEE also hereby agrees to maintain these aforementioned records in accordance with accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by COUNTY under this Agreement.
- 6.3 GRANTEE hereby agrees that if it has caused any funds to be expended in violation of this Agreement, it shall be responsible to refund such monies in full to COUNTY from non-grant funds. Such refunds will additionally include twelve percent (12%) interest per annum.
- 6.4 GRANTEE hereby agrees and understands that all funding under this Agreement shall be used only for eligible activities specifically outlined in this Agreement.

- 6.5 Within ninety (90) days after GRANTEE's fiscal year end, an annual financial report shall be prepared by the GRANTEE's Chief Financial Officer reflecting the receipt and disbursement of funds for which the grant was awarded. The report shall reflect a clarification of expenses to include, but not limited to, the following: salaries, fringe benefits, operating expenses, equipment, and capital.

A Patrol and Educational Status Report shall be prepared by the GRANTEE to reflect the quantitative results of the enhanced enforcement or educational funding. Failure to provide these report(s) on a timely basis will result in the suspension of payments.

ARTICLE 7

CHANGES IN SCOPE OF SERVICES

Any change to the Scope of Services must be accomplished by a written amendment, executed by the parties in accordance with Section 13.16 below.

ARTICLE 8

INDEMNIFICATION

GRANTEE is a state agency or subdivision as defined in Chapter 768.28, Florida Statutes, as may be amended from time to time, and agrees to be fully responsible for acts and omissions of its agents or employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or subdivision of the state of Florida, to be sued by third parties in any matter arising out of this Agreement or any other contract.

ARTICLE 9

INSURANCE

GRANTEE is a state agency or subdivision as defined by Section 768.28, Florida Statutes, as may be amended from time to time, and GRANTEE shall furnish Contract Administrator with written verification of liability protection, in accordance with state law prior to final execution of said Agreement.

ARTICLE 10

TERMINATION

- 10.1 This Agreement is subject to the availability of funds. Should funds no longer be available, this Agreement shall terminate upon no less than twenty-four (24) hours' notice in writing to GRANTEE. Said notice shall be delivered by certified mail, return receipt requested, or in person, with proof of delivery. COUNTY's Contract Administrator shall be the final authority as to the availability of funds.
- 10.2 This Agreement may be terminated for cause by action of the Board or by GRANTEE if the party in breach has not corrected the breach within thirty (30) days after written notice from the aggrieved party identifying the breach, or for convenience by action of the Board upon, not less than sixty (60) days' written notice by Contract Administrator. This Agreement may also be terminated by Contract Administrator upon such notice as Contract Administrator deems appropriate under the circumstances, in the event Contract Administrator determines that termination is necessary to protect the public health, safety, or welfare.
- 10.3 Termination of this Agreement for cause shall include, but not be limited to, failure to suitably perform the work; failure to continuously perform the work in a manner calculated to meet or accomplish the objectives of COUNTY as set forth in this Agreement; or multiple breaches of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.
- 10.4 If, through any cause, GRANTEE fails to commence work on the Project(s), as set forth in Article 2 and Exhibit "A," within three (3) months from the date of execution of this Agreement by COUNTY, or fails to fulfill in a timely and proper manner its obligations under this Agreement, or if GRANTEE shall violate any of the covenants, agreements, or stipulations of this Agreement, COUNTY shall, thereupon, have the right to terminate this Agreement or suspend payment in whole or part by COUNTY's Contract Administrator giving written notice to GRANTEE of such termination or suspension of payment and specifying the effective date thereof, at least five (5) days before the effective date of termination and suspension. If payments are withheld, the Contract Administrator shall specify in writing the actions that must be taken by GRANTEE as a condition precedent to resumption of payments and should specify a reasonable date for compliance.
- 10.5 Notice of termination shall be provided in accordance with the "NOTICES," section of this Agreement except that notice of termination by Contract Administrator which Contract Administrator deems necessary to protect the public health, safety, or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES," section of this Agreement.

- 10.6 In the event this Agreement is terminated for convenience, GRANTEE shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of COUNTY's election to terminate, GRANTEE shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. GRANTEE acknowledges and agrees that Ten Dollars (\$10.00) of the funding to be paid by COUNTY, the adequacy of which is hereby acknowledged by GRANTEE, is given as specific consideration to GRANTEE for COUNTY's right to terminate this Agreement for convenience.
- 10.7 In the event of termination, all equipment, and any other assets, secured by GRANTEE with funds under this Agreement shall be returned to COUNTY.
- 10.8 In the event of termination, any funds payable by COUNTY shall be withheld until all documents are provided to COUNTY pursuant to Section 13.1 of this Agreement.
- 10.9 Notwithstanding the above, GRANTEE shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by GRANTEE, and COUNTY may withhold any payment to GRANTEE, for purposes of set-off until such time as the exact amount of damages is determined.
- 10.10 All requests for amendments to this Agreement must be submitted in writing to the Director of the Parks and Recreation Division no less than one hundred and twenty (120) days prior to the termination date of the Agreement.
- 10.11 GRANTEE agrees that all capital assets and equipment, set forth in Exhibit "A," obtained or purchased for the Project(s) with grant funds will be used for enhanced marine law enforcement and marine-related educational instruction purposes for five (5) consecutive years. The time commences on the effective date of this Agreement. Upon expiration of the five (5) consecutive years, title to such capital assets and equipment shall vest with GRANTEE.

If, for any reason, within the five (5) year period, GRANTEE does not, or cannot, use such capital assets or equipment for the intended purposes, the GRANTEE, upon cessation of use, shall give notice to COUNTY of its cessation, along with a description of the capital assets and equipment it no longer uses. COUNTY, at its option, will take possession of the capital assets and equipment, and title shall then vest with COUNTY.

ARTICLE 11

SUSPENSION OF PAYMENTS

- 11.1 The parties hereby agree that the following events are sufficient cause for suspension of payments. Such events include but are not limited to:
- 11.1.1 Ineligible use of grant funds;
 - 11.1.2 Failure to comply with the work program, substantiation and documentation, or terms of this Agreement;
 - 11.1.3 Failure to submit reports as required; and
 - 11.1.4 Submittal of misleading, incorrect, or falsified information or omission of correct and complete information which may affect the reports in any material respect.

ARTICLE 12

FINANCIAL STATEMENTS

- 12.1 GRANTEE hereby gives COUNTY, through any authorized representative, access to, and the right to, examine all records, books, papers, or documents relating to the Project.
- 12.2 GRANTEE hereby agrees to maintain books and records in accordance with Generally Accepted Accounting Principles and properly reflect all expenditures of funds provided by COUNTY under this Agreement.
- 12.3 GRANTEE agrees and understands that all funding authorized under this Agreement shall be used only for eligible activities specifically outlined in this Agreement. GRANTEE agrees to reimburse COUNTY any and all funds not used in strict compliance with this Agreement.
- 12.4 Within thirty (30) days of receipt by GRANTEE, GRANTEE shall provide to COUNTY on an annual basis the Single Audit Report prepared by an independent certified public accountant showing that there are sufficient and acceptable internal controls over the administration of the GRANTEE's grants. The Single Audit Report will encompass the controls over grants in general without reference to any specific grant award.

- 12.5 Failure of GRANTEE to meet these financial reporting requirements shall result in suspension of payment under this Agreement, or any subsequent grant agreement in effect, and disqualify GRANTEE from obtaining future grant awards until such financial statements are received and accepted by COUNTY.
- 12.6 GRANTEE is required to, and hereby agrees to, account for any program income related to Project financed in whole or part with Grant Program Funds.
- 12.7 In addition, GRANTEE shall prepare a Patrol and Educational Status Report to reflect the quantitative and qualitative results of the enhanced enforcement or educational funding.
- 12.8 Failure of the GRANTEE to meet the financial reporting requirements and educational status reporting requirements shall result in suspension of payment under this or any subsequent grant agreement in effect and disqualify the GRANTEE from obtaining future grant awards until such financial statements and educational status reports are received by Contract Administrator and found acceptable by the Broward County Commission Auditor.
- 12.9 GRANTEE acknowledges submission of financial statements to any other Broward County office, agency, or division does not constitute compliance with requirements to submit that material to Contract Administrator for this Agreement.
- 12.10 GRANTEE agrees to reimburse COUNTY any and all funds not used in strict compliance with this Agreement.

ARTICLE 13

MISCELLANEOUS

13.1 RIGHTS IN DOCUMENTS AND WORK

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of COUNTY; and, if a copyright is claimed, GRANTEE grants to COUNTY a non-exclusive license to use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by GRANTEE, whether finished or unfinished, shall become the property of COUNTY and shall be delivered by GRANTEE to the Contract Administrator within seven (7) days of termination of this Agreement by either party. Any compensation due to GRANTEE shall be withheld until all documents are received as provided herein.

13.2 AUDIT RIGHT AND RETENTION OF RECORDS

COUNTY shall have the right to audit the books, records, and accounts of GRANTEE that are related to this Project(s). GRANTEE shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project(s).

GRANTEE shall preserve and make available, at reasonable times for examination and audit by COUNTY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes, as may be amended from time to time), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by COUNTY to be applicable to GRANTEE's records, GRANTEE shall comply with all requirements thereof; however, no confidentiality or nondisclosure requirement of either federal or state law shall be violated by GRANTEE. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for COUNTY's disallowance and recovery of any payment upon such entry.

13.3 EEO COMPLIANCE

GRANTEE shall not unlawfully discriminate on the basis of race, color, national origin, sex, religion, age, marital status, political affiliation, familial status, disability, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement, the solicitation for or purchase of goods or services relating to this Agreement, or in subcontracting work in the performance of this Agreement and shall not otherwise unlawfully discriminate in violation of the Broward County Code, Chapter 16½, as may be amended from time to time. GRANTEE shall include the foregoing or similar language in its contracts with any subcontractors or sub-consultants, except that any project assisted by the U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26, as may be amended from time to time. Failure to comply with the foregoing requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as COUNTY deems appropriate.

GRANTEE shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. GRANTEE shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by COUNTY, including Titles I and II of the ADA (regarding

nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, GRANTEE shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

By execution of this Agreement, GRANTEE represents that it has not been placed on the discriminatory vendor list (as provided in Section 287.134, Florida Statutes, as may be amended from time to time). COUNTY hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle COUNTY to terminate this Agreement and recover from GRANTEE all monies paid by COUNTY pursuant to this Agreement, and may result in debarment from COUNTY's competitive procurement activities.

13.4 INDEPENDENT GRANTEE

GRANTEE is an independent GRANTEE under this Agreement. Services provided by GRANTEE pursuant to this Agreement shall be subject to the supervision of GRANTEE. In providing such services, neither GRANTEE nor its agents shall act as officers, employees, or agents of COUNTY. No partnership, joint venture, or other joint relationship is created hereby. COUNTY does not extend to GRANTEE or GRANTEE's agents any authority of any kind to bind COUNTY in any respect whatsoever.

13.5 THIRD PARTY BENEFICIARIES

Neither GRANTEE nor COUNTY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

13.6 NOTICES

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States mail, postage prepaid, return receipt requested, or by hand-delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR BROWARD COUNTY:

Dan West, Director
Parks and Recreation Division
950 N.W. 38 Street
Oakland Park, Florida 33309
(954) 357-8100

FOR GRANTEE:

Tymira Mack, Public Safety Grants Manager
City of Fort Lauderdale
100 N. Andrews Avenue
Fort Lauderdale, Florida 33301
(954) 828-6705

13.7 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party. In addition, GRANTEE shall not subcontract any portion of the work required by this Agreement except as authorized by Exhibit "A."

GRANTEE represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to COUNTY's satisfaction for the agreed compensation.

GRANTEE shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of GRANTEE's performance and all interim and final product(s) provided to or on behalf of COUNTY shall be comparable to the best local and national standards.

13.8 CONFLICTS

Neither GRANTEE nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with GRANTEE's loyal and conscientious exercise of judgment related to its performance under this Agreement.

GRANTEE agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against COUNTY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, GRANTEE agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of COUNTY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude GRANTEE or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event GRANTEE is permitted to utilize subcontractors to perform any services required by this Agreement, GRANTEE agrees to prohibit such

subcontractors, by written contract, from having any conflicts within the meaning of this section.

13.9 MATERIALITY AND WAIVER OF BREACH

COUNTY and GRANTEE agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

COUNTY's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

13.10 COMPLIANCE WITH LAWS

GRANTEE shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

13.11 SEVERANCE

In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless COUNTY or GRANTEE elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

13.12 JOINT PREPARATION

The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

13.13 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement,

requirement, or provision contained in Articles 1 through 13 of this Agreement shall prevail and be given effect.

13.14 APPLICABLE LAW AND VENUE

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. Venue for litigation concerning this Agreement shall be in Broward County, Florida.

13.15 AMENDMENTS

13.15.1 Upon mutual agreement, the COUNTY's Contract Administrator or his/her designee shall be authorized to approve line item changes to the budget information and the dates and times of coverage, as long as the zones remain the same, set out in Exhibit "A," provided such changes do not result in an increase in the funding amount shown in Section 4.1 and Exhibit "A" (attached hereto) and the changes are consistent with the intent of the grant.

13.15.2 Except for the provisions as set forth in Section 13.15.1, no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the COUNTY and GRANTEE.

13.16 PRIOR AGREEMENTS

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless set forth in writing in accordance with Article 13.15 above.

13.17 INCORPORATION BY REFERENCE

The attached Exhibit "A" is incorporated into and made a part of this Agreement.

13.18 MULTIPLE ORIGINALS

This Agreement may be fully executed in three (3) copies by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

13.19 CONTRACT ADMINISTRATOR AND GRANTEE'S DESIGNATED REPRESENTATIVE

The Contract Administrator for COUNTY for this Agreement is the Parks and Recreation Division Director or his/her designee. GRANTEE's Designated Representative for this Agreement is **Tymira Mack, Public Safety Grants Manager** and, in **Ms. Mack's** absence, **Sgt. Kevin Shults, Marine Unit Supervisor** will be the Designated Representative. In administration of this Agreement, as contrasted with matters of policy, all parties may rely upon the instructions and determinations made by the respective Contract Administrator as authorized agent for COUNTY and the Designated Representative. GRANTEE may, from time to time, in absolute discretion, change its Designated Representative upon written notice to COUNTY given in accordance with Article 13.6 hereof.

(THIS SPACE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its County Administrator, authorized to execute same by Resolution on the 17th day of April, 2001, and the CITY OF FORT LAUDERDALE, signing by and through its MAYOR, duly authorized to execute same.

Witness

By _____
Bertha Henry
County Administrator

Witness

_____ day of _____, 2012.

Approved as to Insurance
Requirements

Approved as to form by
Office of County Attorney
Broward County, Florida
Joni Armstrong Coffey, County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By: _____
Risk Management Division

By _____
Daphne Jones Date
Assistant County Attorney

GRANTEE

CITY OF FORT LAUDERDALE

WITNESSES:

By _____

(Print name and title)

_____ Day of _____, 2012.

(SEAL)

APPROVED AS TO FORM:

By _____
City Attorney

EXHIBIT "A"

CITY OF FORT LAUDERDALE

ENHANCED MARINE LAW ENFORCEMENT GRANT

- I. Provide **416 hours** of Daytime Marine Patrol (4:00 pm Friday till 11:59 pm Sunday) coverage in Zone IV - (Intracoastal Waterway from McNab Road to Oakland Park Blvd.) for eight hours per day on every Saturday or Sunday. **Included are:** October 8 (Columbus Day), November 23 (day after Thanksgiving Day), May 27 (Memorial Day), July 4 (Independence Day), and September 2 (Labor Day). **Excluded are:** October 25, 26, 27, 28, & 29, (Fort Lauderdale International Boat Show), and December 8 & 9 (Fort Lauderdale and Pompano Beach Holiday Boat Parades) and May 4 & 5 (Air Show).
- II. Provide **832 hours** of Daytime Marine Patrol (4:00 pm Friday till 11:59 pm Sunday) coverage for Zone V (Intracoastal Waterway from Oakland Park Blvd. to Las Olas Blvd., including Middle River) for eight hours per day on every Saturday and Sunday. **Included are:** October 8 (Columbus Day), November 23 (day after Thanksgiving Day), May 27 (Memorial Day), July 4 (Independence Day), and September 2 (Labor Day). **Excluded are:** October 25, 26, 27, 28, & 29, (Fort Lauderdale International Boat Show), and December 8 & 9 (Fort Lauderdale and Pompano Beach Holiday Boat Parades) and May 4 & 5 (Air Show).
- III. Provide **832 hours** of Daytime Marine Patrol (4:00 pm Friday till 11:59 pm Sunday) coverage for Zone VI (Intracoastal Waterway from Las Olas Blvd. to the south boundary of the City of Fort Lauderdale, including New River west to the Marshall Bridge, excluding Port Everglades Security Zones) for eight hours per day on every Saturday and Sunday. **Included are:** October 8 (Columbus Day), November 23 (day after Thanksgiving Day), May 27 (Memorial Day), July 4 (Independence Day), and September 2 (Labor Day). **Excluded are:** October 25, 26, 27, 28, & 29, (Fort Lauderdale International Boat Show), and December 8 & 9 (Fort Lauderdale and Pompano Beach Holiday Boat Parades) and May 4 & 5 (Air Show).
- IV. Provide **832 hours** of Daytime Marine Patrol (4:00 pm Friday till 11:59 pm Sunday) coverage for Zone VI (Intracoastal Waterway from Las Olas Blvd. to the south boundary of the City of Fort Lauderdale, including New River west to the Marshall Bridge, excluding Port Everglades Security Zones) for eight hours per day on every Saturday and Sunday. **Included are:** October 8 (Columbus Day), November 23 (day after Thanksgiving Day), May 27 (Memorial Day), July 4 (Independence Day), and September 2 (Labor Day). **Excluded are:** October 25, 26, 27, 28, & 29, (Fort Lauderdale International Boat Show), and December 8 & 9 (Fort Lauderdale and Pompano Beach Holiday Boat Parades) and May 4 & 5 (Air Show).

- V.** Provide **416 hours** of Daytime Marine Patrol (4:00 pm Friday till 11:59 pm Sunday) coverage for Zone VI-A (New River from the Marshall Bridge to the west boundary of the City of Fort Lauderdale) for eight hours per day on Saturdays and Sundays. **Included are:** October 8 (Columbus Day), November 23 (day after Thanksgiving Day), May 27 (Memorial Day), July 4 (Independence Day), and September 2 (Labor Day). **Excluded are:** October 25, 26, 27, 28, & 29, (Fort Lauderdale International Boat Show), and December 8 & 9 (Fort Lauderdale and Pompano Beach Holiday Boat Parades) and May 4 & 5 (Air Show).
- VI.** Provide **200 hours** of Aggressive Marine Patrol (nighttime hours after 4:00 pm Monday through Thursday) coverage in Zone IV - Intracoastal Waterway from McNab Road to Oakland Park Blvd. **Excluded are:** All weekday daytime hours, October 25, 26, 27, 28, & 29, (Fort Lauderdale International Boat Show), and December 8 & 9 (Fort Lauderdale and Pompano Beach Holiday Boat Parades) and May 4 & 5 (Air Show).
- VII.** Provide **400 hours** of Aggressive Marine Patrol (nighttime hours after 4:00 pm Monday through Thursday) coverage in Zone V - Intracoastal Waterway from Oakland Park Blvd. to Las Olas Blvd., including Middle River. **Excluded are:** All weekday daytime hours, October 25, 26, 27, 28, & 29, (Fort Lauderdale International Boat Show), and December 8 & 9 (Fort Lauderdale and Pompano Beach Holiday Boat Parades) and May 4 & 5 (Air Show).
- VIII.** Provide **400 hours** of Aggressive Marine Patrol (nighttime hours after 4:00 pm Monday through Thursday) coverage in Zone VI - Intracoastal Waterway from Las Olas Blvd. to south boundary of the City of Fort Lauderdale, including New River to the Marshall Bridge. **Excluded are:** All weekday daytime hours, October 25, 26, 27, 28, & 29, (Fort Lauderdale International Boat Show), and December 8 & 9 (Fort Lauderdale and Pompano Beach Holiday Boat Parades) and May 4 & 5 (Air Show).
- IX.** Provide **200 hours** of Aggressive Marine Patrol (nighttime hours after 4:00 pm Monday through Thursday) coverage in Zone VI -A, New River from the Marshall Bridge to the west boundary of the city. **Excluded are:** All weekday daytime hours, October 25, 26, 27, 28, & 29, (Fort Lauderdale International Boat Show), and December 8 & 9 (Fort Lauderdale and Pompano Beach Holiday Boat Parades) and May 4 & 5 (Air Show).

Daytime Patrol in Zones IV, V, VI, VI-A (2,493 hours @\$42 per hour)	\$104,832.00
Aggressive Patrol in Zones IV, V, VI, VI-A (1,200 hours @42 per hour)	\$ 50,400.00
Marine Law Enforcement Training Classes for Two Officers	\$ 2,000.00
Total Costs	\$157,232.00

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CITY OF FORT LAUDERDALE REPRESENTATIVES:

WITNESSES:

Date: _____
John P. "Jack" Seiler, Mayor

Witness print/type name

Date: _____
Lee R. Feldman, City Manager

Witness print/type name

ATTEST:

Date: _____
Jonda K. Joseph, City Clerk

Approved as to form and legal sufficiency
subject to execution by the parties:

By: _____ Date: _____
Bradley H. Weissman, Esquire
Assistant City Attorney/Police Legal Advisor