

RESOLUTION NO. 23 - ____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING A LOAN IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$119,994,028 FOR THE PURPOSE OF PROVIDING FUNDS TO PAY, TOGETHER WITH OTHER LEGALLY AVAILABLE MONEYS, THE COSTS OF CERTAIN IMPROVEMENTS TO THE CITY'S STORMWATER UTILITY SYSTEM; ACCEPTING THE PROPOSAL OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, ACTING BY AND THROUGH THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, TO PROVIDE SUCH LOAN (THE "WIFIA LOAN"); MAKING CERTAIN FINDINGS AND DETERMINATIONS AS TO THE WIFIA LOAN; AUTHORIZING THE ISSUANCE OF A PROMISSORY NOTE (THE "WIFIA NOTE") TO EVIDENCE AND SECURE THE CITY'S PAYMENT OBLIGATIONS UNDER THE WIFIA LOAN AND AUTHORIZING THE EXECUTION AND DELIVERY THEREOF; DESIGNATING THE WIFIA LOAN AND THE WIFIA NOTE AS ALTERNATIVE PARITY DEBT UNDER RESOLUTION NO. 22-58 ADOPTED BY THE CITY COMMISSION ON MARCH 15, 2022, AS SUPPLEMENTED AND AMENDED, AND PLEDGING THE PLEDGED FUNDS AS THE SOURCE OF PAYMENT AND SECURITY THEREFOR; APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A WIFIA LOAN AGREEMENT; PROVIDING FOR NO PERSONAL LIABILITY; AUTHORIZING OTHER REQUIRED ACTIONS; PROVIDING FOR SEVERABILITY OF INVALID PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2 of the Constitution of the State of Florida, Chapter 166, Parts I and II and Section 403.0893, Florida Statutes, as amended, the Charter and Code of Ordinances of the City of Fort Lauderdale, Florida, particularly Chapter 28, Article IV of the Code of Ordinances, and other applicable provisions of law, the City of Fort Lauderdale, Florida (the "City") is authorized, among other things, to (i) own, operate and maintain a public system of storm and surface water management facilities (referred to herein as the "Stormwater Utility System," as more specifically described in the Bond Resolution referred to hereinbelow) for the benefit of all property within the City, (ii) issue bonds and incur other forms of indebtedness in order to finance and refinance the cost of improvements to the City's Stormwater Utility System, and (iii) pledge for the payment of such bonds and other indebtedness the Pledged Funds (as defined in the Bond Resolution), which principally consist of Stormwater Assessments (as defined in the Bond Resolution); and

WHEREAS, on March 15, 2022, the City Commission of the City (the “City Commission”) adopted Resolution No. 22-58, as supplemented and amended (the “Bond Resolution”), providing for the issuance of the City’s Stormwater Utility System Special Assessment Revenue Bonds, from time to time, and the incurrence of other forms of indebtedness to be secured thereunder; and

WHEREAS, pursuant to the Bond Resolution, as supplemented by Resolution No. 23-112 adopted by the City Commission on June 6, 2023 (the “2023A Series Resolution”), the City issued its first series of bonds under the Bond Resolution, in the aggregate principal amount of \$88,450,000, designated as City of Fort Lauderdale, Florida Stormwater Utility System Special Assessment Revenue Bonds, Series 2023A (the “Series 2023A Bonds”), in order to finance a portion of the cost of the Series 2023A Project (as defined in the 2023A Series Resolution), and

WHEREAS, in order to obtain additional funding for portions of the Series 2023A Project, on May 9, 2022 the City submitted an application to the United States Environmental Protection Agency, acting by and through the Administrator of the Environmental Protection Agency (the “WIFIA Lender”), for a loan under the Water Infrastructure Finance and Innovation Act, being Section 5021 *et seq.* of Public Law 113-121, as amended, which is codified at 33 U.S.C. Sections 3901 – 3915 (the “WIFIA Act”); and

WHEREAS, the WIFIA Lender and the City will execute a term sheet (the “WIFIA Term Sheet”), in substantially the form attached hereto as Exhibit A, and the WIFIA Loan Agreement (as defined below), in each case by this reference incorporated herein, and pursuant to the WIFIA Loan Agreement, the WIFIA Lender will agree to loan to the City up to \$119,994,028 in aggregate principal amount under the WIFIA Act (the “WIFIA Loan”), in accordance with the terms of the WIFIA Loan Agreement, in order to pay Eligible Project Costs (as defined in the WIFIA Loan Agreement referred to hereinbelow) of the portion of the Series 2023A Project that is eligible for funding under the WIFIA Act (such portion of the Series 2023A Project being referred to herein as the “Series 2023B Project,” as more specifically described in Schedule I, Part B, to the WIFIA Loan Agreement); and

WHEREAS, in connection with the WIFIA Loan, the City and the WIFIA Lender will enter into a loan agreement (the “WIFIA Loan Agreement”), in substantially the form thereof attached hereto as Exhibit B, setting forth the terms and conditions on which the WIFIA Lender will make the WIFIA Loan to the City, including, without limitation, the manner in which amounts will be disbursed thereunder, the City’s repayment obligations in respect of amounts drawn, and certain representations, warranties and covenants of the City in favor of the WIFIA Lender; and

WHEREAS, the WIFIA Loan is being incurred and the WIFIA Note (as defined below) is being issued as Alternative Parity Debt under the Bond Resolution, payable from and secured by the Pledged Funds (as defined in the Bond Resolution) on a parity basis with the Series 2023A Bonds and any other senior Bonds that may be issued from time to time by the City under the Bond Resolution, and any Alternative Parity Debt that may be incurred from time to time by the City; and

WHEREAS, the City's payment obligations under the WIFIA Loan are to be evidenced by a promissory note in form and substance as set forth in Exhibit A to the WIFIA Loan Agreement (the "WIFIA Note"), in the principal amount of not exceeding \$119,994,028, as more specifically provided in Section 5 hereof; and

WHEREAS, the City now desires to (i) authorize the WIFIA Loan and the WIFIA Loan Agreement and the execution and delivery thereof, (ii) provide for the issuance of the WIFIA Note and the execution and delivery thereof, (iii) provide for the negotiated sale of the WIFIA Note to the WIFIA Lender upon the terms and conditions set forth herein and in the WIFIA Loan Agreement, and (iv) authorize the taking of such other actions as may be required in connection with the WIFIA Loan, the WIFIA Loan Agreement and/or the WIFIA Note;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. AUTHORITY FOR THIS RESOLUTION; RESOLUTION CONSTITUTES CONTRACT; INCORPORATION OF RECITALS.

(a) This Resolution is adopted pursuant to the provisions of the Act (as defined in the Bond Resolution) and the Bond Resolution.

(b) In consideration of the WIFIA Lender making the WIFIA Loan to the City and the acceptance of the WIFIA Note by the WIFIA Lender, this Resolution shall be deemed to be and shall constitute a contract between the City and the WIFIA Lender. The covenants and agreements contained herein to be performed by the City shall be for the equal benefit, protection and security of the WIFIA Lender, and the WIFIA Note shall be secured by the Pledged Funds on a parity basis with the Series 2023A Bonds, any other senior Bonds that may be issued from time to time by the City under the Bond Resolution, and any Additional Parity Debt that may be incurred from time to time by the City.

(c) The "Whereas" clauses of this Resolution and all of the matters set forth therein are incorporated in this Resolution for all purposes hereof.

SECTION 2. DEFINITIONS. Capitalized terms used herein without definition shall have the meanings ascribed thereto in the Bond Resolution or the WIFIA Loan Agreement, as applicable, unless otherwise provided or unless the context otherwise clearly requires. Any reference in this Resolution to the Mayor shall mean either the Mayor or the Vice Mayor of the City. Any reference in this Resolution to the City Manager shall mean either the City Manager or an Assistant City Manager designated by the City Manager. Any reference in this Resolution to the City Clerk shall mean either the City Clerk or an Assistant City Clerk designated by the City Clerk. Any reference in this Resolution to the Director of the Department of Public Works shall mean either the Director of the Department of Public Works of the City or an Assistant Director of the Department of Public Works of the City designated by the Director of the Department of Public Works. Any reference in this Resolution to the Finance Director shall mean either the Director of Finance or the Deputy Director of Finance of the City. Any reference in this Resolution to the City Attorney shall mean either the City Attorney of the City or the Interim City Attorney of the City, or an Assistant City Attorney designated by the City

Attorney or the Interim City Attorney. The term “Bond Counsel” means Greenberg Traurig, P.A.; and the term “Financial Advisor” means PFM Financial Advisors LLC.

In addition to the terms defined in the “Whereas” clauses of this Resolution or in the immediately preceding paragraph of this Section 2, the following terms when used herein shall have the meanings set forth below, unless the context clearly requires otherwise.

“WIFIA Construction Account” shall mean the WIFIA Construction Account created and designated in Section 9(a) of this Resolution.

“WIFIA Debt Service Account” shall mean the WIFIA Debt Service Account created and designated in Section 9(a) of this Resolution.

“WIFIA Prepayment Account” shall mean the WIFIA Prepayment Account created and designated in Section 9(a) of this Resolution.

SECTION 3. FINDINGS.

(a) The City Commission has determined that obtaining the WIFIA Loan and entering into the WIFIA Loan Agreement, and the issuance of the WIFIA Note in connection therewith, are in the best interests of the City because the WIFIA Loan will allow the City to finance necessary improvements to the Stormwater Utility System at the lower rate of interest available through the WIFIA Loan.

(b) Based upon the advice of the Financial Advisor, the negotiated sale of the WIFIA Note is in the best interests of the City because the WIFIA Loan is offered by the WIFIA Lender through a special program that does not allow for a competitive sale process.

(c) The City Commission now desires to accept the WIFIA Loan, enter into the WIFIA Loan Agreement and award, sell and issue the WIFIA Note to the WIFIA Lender, but only upon the terms and conditions and within the parameters set forth in this Resolution and in the WIFIA Loan Agreement.

(d) The WIFIA Loan and the WIFIA Note will satisfy the requirements of Section 211(f) of the Bond Resolution for the incurrence of Alternative Parity Debt.

(e) The City Commission deems it appropriate to authorize the City Manager, upon such consultation as the City Manager deems necessary with the Finance Director, the City Attorney, the Financial Advisor and Bond Counsel, to (i) finalize the terms of the WIFIA Loan Agreement and the WIFIA Note, (ii) finalize the date, terms and other provisions for the negotiated sale of the WIFIA Note and award, sell and issue the WIFIA Note to the WIFIA Lender, and (iii) take such other actions as may be required in connection with the WIFIA Loan, the WIFIA Loan Agreement or the WIFIA Note.

SECTION 4. ACCEPTANCE OF TERM SHEET; AUTHORIZATION OF WIFIA LOAN AND ISSUANCE OF THE WIFIA NOTE. The City Commission hereby accepts the Term Sheet submitted by the WIFIA Lender, in substantially the form thereof attached hereto as Exhibit A, with respect to the WIFIA Loan to be provided by the WIFIA

Lender in an aggregate principal amount not to exceed \$119,994,028. The proceeds of the WIFIA Loan shall be used solely for the purpose of paying Eligible Project Costs of the Series 2023B Project, as provided in the WIFIA Loan Agreement.

The City Commission hereby authorizes the issuance of the WIFIA Note, under and pursuant to the terms of Section 5 hereof and the WIFIA Loan Agreement, in a maximum aggregate principal amount not exceeding \$119,994,028. The actual principal amount of the WIFIA Note at any time while it is outstanding shall not exceed the amount disbursed to the City and remaining unpaid under the WIFIA Loan.

SECTION 5. TERMS AND PROVISIONS APPLICABLE TO THE WIFIA NOTE.

(a) The WIFIA Note is issuable only in registered form and shall be in substantially the form attached as Exhibit A to the WIFIA Loan Agreement, with such appropriate variations, omissions and insertions as may be required therein and approved by the City Manager, upon the advice of the Finance Director, the City Attorney and Bond Counsel, with the Mayor's and the City Manager's execution of the WIFIA Note being conclusive evidence of the City Manager's and the City Commission's approval of such variations, omissions and insertions. The Mayor and the City Manager are hereby authorized to execute and deliver the WIFIA Note and the City Clerk is hereby authorized and directed to attest to the execution of the WIFIA Note by the Mayor and the City Manager and affix or imprint the seal of the City thereon. The WIFIA Note shall be issued to the WIFIA Lender, as registered owner thereof, bear interest at a fixed rate, mature on the Final Maturity Date and be subject to mandatory and optional prepayment, all as set forth in the WIFIA Loan Agreement. The WIFIA Note shall be secured by and payable from the Pledged Funds, in the manner and to the extent provided herein and in the WIFIA Loan Agreement.

(b) There is no debt service reserve account or subaccount established for the benefit of the WIFIA Loan. The WIFIA Note shall not be secured by the Reserve Account (established under the Bond Resolution or any subaccount therein).

(c) The WIFIA Note shall be issued and sold to the WIFIA Lender pursuant to a negotiated, direct placement, as provided in the WIFIA Loan Agreement. As such, the transfer of the WIFIA Note shall be restricted as set forth in Section 33 of the WIFIA Loan Agreement.

(d) Based on the findings and determinations made in Section 3(b) hereof, the negotiated sale and award of the WIFIA Note to the WIFIA Lender is hereby approved; provided, however, that prior to the award and sale of the WIFIA Note to the WIFIA Lender, there shall have been delivered a disclosure statement from the WIFIA Lender in accordance with the provisions of Sections 218.385(2) and (6), Florida Statutes, as amended.

SECTION 6. APPROVAL OF THE FORM AND AUTHORIZATION OF EXECUTION AND DELIVERY OF THE WIFIA LOAN AGREEMENT. The form of the WIFIA Loan Agreement is hereby approved in substantially the form approved at this meeting and attached hereto as Exhibit B, with such variations, omissions and insertions as may be approved by the City Manager, upon the advice of the Finance Director, the City Attorney and

Bond Counsel. The Mayor is hereby authorized to execute and deliver the WIFIA Loan Agreement and the City Clerk is hereby authorized and directed to attest to the execution of the WIFIA Loan Agreement by the Mayor and affix or imprint the seal of the City thereon. The execution and delivery by the Mayor of the WIFIA Loan Agreement shall be deemed to be conclusive evidence of the City Manager's and the City Commission's approval of any variations, omissions and insertions in the WIFIA Loan Agreement from the form thereof attached hereto as Exhibit B.

SECTION 7. PAYMENT OF WIFIA NOTE AND PLEDGE OF PLEDGED FUNDS; WIFIA NOTE TO CONSTITUTE ALTERNATIVE PARITY DEBT; LIMITED OBLIGATION.

(a) The City covenants and agrees that it will promptly pay the principal of and the interest on the WIFIA Note at the place, on the dates and in the manner specified therein and in the WIFIA Loan Agreement. Such principal and interest will be payable solely from and secured by a lien on and pledge of the Pledged Funds (i) on a *pari passu* basis with the pledge of the Pledged Funds for the benefit of Bonds and other Alternative Parity Debt issued and/or secured under the Bond Resolution and (ii) senior to the pledge of the Pledged Funds for the benefit of any Subordinated Indebtedness issued and/or secured under the Bond Resolution, and said Pledged Funds are hereby pledged to the payment thereof in the manner and to the extent provided herein and in the Bond Resolution.

(b) The WIFIA Loan and the WIFIA Note constitute Additional Parity Debt as provided for in Section 211(f) of the Bond Resolution and shall be payable from and secured by the Pledged Funds on a parity with the Series 2023A Bonds, any other Bonds from time to time issued by the City under the Bond Resolution and any Alternative Parity Debt from time to time incurred by the City and secured pursuant to Section 211(f) of the Bond Resolution.

(c) The WIFIA Note shall not be deemed to constitute a debt or a pledge of the faith and credit of the City or of Broward County, Florida, or of the State of Florida or of any political subdivision thereof within the meaning of any constitutional, legislative or charter provision or limitation and the registered owner of the WIFIA Note shall never have the right, directly or indirectly, to require or compel the exercise of the ad valorem taxing power of the City or of Broward County, Florida, or any other political subdivision of the State of Florida or taxation in any form on any real or personal property for the payment of the principal of or interest on the WIFIA Note or for the payment of any other amounts provided in the WIFIA Loan Agreement.

SECTION 8. APPLICATION OF WIFIA LOAN PROCEEDS. The proceeds of the WIFIA Loan received from time to time by the City shall be applied to pay Eligible Project Costs of the Series 2023B Project, as provided in the WIFIA Loan Agreement.

SECTION 9. SPECIAL COVENANTS FOR THE BENEFIT OF THE WIFIA LENDER.

(a) Establishment of Accounts. Three special accounts are hereby created in connection with the WIFIA Loan and designated as follows: the "WIFIA Construction Account," the WIFIA Debt Service Account" and the "WIFIA Prepayment Account." The

WIFIA Construction Account, WIFIA Debt Service Account and WIFIA Prepayment Account are being established under, and for the purposes of, the WIFIA Loan Agreement. The moneys on deposit to the credit of such accounts will be applied solely as provided in this Section 9 and the WIFIA Loan Agreement.

(b) WIFIA Construction Account. Amounts disbursed by the WIFIA Lender to the City from time to time under the WIFIA Loan will be deposited into the WIFIA Construction Account until applied to pay Eligible Project Costs of the Series 2023B Project. The moneys in the WIFIA Construction Account shall be held in trust and applied to the payment of Eligible Project Costs of the Series 2023B Project and pending such application such amounts shall be subject to a lien and charge in favor of the WIFIA Lender and for the further security of the WIFIA Lender until applied to pay such Eligible Project Costs. The WIFIA Lender shall have no claim, lien or charge on the Construction Account established by the City under the Bond Resolution, including any subaccounts or sub-subaccounts therein, or on any moneys on deposit to the credit of such Construction Account or any subaccount or sub-subaccount therein.

(c) WIFIA Debt Service Account. The City covenants and agrees that each month, starting with the month in which the Debt Service Payment Commencement Date (as defined in the WIFIA Loan Agreement) occurs, upon the City's withdrawal of moneys from the Revenue Account established under the Bond Resolution for application as required by Section 504 of the Bond Resolution, the City will deposit into the WIFIA Debt Service Account such amount as is required under the WIFIA Loan Agreement to pay the principal of and interest coming due on the WIFIA Note on each Payment Date (as such term is defined in the WIFIA Loan Agreement) during the then Fiscal Year. Such applications shall be made on a pro rata basis with the deposits required to be made to the Bond Service Subaccount pursuant to Section 504(a) of the Bond Resolution (with such pro rata application taking into account the principal and interest coming due on Bonds then outstanding under the Bond Resolution and the principal and interest coming due on all Alternative Parity Debt, including, without limitation, the WIFIA Loan, then outstanding) and before the required deposits to any of the other Accounts or Subaccounts established under the Bond Resolution pursuant to clauses (b) through (e) of Section 504 thereof. Amounts on deposit in the WIFIA Debt Service Account shall only be used for payments of the principal of and interest coming due on the WIFIA Note by the City in accordance with the WIFIA Loan Agreement.

(d) WIFIA Prepayment Account. The City covenants and agrees that any amounts received pursuant to the provisions of Sections 14(f)(iii) and 15(e) of the WIFIA Loan Agreement shall be deposited into the WIFIA Prepayment Account to be used by the City to make mandatory prepayments of the WIFIA Note as required by the WIFIA Loan Agreement. Amounts on deposit in the WIFIA Prepayment Account shall only be used for prepayments of the WIFIA Note by the City in accordance with the WIFIA Loan Agreement.

(e) Investment of Moneys. Amounts on deposit in the WIFIA Construction Account, the WIFIA Debt Service Account and the WIFIA Prepayment Account may be invested only as, and to the extent provided, in the WIFIA Loan Agreement.

SECTION 10. REMEDIES. Upon the occurrence of any Event of Default (as defined in the WIFIA Loan Agreement), the WIFIA Lender, by written notice to the City, may exercise any or all of the remedies set forth in Section 17 of the WIFIA Loan Agreement.

SECTION 11. GENERAL AUTHORITY. The members of the City Commission, the City Manager, the Finance Director, the City Attorney, the City Clerk, the Director of the Department of Public Works and the officers, attorneys and other agents or employees of the City are hereby authorized to do all acts and things required of them by this Resolution, the Bond Resolution or the WIFIA Loan Agreement or desirable or consistent with the requirements of this Resolution, the Bond Resolution, or the WIFIA Loan Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained herein or therein, and each member, employee, attorney and officer of the City Commission, the City Manager, the Finance Director, the Director of the Department of Public Works, the City Clerk and the City Attorney is hereby authorized and directed to execute and deliver any and all papers and instruments and to do and to cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated hereunder.

SECTION 12. EFFECT OF COVENANTS; NO PERSONAL LIABILITY. All covenants, stipulations, obligations and agreements of the City contained in this Resolution shall be deemed to be covenants, stipulations, obligations and agreements of the City and of the City Commission and of each department and agency of the City to the full extent authorized or permitted by law, and all such covenants, stipulations, obligations and agreements shall bind or inure to the benefit of the successor or successors thereof from time to time and any officer, board, body or commission to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law.

Except as otherwise provided in this Resolution, all rights, powers, and privileges conferred and duties and liabilities imposed upon the City or upon the City Commission by the provisions of this Resolution shall be exercised or performed by the City Commission, or by such other officers, board, body or commission as may be authorized under this Resolution or by law to exercise such powers or to perform such duties.

No recourse under or upon any statement, obligation, covenant, or agreement contained in this Resolution, or in the WIFIA Note or in the WIFIA Loan Agreement or any WIFIA Loan Document (as defined in the WIFIA Loan Agreement), or in any other document or certification whatsoever, or under any judgment obtained against the City, or by the enforcement of any assessment, or by any legal or equitable proceeding by virtue of any constitutional provision or statute or otherwise or under any circumstances, shall be had against any member of the City Commission, or any officer or employee or agent of the City, as such, either directly or through the City or otherwise, for the payment for or to the City or any receiver thereof, or for or to the WIFIA Lender or otherwise, of any sum that may be due and unpaid upon the WIFIA Note or otherwise under the WIFIA Loan Agreement. Any and all personal liability of every nature, whether at common law or in equity or by statute or by constitution or otherwise, of any such member of the City Commission, or any officer or employee or agent of the City, as such, to respond by reason of any act or omission on his/her part or otherwise, for the payment for or to the City or any receiver thereof, or for or to the WIFIA Lender or otherwise, of any sum that may remain due and unpaid upon the WIFIA Note or under the WIFIA Loan Agreement, is hereby

expressly waived and released as an express condition of, and in consideration for, the adoption of this Resolution and the issuance of the of WIFIA Note.

SECTION 13. HEADINGS FOR CONVENIENCE ONLY. The headings preceding the texts of the several sections and subsections hereof shall be solely for convenience of reference and shall not constitute a part of this Resolution, nor shall they affect its meaning, construction or effect.

SECTION 14. SEVERABILITY OF INVALID PROVISIONS. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof.

SECTION 15. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

ADOPTED this the 19th day of September, 2023.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
DAVID R. SOLOMAN

Dean J. Trantalis _____

Pamela Beasley-Pittman _____

John C. Herbst _____

Steven Glassman _____

Warren Sturman _____

APPROVED AS TO FORM:

Interim City Attorney
D'WAYNE M. SPENCE

EXHIBIT A
WIFIA TERM SHEET

EXHIBIT B
FORM OF WIFIA LOAN AGREEMENT

ACTIVE 689093714v3