



MARINE ADVISORY COMMITTEE

Serving the Interests of Over 43,000 Boat Owners

950 NW 38th Street • Oakland Park, Florida 33309

954-357-8133 • FAX 954-357-5991

Established in 1974 by the Broward County Commission

August 17, 2016

Dayna Bhaggan, Public Safety Grants Manager
City of Fort Lauderdale
100 N. Andrews Avenue
Fort Lauderdale, Fl. 33301

Re: **Broward County Enhanced Marine Law Enforcement Grant Program,
City of Fort Lauderdale Fiscal Year 2016-2017 Agreements**

Dear Ms. Bhaggan:

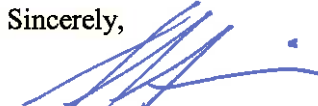
Attached are three original Broward County Enhanced Marine Law Enforcement Grant Program (EMLEG) Fiscal Year 2016-2017 Agreements for the above referenced project. All three originals should be signed expeditiously by the City Attorney, the Mayor of Fort Lauderdale and witnessed. After execution by the Mayor, please return all three agreements **as well as the written verification of liability protection required in Article 8 of the Agreement** to:

John R. Fiore, Planner
Broward County Parks & Recreation Division
950 NW 38th Street
Oakland Park, Fl. 33309

The Fiscal Year 2016-2017 EMLEG projects are included as part of the Broward County Budget, which will be formally approved by the Broward County Board of County Commissioners at their second public hearing on September 27, 2015. In order for the Agreements to be executed shortly after the final County Commission Budget Hearing in September, the Agreements should be **returned by September 20, 2016.** Upon final execution, one original of the fully executed Agreement will be returned to you for your files.

If you have any questions, please call me at 954-357-8133.

Sincerely,


John R. Fiore
Liaison

c. Chair, Members, Broward County Marine Advisory Committee
Dan West, Director, Broward County Parks & Recreation Division

Attachment

AGREEMENT

Between

BROWARD COUNTY

and

CITY OF FORT LAUDERDALE

for

IMPLEMENTATION OF PROJECTS PURSUANT TO THE
ENHANCED MARINE LAW ENFORCEMENT GRANT

GOVERNMENTAL ENTITY

FY 2016 - 2017

IN THE AMOUNT OF \$165,624

INDEX

<u>ARTICLE</u>		<u>PAGE</u>
1	DEFINITIONS	2
2	PROJECT	3
3	TERM AND TIME OF PERFORMANCE	3
4	COMPENSATION	4
5	METHOD OF BILLING AND PAYMENT	5
6	FINANCIAL RESPONSIBILITY	6
7	GOVERNMENTAL IMMUNITY	8
8	INSURANCE	8
9	TERMINATION	8
10	SUSPENSION OF PAYMENTS	9
11	FINANCIAL STATEMENTS AND MANAGEMENT LETTERS	10
12	EEO COMPLIANCE	11
13	MISCELLANEOUS	11

EXHIBIT A

AGREEMENT

Between

BROWARD COUNTY

and

CITY OF FORT LAUDERDALE

for

IMPLEMENTATION OF PROJECTS PURSUANT TO THE
ENHANCED MARINE LAW ENFORCEMENT GRANT

GOVERNMENTAL ENTITY

FY 2016 - 2017

IN THE AMOUNT OF \$165,624

This is an Agreement ("Agreement"), made and entered into by and between BROWARD COUNTY, a political subdivision of the state of Florida, hereinafter referred to as "COUNTY,"

and

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida, hereinafter referred to as "CITY," collectively referred to as the "Parties."

RECITALS

WHEREAS, Pursuant to the Local Option Registration Fees for Vessels established in Chapter 1, Article XXX, Broward County Code of Ordinances, COUNTY imposes a registration fee on all vessels required to register with the State of Florida which obtain such registration in Broward County; and

WHEREAS, a portion of the monies collected by COUNTY from the Local Option Registration Fees for Vessels are to be expended through COUNTY's Enhanced Marine Law Enforcement Grant ("EMLEG") Program for the patrol and regulation of the lakes, rivers, and waterways within Broward County; and

WHEREAS, in accordance with Section 9½-16, Broward County Code of Ordinances, the Broward County Marine Advisory Committee ("MAC"), made recommendations to the Broward County Board of County Commissioners ("Board") for FY 2016 - 2017 funding to CITY for the Project described herein under the EMLEG Program which was approved by the Board as part of COUNTY's annual budgetary process; and

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

ARTICLE 1 - DEFINITIONS

- 1.1 Board. The Board of County Commissioners of Broward County, Florida.
- 1.2 Contract Administrator. The Director of the Broward County Parks and Recreation Division, or COUNTY's Program liaison to the Broward County Marine Advisory Committee. The primary responsibilities of the Contract Administrator are to coordinate and communicate with CITY 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, the Parties may rely on the instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.
- 1.3 County Administrator. The administrative head of COUNTY appointed by the Board.
- 1.4 County Attorney. The chief legal counsel for COUNTY appointed by the Board.
- 1.5 Grant Application. The grant funding application for the Enhanced Marine Law Enforcement Grant Program, and any amendments thereto, submitted by CITY for the Project, which are incorporated herein by reference.
- 1.6 MAC. The Broward County Marine Advisory Committee established under Section 9½-16, Broward County Code of Ordinances, with additional authority for the Enhanced Marine Law Enforcement Grant Program set forth in Chapter 33, Part VII, Broward County Code Administrative Code.
- 1.7 Program. The Enhanced Marine Law Enforcement Grant ("EMLEG") Program established under Chapter 33, Part VII, Broward County Administrative Code, pursuant to authority under Section 328.72(15), Florida Statutes.
- 1.8 Program Funds. The funding received by COUNTY pursuant to the Local Option Registration Fees for Vessels and provided to CITY under this Agreement or the Project.

- 1.9 Project. The Project consists of individual projects for the services and activities described in Article 2.

ARTICLE 2 - PROJECT

- 2.1 CITY shall perform all services and activities for the Project identified in this Agreement, the Grant Application, and as outlined in Exhibit "A," Project Description. The Project Description is a description of CITY'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 CITY impractical, illogical, or unconscionable. Travel time to and from any scheduled detail and administrative overhead costs including, but not limited to, scheduling time, do not constitute eligible costs for the Project.
- 2.2 The Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the scope of services for the Project provided under this Agreement, except as provided in Section 2.4. Any change to the Scope of Services must be accomplished by a written amendment, executed by the Parties in accordance with Section 13.18 below.
- 2.3 CITY shall comply with all applicable statutes, ordinances, and rules and regulations of the United States, the State of Florida, and COUNTY relating to the Project, as a condition precedent to the release of such Program funds to CITY.
- 2.4 The Contract Administrator and CITY may mutually agree to approve line-item budget changes in the categories of expenditures, and dates and time of services to be provided by CITY, so long as the Zones described in Exhibit "A," Project Description remain the same, the changes do not increase the funding amount set forth in Section 4.1, and the changes are consistent with the intent of the Project and this Agreement.
- 2.5 This Agreement is subject to the availability of funds as more specifically described in Article 9.
- 2.6 Any request by CITY to amend this Agreement must be submitted in writing to the Parks and Recreation Division Director no less than one hundred and twenty (120) days prior to the expiration of this Agreement.

ARTICLE 3 - TERM AND TIME OF PERFORMANCE

- 3.1 The term of this Agreement shall commence on October 1, 2016, and shall end on September 30, 2017 unless terminated earlier as provided herein. In the event 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.

- 3.2 Unless otherwise agreed by the Parties in writing, all duties, obligations, and responsibilities of CITY required by this Agreement shall be completed no later than the term set forth in Section 3.1. Time is of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

ARTICLE 4 - COMPENSATION

- 4.1 COUNTY will pay CITY a maximum amount of One Hundred Sixty-five Thousand, Six Hundred Twenty-four Dollars (\$165,624.00), on a reimbursement basis, in the manner specified in Section 4.3, for eligible work or activities actually performed and completed pursuant to this Agreement, which amount shall be accepted by CITY as full compensation for all such work or activities. CITY acknowledges that the amount set forth herein is the maximum amount payable and constitutes a limitation upon COUNTY's obligation to compensate CITY for services and expenses related to this Agreement. This maximum amount, however, does not constitute a limitation, of any sort, upon CITY's obligation to perform all items of work or activities required under this Agreement. Except as expressly provided in Section 4.3, CITY shall not be reimbursed for any expenses it incurs under this Agreement.
- 4.2 The rate for patrolling the waterways within Broward County shall be Forty-four Dollars (\$44.00) per hour per officer. In the event CITY requires two (2) officers per boat for safety or security reasons during "Aggressive Marine Patrol hours" described in Exhibit "A," Project Description, CITY must provide written documentation to the Contract Administrator demonstrating the need for such additional officer prior to such additional person providing the services. In the event the Contract Administrator approves CITY's need for two (2) officers per boat, the number of patrol hours provided, reimbursed, or paid by COUNTY shall not exceed four (4) hours per officer on any given day, for a combined total of no more than eight (8) hours per day, except in EMLEG Zone XI, described in Exhibit "A," Project Description, where it shall not exceed more than six (6) hours per officer on any given day, for a combined total of no more than twelve (12) hours per day, regardless of the number of officers CITY believes are needed per boat.
- 4.3 The rate for educational instruction performed by CITY's officers shall be Forty-four Dollars (\$44.00) per hour per officer.
- 4.4 COUNTY will reimburse CITY for eligible Project expenses, provided any suspension of payment, as provided in Article 10, has not occurred, and provided further that CITY complies with the procedures for invoices and payments set forth in Article 5.

ARTICLE 5 - METHOD OF BILLING AND PAYMENT

- 5.1 CITY shall invoice COUNTY quarterly utilizing a form approved by the Contract Administrator as follows:
 - 5.1.1 CITY shall submit to the Contract Administrator a certified copy of each officer's record/time card reflecting the services rendered, the date the services were rendered, and any appropriate approvals from CITY for the officer's services.
 - 5.1.2 If the request is for reimbursement of an item purchased, CITY shall submit a copy of the receipt for the item purchased. All items shall be purchased in accordance with the purchasing guidelines set forth in Chapter 287, Florida Statutes.
 - 5.1.3 CITY's administrator or the administrator's authorized representative shall certify that the services or item being invoiced has been completed or purchased and received; and
 - 5.1.4 CITY shall submit to COUNTY, with the quarterly invoice, a quarterly progress report, on a form approved by the Contract Administrator.
- 5.2 Following receipt of the invoices, reports, and other materials described in Section 5.1, the Contract Administrator shall review the invoices, reports, and supporting documentation to determine whether the services and items invoiced have been completed, or purchased and received, and 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 items invoiced have been completed, or purchased and received, and are eligible for payment, COUNTY shall make payment to CITY in the amount it determines to be payable. Payment shall be made payable to CITY and not to employees of CITY.
- 5.4 COUNTY shall pay CITY within thirty (30) calendar days of receipt of CITY's proper invoice, as required by the "Broward County Prompt Payment Ordinance," Section 1-51.6, Broward County Code of Ordinances. 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 the Contract Administrator. Payment may be withheld for failure of CITY to comply with a term, condition, or requirement of this Agreement.
- 5.5 CITY shall not be entitled to payment by COUNTY for any invoices received by COUNTY later than sixty (60) days after expiration or earlier termination of this Agreement.

- 5.6 Notwithstanding any provision in 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 CITY to comply with any term, condition, or requirement of this Agreement. The amount withheld shall not be subject to payment of interest by COUNTY.
- 5.7 CITY shall expend the Program funds allocated to the Project by the end of term set forth in Section 3.1. In the event CITY fails to expend at least Seventy-five percent (75%) of the Program funds as described in this Section, CITY may not be eligible to receive any Program funds in the following fiscal year. Such eligibility for funding is determined by the Contract Administrator or the Contract Administrator's designee. All Program funds not expended within the term of this Agreement shall remain in the custody and control of COUNTY.
- 5.8 In the event CITY is unable to perform any regularly scheduled "Daytime Marine Patrol" hours, as described and set forth in Exhibit "A," Project Description, due to unforeseen circumstances, CITY may request, in writing, to the Contract Administrator the conversion of Daytime Marine Patrol hours to "Aggressive Marine Patrol" hours, as described and set forth in Exhibit "A." The maximum number of regularly scheduled Daytime Marine Patrol Hours that may be converted to Aggressive Marine Patrol hours is Twenty percent (20%) per fiscal year. Any conversion of hours approved by the Contract Administrator will be set forth in a line-item budget change to Exhibit "A."
- 5.9 Payment shall be made to CITY at:
- Dawn Johnson, Senior Accountant
Finance Department
City of Fort Lauderdale
100 N. Andrews Avenue, Florida 33301
(954) 828-5187

ARTICLE 6 - FINANCIAL RESPONSIBILITY

- 6.1 CITY shall provide COUNTY, through any authorized representatives, access to and the right to examine all records, books, papers, or documents within CITY's possession relating to the Project in accordance with Section 13.2.
- 6.2 CITY shall maintain books, records, and documents in accordance with Article 13.2 and in accordance with accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by COUNTY under this Agreement.

- 6.3 In the event CITY causes any Program funds to be expended in violation of this Agreement, it shall be responsible to refund such monies in full to COUNTY from non-Program funds. CITY shall pay COUNTY Twelve percent (12%) interest per annum on any monies required to be refunded to COUNTY.
- 6.4 CITY shall use Program funds under this Agreement only for eligible activities specifically outlined in this Agreement.
- 6.5 Notwithstanding the requirement to provide annual financial statements under Article 11, within ninety (90) days after the end of CITY's fiscal year, CITY shall provide to the Contract Administrator an annual financial report which, at a minimum, includes the following:
- 6.5.1 The annual financial report must be prepared by CITY's Chief Financial Officer and reflect the receipt and disbursement of Program funds under this Agreement, including a clarification of expenses to include, but not be limited to, salaries, fringe benefits, operating expenses, equipment, and capital.
- 6.5.2 A patrol status report to reflect the quantitative results of the enhanced marine law enforcement patrols under this Agreement including, but not limited to, the number of hours patrolled, safety inspections performed, warnings and citations issued, vessel accident reporting, and public contact.
- 6.5.3 An education status report, if applicable to the Project, to reflect the types of education provided.

Failure to provide the annual financial report on a timely basis will result in the suspension of payments due CITY in accordance with Article 10 of this Agreement.

- 6.6 CITY shall ensure that all capital assets and equipment, if applicable, obtained or purchased for the Project with Program funds shall be used for enhanced marine law enforcement for five (5) consecutive years. The period for such use shall commence upon the effective date of this Agreement set forth in Section 3.1. Upon expiration of the five (5) consecutive years, title to such capital assets and equipment shall vest with CITY.

If, for any reason, during the five (5) year period, CITY does not or fails to utilize such capital assets or equipment for the intended purposes under this Agreement, CITY shall, upon cessation of use, provide written notice to COUNTY of its cessation and include a description of the capital assets and equipment no longer being utilized. COUNTY, at its option, may take possession of the capital assets and equipment, and CITY shall take any and all action necessary for title to vest with COUNTY.

ARTICLE 7 - GOVERNMENTAL IMMUNITY

Nothing herein is intended to serve as a waiver of sovereign immunity by any party nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. CITY is a state agency or political subdivision as defined in Section 768.28, Florida Statutes, and shall be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law.

ARTICLE 8 - INSURANCE

CITY is an entity subject to Section 768.28, Florida Statutes, and CITY shall furnish the Contract Administrator with written verification of liability protection in accordance with state law prior to final execution of this Agreement.

ARTICLE 9 - TERMINATION

- 9.1 This Agreement is subject to the availability of funds. In the event Program funds are no longer available, this Agreement shall terminate upon no less than twenty-four (24) hours' notice in writing to CITY. The Contract Administrator shall be the final authority as to the availability of funds.
- 9.2 This Agreement may be terminated for cause by action of the Board or by CITY 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. If COUNTY erroneously, improperly, or unjustifiably terminates for cause, such termination shall, at COUNTY's sole election, be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.
- 9.3 This Agreement may be terminated for cause for reasons including, but not limited to, CITY's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, 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.
- 9.4 If, through any cause, CITY 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 full execution of this Agreement by the Parties, or fails to fulfill in a timely and proper manner its obligations under this Agreement, or if CITY violates any of the covenants, agreements, or stipulations of this Agreement, COUNTY shall have the right to

terminate this Agreement or suspend payment, in whole or in part, by the Contract Administrator providing written notice to CITY of such termination or suspension of payment and specifying the effective date thereof, which shall be at least five (5) days before the effective date of termination and suspension. In the event COUNTY withholds payment to CITY as provided under this Section, the Contract Administrator shall specify in writing the actions that must be taken by CITY as a condition precedent to resumption of payments and should specify a reasonable date for compliance.

- 9.5 Notice of termination shall be provided in accordance with the "Notices" section of this Agreement except that notice of termination by the County Administrator, which the County Administrator deems necessary to protect the public health, safety, or welfare may be verbal notice that shall be promptly confirmed in writing in accordance with the "Notices" section of this Agreement.
- 9.6 In the event this Agreement is terminated for convenience, CITY shall be paid for any eligible services properly performed under this Agreement up to the date of termination specified in the written notice of termination. Upon being notified of COUNTY's election to terminate, CITY shall refrain from performing any further work, activities, or services or incurring additional expenses under the terms of this Agreement. CITY acknowledges it has received good, valuable, and sufficient consideration from COUNTY, the receipt and adequacy of which are hereby acknowledged by CITY, for COUNTY's right to terminate this Agreement for convenience.
- 9.7 In the event of termination, all equipment, and any other assets, secured by CITY with Program funds under this Agreement shall be returned to COUNTY.
- 9.8 In the event of termination, any Program funds payable by COUNTY shall be withheld until all documents are provided to COUNTY pursuant to Section 13.1.
- 9.9 Notwithstanding any provision in this Agreement to the contrary, CITY shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by CITY, and COUNTY may withhold any payment to CITY, for purposes of set-off until such time as the exact amount of damages is determined.

ARTICLE 10 - SUSPENSION OF PAYMENTS

- 10.1 COUNTY may suspend payment under this Agreement for any of the following events:
 - 10.1.1 Ineligible use of Program funds;
 - 10.1.2 Failure to comply with any terms of this Agreement;
 - 10.1.3 Failure to submit reports as required; and

- 10.1.4 Submittal of misleading, incorrect, falsified, or incomplete information which may affect the reports required under this Agreement in any material respect.

ARTICLE 11 - FINANCIAL STATEMENTS AND MANAGEMENT LETTERS

- 11.1 CITY shall provide a copy of CITY's audited financial statements and any applicable management letter(s) as well as CITY's response to any management letter(s). The audit of the financial statements shall be prepared by an independent certified public accountant in accordance with generally accepted accounting principles for the fiscal year Program Funds are received and for each subsequent fiscal year until such time as all of Program Funds are received.
- 11.2 CITY shall provide to the Contract Administrator copies of a special report showing all revenues, by source, and all expenditures as set forth in the scope of services for the Project being funded under this Agreement. The report shall specifically disclose any Program Funds received which were not expended in accordance with the terms of this Agreement or with any regulations incorporated by reference herein. It shall identify the total of noncompliant expenditures as due back to COUNTY. If the special report is prepared by an independent certified public accountant, it shall be in accordance with generally accepted auditing standards. If the special report is prepared by an internal auditor, it shall be as nearly in accordance with generally accepted auditing standards as the status of the internal auditor permits, realizing that the internal auditor may not issue the opinions required therein. The special report is to be filed with CITY's governing body.
- 11.3 CITY shall submit the documents required by this Section to the Contract Administrator within one hundred twenty (120) days after the close of CITY's fiscal years in which CITY receives any Program Funds under this Agreement, unless otherwise approved by the Contract Administrator in writing.
- 11.4 CITY shall account for any program income, if applicable to the Project, financed in whole or part with Program funds.
- 11.5 Failure of CITY to meet the financial reporting requirements shall result in suspension of payment under this or any other subsequent grant agreement with COUNTY in effect, and disqualify CITY from obtaining future grant funding until such financial statements have been provided to the Contract Administrator, and reviewed and approved by the County Auditor, if requested.
- 11.6 CITY 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 the Contract Administrator.
- 11.7 CITY shall reimburse COUNTY any Program funds not used in strict compliance with the terms of this Agreement.

ARTICLE 12 - EEO COMPLIANCE

- 12.1 No party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. CITY shall comply with all applicable requirements of COUNTY's CBE Program as established by Broward County Business Opportunity Act of 2012, Section 1-81, Broward County Code of Ordinances (the "Act"), in the award and administration of this Agreement.

Failure by CITY to carry out any of the requirements of this Section shall constitute a material breach of this Agreement, which shall permit COUNTY to terminate this Agreement or to exercise any other remedy provided under this Agreement, Broward County Code of Ordinances, Broward County Administrative Code, or under other applicable law, all such remedies being cumulative.

- 12.2 By execution of this Agreement, CITY represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes. 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 CITY all Program Funds paid by COUNTY pursuant to this Agreement, and may result in debarment from COUNTY's competitive procurement activities.

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, CITY 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 CITY, whether finished or unfinished, shall become the property of COUNTY and shall be delivered by CITY to the Contract Administrator within seven (7) days of termination of this Agreement. Any compensation due to CITY shall be withheld until all documents are received as provided herein.
- 13.2 Public Records. To the extent CITY is acting on behalf of COUNTY as stated in Section 119.0701, Florida Statutes, CITY shall:
- a. Keep and maintain public records required by COUNTY to perform the services under this Agreement;

- b. Upon request from COUNTY, provide COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- c. Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the records are not transferred to COUNTY; and
- d. Upon completion of this Agreement, transfer to COUNTY, at no cost, all public records in possession of CITY upon termination of this Agreement or keep and maintain public records required by COUNTY to perform the services. If CITY transfers the records to COUNTY, CITY shall destroy any duplicate public records that are exempt or confidential and exempt. If CITY keeps and maintains public records upon completion of this Agreement, CITY shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to COUNTY upon request in a format that is compatible with the information technology systems of COUNTY.

The failure of CITY to comply with the provisions of this Section shall constitute a material breach of this Agreement entitling COUNTY to exercise any remedy provided in this Agreement or under applicable law.

A request for public records regarding this Agreement must be made directly to COUNTY, who will be responsible for responding to any such public records requests. CITY will provide any requested records to COUNTY to enable COUNTY to respond to the public records request.

IF CITY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CITY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT DAN WEST, THE CUSTODIAN OF PUBLIC RECORDS AT (954) 357-8107, danwest@broward.org, 950 NW 38th STREET, OAKLAND PARK, FLORIDA 33309.

- 13.3 Audit Rights, and Retention of Records. COUNTY shall have the right to audit the books, records, and accounts of CITY that are related to this Agreement. CITY shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Agreement and performance thereunder. All books, records, and accounts of CITY shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, CITY shall make same available at no cost to COUNTY in written form.

CITY shall preserve and make available, at reasonable times within Broward County for examination and audit by COUNTY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a minimum period of three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. COUNTY audits and inspections pursuant to this Section may be performed by any COUNTY representative (including any outside representative engaged by COUNTY). COUNTY reserves the right to conduct such audit or review at CITY's place of business, if deemed appropriate by COUNTY, with seventy-two (72) hours' advance notice.

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. If an audit or inspection in accordance with this Section discloses overpricing or overcharges to COUNTY of any nature by the CITY in excess of five percent (5%) of the total contract billings reviewed by COUNTY, the reasonable actual cost of COUNTY's audit shall be reimbursed to COUNTY by CITY in addition to making adjustments for the overcharges. Any adjustments and/or payments due as a result of such audit or inspection shall be made within thirty (30) days from presentation of COUNTY's findings to CITY.

- 13.4 Truth-In-Negotiation Representation. CITY's compensation under this Agreement is based upon representations supplied to COUNTY by CITY, and CITY certifies that the information supplied, including without limitation in the negotiation of this Agreement, is accurate, complete, and current at the time of contracting. COUNTY shall be entitled to recover any damages it incurs to the extent such representation is untrue.
- 13.5 Public Entity Crime Act. CITY represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. In addition to the foregoing, CITY further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CITY has been placed on the convicted vendor list. Notwithstanding any provision in this Agreement to the contrary, if any representation stated in this paragraph is false, COUNTY shall have the right to immediately terminate this Agreement and recover all sums paid to CITY under this Agreement.
- 13.6 Independent Contractor. CITY is an independent contractor under this Agreement. In providing Services under this Agreement, neither CITY nor its agents shall act as officers, employees, or agents of County. CITY shall not have the right to bind COUNTY to any obligation not expressly undertaken by COUNTY under this Agreement.

- 13.7 Third Party Beneficiaries. Neither CITY nor COUNTY intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.
- 13.8 Notices. In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change in accordance with the provisions of this Section.

FOR COUNTY:

Dan West, Director
Broward Parks and Recreation Division
950 N.W. 38th Street
Oakland Park, Florida 33309
(954) 357-8107
Email address: danwest@broward.org

FOR CITY:

Dayna Bhaggan, Public Safety Grants Manager
City of Fort Lauderdale
100 N. Andrews Avenue
Fort Lauderdale, Florida 33301
(954) 828-5284
Email address: dbhaggan@fortlauderdale.gov

- 13.9 Assignment and Performance. Neither this Agreement nor any right or interest herein may be assigned, transferred, subcontracted, or encumbered by CITY without the prior written consent of COUNTY. If CITY violates this provision, COUNTY shall have the right to immediately terminate this Agreement. CITY represents that each person and entity that will provide services under this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render services. CITY agrees that all services under this Agreement shall be performed in a skillful and respectful manner, and that the quality of all such services shall equal or exceed prevailing industry standards for the provision of such services.
- 13.10 Conflicts. Neither CITY nor its employees shall knowingly have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CITY's loyal and conscientious exercise of judgment and care related to its performance under this Agreement. None of CITY's 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, she, or CITY is not a party, unless compelled by court process. Further, 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 unless compelled by court process. The limitations of this Section shall not preclude CITY or any persons in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding.

- 13.11 Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth herein was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement, and each is, therefore, 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.
- 13.12 Compliance with Laws. CITY shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.
- 13.13 Severability. In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.
- 13.14 Joint Preparation. This Agreement has been jointly prepared by the Parties hereto, and shall not be construed more strictly against either party.
- 13.15 Interpretation. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section or Article of this Agreement, such reference is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article.

- 13.16 Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached hereto or referenced or incorporated herein and any provision of Articles 1 through 13 of this Agreement, the provisions contained in Articles 1 through 13 shall prevail and be given effect.
- 13.17 Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the Parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, CITY AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**
- 13.18 Amendments. Except as specifically provided in Article 2, 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 Board and CITY or others delegated authority or otherwise authorized to execute same on their behalf.
- 13.19 Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.
- 13.20 Payable Interest.
- 13.20.1 Payment of Interest. COUNTY shall not be liable to pay any interest to CITY for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof CITY waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This paragraph shall not apply to any claim for interest, including for post-judgment interest, if such application would be contrary to applicable law.

13.20.2 Rate of Interest. If, for whatever reason, the preceding subsection is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by COUNTY under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under applicable law, 0.25% (one quarter of one percent) simple interest (uncompounded).

- 13.21 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated herein by reference. The attached Exhibits are incorporated into and made a part of this Agreement.
- 13.22 Representation of Authority. Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.
- 13.23 Designated Representative. CITY's Designated Representative under this Agreement is Dayna Bhaggan, Public Safety Grants Manager. CITY may, in its discretion, change its Designated Representative upon written notice to COUNTY provided in accordance with Section 13.8.
- 13.24 Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

[The remainder of the page is 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 CITY OF FORT LAUDERDALE, signing by and through its Mayor, duly authorized to execute same.

WITNESSES:

BROWARD COUNTY, through its
County Administrator

Signature

By _____
Bertha Henry
County Administrator

Print Name

Signature

_____ day of _____, 2016

Print Name

Insurance requirements
approved by Broward County
Risk Management Division

Approved as to form by
Joni Armstrong Coffey
Broward 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 _____
Patrice M. Eichen (Date)
Assistant County Attorney

PME:dp
EMLEG Government Fort Lauderdale 2016-2017.a01
08/17/16
#16-115.04

AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF FORT LAUDERDALE
FOR IMPLEMENTATION OF PROJECTS PURSUANT TO THE ENHANCED MARINE
LAW ENFORCEMENT GRANT, GOVERNMENTAL ENTITY, FY 2016 - 2017, IN THE
AMOUNT OF \$57,208

CITY

CITY OF FORT LAUDERDALE

WITNESSES:

By _____

Signature

(Print Name and Title)

Print Name

_____ day of _____, 2016

Signature

Print Name

APPROVED AS TO FORM:

(SEAL)

By _____
CITY Attorney

EXHIBIT "A"

PROJECT DESCRIPTION

CITY OF FORT LAUDERDALE ENHANCED MARINE LAW ENFORCEMENT GRANT

CITY shall be responsible for the following services and activities under the Agreement:

- A. Provide **416 hours** of Daytime Marine Patrol (4:00 p.m. Friday through 11:59 p.m. Sunday) coverage in Zone IV-A (Intracoastal Waterway from McNab Road to Oakland Park Blvd.) for eight (8) hours per day, every Saturday or Sunday. **In addition**, Daytime Marine Patrol coverage will also be provided on November 25 (day after Thanksgiving Day), May 29 (Memorial Day), July 4 (Independence Day), and September 4 (Labor Day). **Excluded dates are:** November 3 - 7 (Fort Lauderdale International Boat Show), December 10 and 11 (Fort Lauderdale and Pompano Beach Holiday Boat Parades), and May 6 and 7 (Fort Lauderdale Air Show).
- B. Provide **832 hours** of Daytime Marine Patrol (4:00 p.m. Friday through 11:59 p.m. Sunday) coverage in Zone V (Intracoastal Waterway from Oakland Park Blvd. to Las Olas Blvd., including Middle River) for eight (8) hours per day, every Saturday and Sunday. **In addition**, Daytime Marine Patrol coverage will also be provided on November 25 (day after Thanksgiving Day), May 29 (Memorial Day), July 4 (Independence Day), and September 4 (Labor Day). **Excluded dates are:** November 3 - 7 (Fort Lauderdale International Boat Show), December 10 and 11 (Fort Lauderdale and Pompano Beach Holiday Boat Parades), and May 6 and 7 (Fort Lauderdale Air Show).
- C. Provide **832 hours** of Daytime Marine Patrol (4:00 p.m. Friday through 11:59 p.m. Sunday) coverage in 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 (8) hours per day, every Saturday and Sunday. **In addition**, Daytime Marine Patrol coverage will also be provided on November 25 (day after Thanksgiving Day), May 29 (Memorial Day), July 4 (Independence Day), and September 4 (Labor Day). **Excluded dates are:** November 3 - 7 (Fort Lauderdale International Boat Show), December 10 and 11 (Fort Lauderdale and Pompano Beach Holiday Boat Parades), and May 6 and 7 (Fort Lauderdale Air Show).

- D. Provide **416 hours** of Daytime Marine Patrol (4:00 p.m. Friday through 11:59 p.m. Sunday) coverage in Zone VI-A (New River from the Marshall Bridge to the west boundary of the City of Fort Lauderdale) for eight (8) hours per day, every Saturday and Sunday. **In addition**, Daytime Marine Patrol coverage will be provided on November 25 (day after Thanksgiving Day), May 29 (Memorial Day), July 4 (Independence Day), and September 4 (Labor Day). **Excluded dates are:** November 3 - 7 (Fort Lauderdale International Boat Show), December 10 and 11 (Fort Lauderdale and Pompano Beach Holiday Boat Parades), and May 6 and 7 (Fort Lauderdale Air Show).
- E. Provide **200 hours** of Aggressive Marine Patrol (nighttime hours after 4:00 p.m. Monday through Thursday) coverage in Zone IV - Intracoastal Waterway from McNab Road to Oakland Park Blvd. Aggressive Marine Patrol hours may be provided on Saturdays and Sundays only after eight (8) hours of Daytime Marine Patrol have been provided in the same patrol zone. **Excluded dates and times are:** All weekday daytime hours, November 3 - 7 (Fort Lauderdale International Boat Show), December 10 and 11 (Fort Lauderdale and Pompano Beach Holiday Boat Parades), and May 6 and 7 (Fort Lauderdale Air Show).
- F. Provide **400 hours** of Aggressive Marine Patrol (nighttime hours after 4:00 p.m. Monday through Thursday) coverage in Zone V - Intracoastal Waterway from Oakland Park Blvd. to Las Olas Blvd., including Middle River. Aggressive Marine Control hours may be provided on Saturdays and Sundays only after eight (8) hours of Daytime Marine Patrol have been provided in the same patrol zone. **Excluded dates and times are:** All weekday daytime hours, November 3 - 7 (Fort Lauderdale International Boat Show), December 10 and 11 (Fort Lauderdale and Pompano Beach Holiday Boat Parades), and May 6 and 7 (Fort Lauderdale Air Show).
- G. Provide **400 hours** of Aggressive Marine Patrol (nighttime hours after 4:00 p.m. 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. Aggressive Marine Patrol hours may be provided on Saturdays and Sundays only after eight (8) hours of Daytime Marine Patrol have been provided in the same patrol zone. **Excluded dates and times are:** All weekday daytime hours, November 3 - 7 (Fort Lauderdale International Boat Show), December 10 and 11 (Fort Lauderdale and Pompano Beach Holiday Boat Parades), and May 6 and 7 (Fort Lauderdale Air Show).

- H. Provide **200 hours** of Aggressive Marine Patrol (nighttime hours after 4:00 p.m. Monday through Thursday) coverage in Zone VI - A, New River from the Marshall Bridge to the west boundary of the City. Aggressive Marine Patrol hours may be provided on Saturdays and Sundays only after eight (8) hours of Daytime Marine Patrol have been provided in the same patrol zone. **Excluded dates and times are:** All weekday daytime hours, during November 3 - 7 (Fort Lauderdale International Boat Show), December 10 and 11 (Fort Lauderdale and Pompano Beach Holiday Boat Parades), and May 6 and 7 (Fort Lauderdale Air Show).
- I. Provide Marine Law Enforcement Classes for three (3) officers who will perform patrol activities utilizing Program Funds.

Program Funds:

Daytime Patrol in Zones IV-A, V, VI, VI-A (2,496 hours @\$44 per hour)	\$109,824.00
Aggressive Patrol in Zones IV-A, V, VI, VI-A (1,200 hours @\$44 per hour)	52,800.00
Marine Law Enforcement Training Classes for Three Officers	3,000.00
Total Costs	\$165,624.00