



**AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF FORT LAUDERDALE FOR
IMPLEMENTATION OF PROJECTS PURSUANT TO THE ENHANCED MARINE LAW ENFORCEMENT
GRANT FOR GOVERNMENTAL ENTITIES FY 2021 -2022**

This Agreement ("Agreement") is made and entered into by and between Broward County, a political subdivision of the State of Florida ("County"), and the City of Fort Lauderdale, a municipal corporation of the State of Florida ("City") (collectively referred to as the "Parties" and individually as a "Party").

RECITALS

A. 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 that obtain such registration in Broward County.

B. 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.

C. In accordance with Section 9½-16, Broward County Code of Ordinances, the Broward County Marine Advisory Committee recommended funding to City for the Project (as hereinafter defined) under the EMLEG Program, to the Broward County Board of County Commissioners for fiscal year ("FY") 2021 - 2022 and the recommended funding was approved by the Board.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

1.1. **Aggressive Marine Patrol Coverage** means patrol coverage occurring after 2:00 p.m., Monday through Thursday, or any patrol coverage in excess of eight (8) hours on any single Friday, Saturday, or in excess of nine (9) hours on Sunday.

1.2. **Board** means the Board of County Commissioners of Broward County, Florida.

1.3. **Broward County Marine Advisory Committee ("MAC")** means the committee established under Section 9½-16, Broward County Code of Ordinances, with additional authority for the Broward Boating Improvement Program set forth in Chapter 33, Part VIII, Broward County Code Administrative Code.

1.4. **Contract Administrator** means the Director of the Broward County Parks and Recreation Division or, if designated in writing, County's Program liaison to the Broward County Marine Advisory Committee.

- 1.5. **County Administrator** means the administrative head of County appointed by the Board.
- 1.6. **Daytime Marine Patrol Coverage** means patrol coverage occurring for up to eight (8) hours on any single day after 2:00 pm on Friday, or at any time on Saturday or Sunday.
- 1.7. **Grant Application** means the grant funding application for the Program, and any amendments thereto, submitted by City for the Project, which are incorporated herein by reference.
- 1.8. **Local Operation Vessel Registration Fee** means the fee required by Chapter 1, Article XXX, Broward County Code of Ordinances.
- 1.9. **Program** means the Enhanced Marine Law Enforcement Grant Program established under Chapter 33, Part VII, Broward County Administrative Code, pursuant to authority under Section 328.72(15), Florida Statutes.
- 1.10. **Program funds** means the funding received by County pursuant to the Local Option Registration Fees for Vessels and provided to City under this Agreement.
- 1.11. **Services** means the marine law enforcement services and activities described in Article 2.

ARTICLE 2. SCOPE OF SERVICES

- 2.1. City shall perform all services and activities for the Program as outlined in Exhibit A ("Project Description"). The Project Description describes City's obligations and responsibilities and includes preliminary considerations and prerequisites and all labor, materials, equipment, and tasks that 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 marine patrol coverage and administrative overhead costs including, but not limited to, scheduling time, do not constitute eligible costs for the Services.
- 2.2. The Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the scope of the Services, except as provided in Section 2.4. Any change to the Services must be accomplished by a written amendment, executed by the Parties in accordance with Section 12.19.
- 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 Services, 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 EMLEG patrol zones described in the Project Description remain the same, the changes do not increase the maximum amount of compensation set forth in Section 4.1, and the changes are consistent with the intent of the Services and this Agreement.

ARTICLE 3. TERM AND TIME OF PERFORMANCE

3.1. Term. The term of this Agreement shall begin on October 1, 2021 ("Effective Date") and shall end on September 30, 2022, unless otherwise terminated as provided in this Agreement. 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. Time of the Essence. 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 up to a maximum amount of One Hundred Eighty-four Thousand, One Hundred and Four Dollars (\$184,104.00) on a reimbursement basis in the manner specified in Article 5, 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 services and other items of work or activities required under this Agreement.

4.2. The rate charged by City for patrolling the waterways within Broward County shall be Forty-nine Dollars (\$49.00) per hour per officer. If City reasonably determines that two (2) officers per boat are required for safety or security reasons during Aggressive Marine Patrol Coverage hours, City shall place two (2) officers on the boat. However, the number of Aggressive Marine Patrol Coverage hours charged to County shall not exceed four (4) hours per officer on any given day, for a combined total of no more than eight (8) Aggressive Marine Patrol Coverage hours per day, per boat, except in EMLEG Zone XI, described in Exhibit A, where the number of Aggressive Marine Patrol hours shall not exceed six (6) hours per officer per day, for a combined total of no more than twelve (12) Aggressive Marine Patrol Coverage hours per day, per boat, regardless of the number of officers City determines are needed per boat.

ARTICLE 5. METHOD OF BILLING AND PAYMENT

5.1. Invoices: City shall invoice County quarterly utilizing the form provided by the Contract Administrator, and including the following information:

5.1.1. A certified copy of each officer's record or timecard reflecting the services rendered, the date and hours 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, a copy of the receipt for the item. All items shall be purchased in accordance with the purchasing guidelines set forth in Chapter 287, Florida Statutes.

5.1.3. Certification of City's administrator or the administrator's authorized representative that the services or item being invoiced has been completed or purchased and received; and

5.1.4. The quarterly progress report on the form provided 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 submitted documents 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 the Contract Administrator.

5.3. City shall submit invoices for Program Funds under this Agreement only for eligible activities specifically outlined in this Agreement.

5.4. 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 County has determined to be payable. Payment shall be made payable to City and not to any persons employed by City.

5.5. County shall pay City within thirty (30) days after receipt of City's proper invoice, as required by the "Broward County Prompt Payment Ordinance," Section 1-51.6, Broward County Code of Ordinances.

5.6. City will not be entitled to payment by County for any invoices received by County later than ninety (90) days after expiration or earlier termination of this Agreement.

5.7. City shall use reasonable efforts to provide Services during the term of this Agreement and shall submit invoices equaling the total amount of the Program Funds allocated to the Project. In the event City fails to submit invoices that total at least seventy-five percent (75%) of the Program Funds, City may not be eligible to receive any Program Funds in subsequent fiscal years. 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 sole custody and control of County.

5.8. In the event City is unable to perform any Daytime Marine Patrol Coverage as described and set forth in Exhibit A due to unforeseen circumstances, City may request, in writing, to the Contract Administrator the conversion of Daytime Marine Patrol Coverage hours to Aggressive Patrol Coverage Hours. Such request can be made at any time up until the last one hundred and twenty (120) days prior to the expiration of this Agreement, but not thereafter. The Contract

Administrator will approve or deny City's request in writing, at his or her sole discretion within thirty (30) days from receipt of the written request. The maximum number of Daytime Marine Patrol Coverage hours that may be converted to Aggressive Patrol Coverage hours is twenty percent (20%) per fiscal year. Any conversion of hours approved by the Contract Administrator must be set forth in a line-item budget change to Exhibit A in accordance with Section 12.19 of this Agreement.

5.9. Payment shall be made to City at:

Dayna Bhaggan, Public Safety Grants Manager
City of Fort Lauderdale Police Department
1300 W Broward Blvd
Fort Lauderdale, Florida 33312
(954) 828-5284

5.10. Suspension of Payments. County may suspend payment under this Agreement for any of the following events:

5.10.1. Submission of invoice for ineligible use of Program Funds;

5.10.2. Failure to comply with any terms of this Agreement;

5.10.3. Failure to submit reports as required;

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

5.10.5. Termination of this Agreement in accordance with Article 9.

5.11. Withheld Funds. 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 the Contract Administrator. Payment may also be withheld for failure of City to comply with any term, condition, or requirement of this Agreement. Any withheld payment will be made to City within thirty (30) days following City's cure of its failure to comply with this Agreement. The amount withheld shall not be subject to payment of interest by County.

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 12.2.

6.2. City shall maintain books, records, and documents in accordance with Article 12.2 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, City shall be responsible to refund such monies in full to County from non-Program Funds within sixty (60) days after City receives notice of the violation. City shall pay County twelve percent (12%) interest per annum on any monies required to be refunded to County along with the refund payment.

6.4. Annual Financial Report: Notwithstanding the requirement to provide annual financial statements under Article 10, within ninety (90) days after the end of City's fiscal year, City shall provide to the Contract Administrator an annual financial report prepared by City's Chief Financial Officer which, at a minimum, includes the following:

6.4.1. A statement showing 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.

6.4.2. 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.

6.4.3. An education status report, if applicable, 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 to City in accordance with Section 5.11 of this Agreement until the financial report is received.

6.5. City shall ensure that all capital assets and equipment, if applicable, obtained or purchased for the Project with Program Funds shall be used solely for enhanced marine law enforcement for five (5) consecutive years. The period for such use shall commence upon the purchase date. 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 fails to utilize such capital assets or equipment for the intended purposes under this Agreement for any time longer than one (1) month City shall immediately 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 title to such capital assets and equipment shall not vest with City.

ARTICLE 7. GOVERNMENTAL IMMUNITY

Nothing herein is intended to serve as a waiver of sovereign immunity by either Party, nor shall anything included herein be construed as consent by either Party 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 Program 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 the aggrieved Party if the Party in breach has not corrected the breach within thirty (30) days after written notice from the aggrieved Party identifying the breach. This Agreement may also be terminated for convenience by the Board. Termination for convenience by the Board shall be effective on the termination date stated in written notice provided by County, which termination date shall be not less than thirty (30) days after the date of such written notice. This Agreement may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate under the circumstances, in the event the County 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 be deemed a termination for convenience and shall be effective thirty (30) days after such notice of termination for cause is provided.

9.3. This Agreement may be terminated for cause by County 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, or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement. This Agreement may also be terminated for cause if City is a "scrutinized company" pursuant to Section 215.473, Florida Statutes, if City is placed on a "discriminatory vendor list" pursuant to Section 287.134, Florida Statutes, or if Contractor provides a false certification submitted pursuant to Section 287.135, Florida Statutes.

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 to protect the public health, safety, or welfare may be oral notice that shall be promptly confirmed in writing in accordance with the "Notices" section of this Agreement.

9.6. If this Agreement is terminated for convenience by County, City shall be paid for any eligible Services properly performed through the termination date specified in the written notice of termination, subject to any right of County to retain any sums otherwise due and payable. 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 that 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 Article 5.

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.

9.10. In addition to any termination rights stated in this Agreement, County shall be entitled to seek any and all available remedies, whether stated in this Agreement or otherwise available at law or in equity.

ARTICLE 10. FINANCIAL STATEMENTS AND MANAGEMENT LETTERS

10.1. City shall provide a copy of City's audited financial statements and any 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 Program Funds are received.

10.2. City shall provide to the Contract Administrator copies of a special report showing all revenues, by source, and all expenditures 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.

10.3. 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.

10.4. City shall account for any program income, if applicable to the Project, financed in whole or part with Program Funds.

10.5. 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.

10.6. 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.

10.7. City shall reimburse County any Program Funds not used in strict compliance with the terms of this Agreement.

ARTICLE 11. EQUAL EMPLOYMENT OPPORTUNITY AND CBE COMPLIANCE

11.1. No Party 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 include the foregoing or similar language in its contracts with any Subcontractors, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26.

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

11.3. 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 12. MISCELLANEOUS

12.1. Rights in Documents and Work. Any and all reports, photographs, surveys, documents, materials, data, or other work created by City in connection with performing Services under this Agreement shall be owned by County and shall be deemed works for hire by City and its agents; in the event the Services are determined not to be a work for hire, City hereby assigns all right, title, and interest, including any copyright or other intellectual property rights in or to the work, to County. 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 after termination of this Agreement. Any compensation due to City may be withheld until all documents are received as provided in this Agreement. City shall ensure that the requirements of this section are included in all agreements with its Subcontractor(s).

12.2. Public Records. To the extent City is acting on behalf of County as stated in Section 119.0701, Florida Statutes, City shall:

12.2.1. Keep and maintain public records required by County to perform the Services;

12.2.2. 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;

12.2.3. 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 after completion or termination of this Agreement if the records are not transferred to County; and

12.2.4. Upon completion or termination of this Agreement, transfer to County, at no cost, all public records in possession of City 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 the public records, 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.

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.

Any material submitted to County that City contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) ("Trade Secret Materials") must be separately submitted and conspicuously labeled "EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET." In addition, City must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Section 812.081, Florida Statutes, and stating the factual basis for same. If a third party submits a request to County for records designated by City as Trade Secret Materials, County shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by City. City shall indemnify and defend County and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments, and liabilities of any kind, including attorneys' fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a records request by a third party.

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 THE CUSTODIAN OF PUBLIC RECORDS AT (954) 357-8100, DANWEST@BROWARD.ORG, 950 NW 38th STREET, OAKLAND PARK, FLORIDA 33309.

12.3. Audit Rights and Retention of Records. County shall have the right to audit the books, records, and accounts of City and its Subcontractors that are related to this Agreement. City and its Subcontractors shall keep such books, records, and accounts as may be necessary to record complete and correct entries related to this Agreement and performance under this Agreement. All such books, records, and accounts 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 or its Subcontractor shall make same available in written form at no cost to County.

City and its Subcontractors shall preserve and make available, at reasonable times within Broward County, Florida, for examination and audit, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for at least three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. Any audit or inspection pursuant to this section may be performed by any County representative (including any outside representative engaged by County). City hereby grants County 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 City in excess of five percent (5%) of the total contract billings reviewed by County, in addition to making adjustments for the overcharges, City shall pay the actual cost of County's audit. Any

adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) days after presentation of County's findings to City.

City shall ensure that the requirements of this section are included in all agreements with its Subcontractor(s).

12.4. 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.

12.5. 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. 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.

12.6. Independent Contractor. City is an independent contractor of County under this Agreement, and nothing in this Agreement shall constitute or create a partnership, joint venture, or any other relationship between the Parties. 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.

12.7. Sovereign Immunity. Except to the extent sovereign immunity may be deemed waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by County nor shall anything included herein be construed as consent by County to be sued by third parties in any matter arising out of this Agreement. County is a political subdivision as defined in Section 768.28, Florida Statutes, and shall be responsible for the negligent or wrongful acts or omissions of its employees pursuant to Section 768.28, Florida Statutes.

12.8. 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.

12.9. 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, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via e-mail, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). The addresses for

notice shall remain as set forth in this section 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 Police Department
1300 W Broward Blvd
Fort Lauderdale, Florida 33312
(954) 828-5284
Email address: dbhaggan@fortlauderdale.gov

12.10. Assignment and Performance. Except for subcontracting approved by County in advance, neither this Agreement nor any right or interest in it may be assigned, transferred, subcontracted, pledged or encumbered by City including by change of control, consolidation, dissolution, or operation of law, without the prior written consent of County, which consent shall be in County's sole discretion. Any purported assignment, transfer, subcontract, or encumbrance in violation of this section shall be void and ineffective, constitute a breach of this Agreement, and permit County to immediately terminate this Agreement, in addition to any other remedies available to County at law or in equity. 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.

12.11. Conflicts. Neither City nor its employees shall 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. During the term of this Agreement, none of City's officers or employees shall 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 that is adverse or prejudicial to the interests of County in connection with any such pending or threatened legal or administrative proceeding unless compelled by legal 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 of such representation, in

any action or in any administrative or legal proceeding. If City is permitted pursuant to this Agreement to utilize Subcontractors to perform any Services required by this Agreement, City shall require such Subcontractors, by written contract, to comply with the provisions of this section to the same extent as City.

12.12. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term of this Agreement. 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 this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

12.13. Compliance with Laws. City and the Services must comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations including, without limitation, Americans with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and any related federal, state, or local laws, rules, and regulations.

12.14. Severability. If 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.

12.15. Joint Preparation. This Agreement has been jointly prepared by the Parties, and shall not be construed more strictly against either Party.

12.16. Interpretation. The titles and 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" 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 subsections thereof, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to "days" means calendar days, unless otherwise expressly stated.

12.17. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision of Articles 1 through 13 of this Agreement, the provisions contained in Articles 1 through 12 shall prevail and be given effect.

12.18. 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 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 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. **EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A DEMAND FOR A JURY TRIAL AFTER WRITTEN NOTICE BY THE OTHER PARTY, THE PARTY MAKING THE DEMAND FOR JURY TRIAL SHALL BE LIABLE FOR REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY TO CONTEST THE DEMAND FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

12.19. Amendments. No modification, amendment, or alteration of any portion of this Agreement is effective unless contained in a written document executed with the same or similar formality as this Agreement and by duly authorized representatives of County and City.

12.20. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and discussions regarding same. All commitments, agreements, and understandings of the Parties concerning the subject matter of this Agreement are contained herein.

12.21. Payable Interest

12.21.1. 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 City waives, rejects, disclaims, and surrenders any and all entitlement to interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This subsection shall not apply to any claim for interest, including for post-judgment interest, if such application would be contrary to applicable law.

12.21.2. Rate of Interest. If the preceding subsection is inapplicable or 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, one quarter of one percent (0.25%) simple interest (uncompounded).

12.22. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached Exhibit is incorporated into and made a part of this Agreement.

12.23. 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.

12.24. Designated Representative. City's Designated Representative under this Agreement is Dayna Bhagga. City may, in its discretion, change its Designated Representative upon written notice to County provided in accordance with Section 12.9.

12.25. 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 this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its County Administrator, authorized to execute same by Section 33.65, Broward County Administrative Code, and City, signing by and through its Mayor, duly authorized to execute same.

COUNTY

WITNESS #1:

BROWARD COUNTY, by and through
its Board of County Commissioners

Signature

By: _____
Bertha Henry
County Administrator

Print Name

_____ day of _____, 2021

WITNESS #2:

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

Signature

Print Name

By: _____
Amanda Tolbert (Date)
Assistant County Attorney

By: _____
Nathaniel Klitsberg (Date)
Senior Assistant County Attorney

AMT/sr
EMLEG Governmental Entity Form FY 2021-2022
06/18/2021
#523358v1

AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF FORT LAUDERDALE FOR
IMPLEMENTATION OF PROJECTS PURSUANT TO THE ENHANCED MARINE LAW
ENFORCEMENT GRANT FOR GOVERNMENTAL ENTITIES FY 2021 - 2022

CITY

WITNESSES:

City of Fort Lauderdale

Signature

By: _____
Authorized Signor

Print Name of Witness above

Print Name and Title

Signature

_____ day of _____, 2021

Print Name of Witness above

ATTEST:

Corporate Secretary or other person
authorized to attest

(CORPORATE SEAL OR NOTARY)

APPROVED AS TO FORM:

By: _____
City Attorney

EXHIBIT A
Project Description

1. City shall be responsible for the following services and activities under the Agreement:
 - A. Provide **416 hours** of Daytime Marine Patrol Coverage (2:00 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 26 (day after Thanksgiving Day), May 30 (Memorial Day), July 4 (Independence Day), and September 5 (Labor Day). **Excluded dates are:** October 27-31 (Fort Lauderdale International Boat Show), December 10-11 (Fort Lauderdale and Pompano Beach Holiday Boat Parades), and April 30 and May 1 (Fort Lauderdale Air Show).
 - B. Provide **832 hours** of Daytime Marine Patrol Coverage (2:00 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 26 (day after Thanksgiving Day), May 30 (Memorial Day), July 4 (Independence Day), and September 5 (Labor Day). **Excluded dates are:** October 27-31 (Fort Lauderdale International Boat Show), December 10-11 (Fort Lauderdale and Pompano Beach Holiday Boat Parades), and April 30 and May 1 (Fort Lauderdale Air Show).
 - C. Provide **832 hours** of Daytime Marine Patrol Coverage (2:00 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 26 (day after Thanksgiving Day), May 30 (Memorial Day), July 4 (Independence Day), and September 5 (Labor Day). **Excluded dates are:** October 27-31 (Fort Lauderdale International Boat Show), December 10-11 (Fort Lauderdale and Pompano Beach Holiday Boat Parades), and April 30 and May 1 (Fort Lauderdale Air Show).
 - D. Provide **416 hours** of Daytime Marine Patrol Coverage (2:00 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 also be provided on November 26 (day after Thanksgiving Day), May 30 (Memorial Day), July 4 (Independence Day), and September 5 (Labor Day). **Excluded dates are:** October 27-31 (Fort Lauderdale International Boat Show), December 10-11 (Fort Lauderdale and Pompano Beach Holiday Boat Parades), and April 30 and May 1 (Fort Lauderdale Air Show).
 - E. Provide **200 hours** of Aggressive Marine Patrol Coverage (nighttime hours after 2:00 p.m. Monday through Thursday) coverage in Zone IV - Intracoastal Waterway from McNab Road to Oakland Park Blvd. Aggressive Marine Patrol Coverage hours may be provided on

Saturdays and Sundays only after eight (8) hours of Daytime Marine Patrol Coverage have been provided in the same patrol zone. **Excluded dates and times are:** All weekday daytime hours, October 27-31 (Fort Lauderdale International Boat Show), December 10-11 (Fort Lauderdale and Pompano Beach Holiday Boat Parades), and April 30 and May 1 (Fort Lauderdale Air Show).

- F.** Provide **400 hours** of Aggressive Marine Patrol Coverage (nighttime hours after 2:00 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 Coverage hours may be provided on Saturdays and Sundays only after eight (8) hours of Daytime Marine Patrol Coverage have been provided in the same patrol zone. **Excluded dates and times are:** All weekday daytime hours, October 27-31 (Fort Lauderdale International Boat Show), December 10-11 (Fort Lauderdale and Pompano Beach Holiday Boat Parades), and April 30 and May 1 (Fort Lauderdale Air Show).
- G.** Provide **400 hours** of Aggressive Marine Patrol Coverage (nighttime hours after 2:00 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 Coverage hours may be provided on Saturdays and Sundays only after eight (8) hours of Daytime Marine Patrol Coverage have been provided in the same patrol zone. **Excluded dates and times are:** All weekday daytime hours, October 27-31 (Fort Lauderdale International Boat Show), December 10-11 (Fort Lauderdale and Pompano Beach Holiday Boat Parades), and April 30 and May 1 (Fort Lauderdale Air Show).
- H.** Provide **200 hours** of Aggressive Marine Patrol Coverage (nighttime hours after 2:00 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 Coverage hours may be provided on Saturdays and Sundays only after eight (8) hours of Daytime Marine Patrol Coverage have been provided in the same patrol zone. **Excluded dates and times are:** All weekday daytime hours, October 27-31 (Fort Lauderdale International Boat Show), December 10-11 (Fort Lauderdale and Pompano Beach Holiday Boat Parades), and April 30 and May 1 (Fort Lauderdale Air Show).
- I.** Provide Marine Law Enforcement Classes for three (3) officers who will perform patrol activities utilizing Program Funds.

2. Program Funds:

Daytime Patrol in Zone IV-A, V, VI, VI-A (2,496 hours @\$49 per hour)	\$122,304.00
Aggressive Patrol in Zone IV-A, V, VI, VI-A (1,200 hours @\$49 per hour):	\$58,800.00
Marine Law Enforcement Training Classes for Three Officers:	\$3,000.00
Total Costs:	\$184,104.00