

FUNDING AGREEMENT BETWEEN THE CITY OF DELRAY BEACH AND
OMEGA UPLIFTS FOUNDATION, INC.

THIS AGREEMENT ("Agreement") is made on this ____ day of _____, 2024, by and between the CITY OF DELRAY BEACH (the "CITY"), whose principal address is 100 NW First Avenue, Delray Beach, FL 33444, and OMEGA UPLIFTS FOUNDATION, INC., (the "RECIPIENT"), whose address is 401 West Atlantic Avenue, Suite 09, Delray Beach, FL 33444.

WITNESSETH:

WHEREAS, the RECIPIENT is a Florida Not For Profit Corporation with a principal address of 401 West Atlantic Avenue, Suite 09, Delray Beach, FL 33444;

WHEREAS, the CITY desires to provide funding to support RECIPIENT's initiatives and programming related to crime prevention, safe neighborhood, and/or drug abuse prevention and education;

WHEREAS, said funding will be distributed from the CITY'S Police Department Law Enforcement Trust Funds; and

WHEREAS, the CITY finds that this Agreement serves a municipal and public purpose, is consistent with the CITY'S goals, and conforms with the requirements of Florida law.

NOW, THEREFORE, in consideration of the mutual covenants, stipulations and agreements herein contained, the parties agree as follows:

1. **Recitals**. The recitals set forth above are incorporated herein.
2. **Funding**. Subject to the terms and conditions set forth herein and the RECIPIENT'S compliance with all its obligations hereunder, the CITY hereby agrees to make available to the RECIPIENT funds in the amount of Four Thousand Dollars (\$4,000.00) (the "Funds"), to be used solely in the manner hereinafter provided. RECIPIENT agrees to use the Funds to provide initiatives and programming for the benefit of Delray Beach residents regarding the one or more of the following:
 - a) Crime prevention.
 - b) Safe neighborhoods.
 - c) Drug abuse prevention and education.
3. **Term**. This Agreement shall terminate on February 1, 2025, or upon the disbursement of funds and performance of all terms and conditions outlined in this Agreement, whichever is the sooner of the two.

4. **Reporting.** The RECIPIENT must keep clear and accurate records throughout the performance period so that the progress of the services rendered may be readily evaluated by the Delray Beach Police Department (DBPD) at a mutually agreed upon time. A representative for the RECIPIENT must submit a report of activities and expenditures documented by receipts or other financial proof of expenditure of the program to DBPD within 30 days after the funds have been exhausted or no later than January 31st. All awarded funds must be expended by the end of the calendar year in which they were awarded. Failure to provide a report evidencing that the Funds were spent in accordance with this Agreement shall be deemed a breach of this Agreement, requiring the RECIPIENT to reimburse the CITY immediately for the Funds disbursed.

5. **Retention and Audit.** The RECIPIENT agrees to maintain adequate supporting documentation to account for the expenditure of Funds under this Agreement, including financial records, demographic records, description of activities, and other related records for the programming and initiatives. The Funds may only be spent by the RECIPIENT for the purpose(s) described in this Agreement. The RECIPIENT shall provide the report, as indicated above, and any other documentation requested by the CITY to demonstrate to the CITY'S satisfaction, as determined by the Finance Director, that the Funds were spent for the purpose(s) described in this Agreement. Any Funds finally determined as misspent or otherwise not spent as provided for this Agreement shall be immediately returned to the CITY.

6. **Remedies for Non-compliance.** If the RECIPIENT fails to comply with this Agreement, then the CITY shall have the right to take one or more of the following actions:

- a) Recover payments made to the RECIPIENT, including both spent and unspent payments;
- b) Deem the RECIPIENT ineligible to receive future grants from the CITY for a period of up to five (5) years; and
- c) Take any and all other remedies as may be legally permitted.

7. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and shall supersede all prior oral and written agreements as to the funding by the CITY to the RECIPIENT.

8. **Nondiscrimination.** The RECIPIENT agrees that it will not unlawfully discriminate against anyone on the basis of age, race, sex, national origin, creed, religion, handicapped status, or any other protected class in the fulfillment of this Agreement.

9. **Modification.** This Agreement may be amended or modified by written addendum or amendment signed by the parties.

10. **Assignment.** This Agreement may not be assigned without the express written consent of the parties.

11. **Indemnification.** The RECIPIENT shall indemnify and hold harmless the CITY and its officers, employees, agents, and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the CITY or its officer, employees, agents, or instrumentalities may incur as a result of claims, demands, suits, causes of actions, or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of the agreement by the RECIPIENT or its employees, agents, servants, partners, principals, or subcontractors. The RECIPIENT shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the CITY, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be incurred thereon. The RECIPIENT expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the RECIPIENT shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the CITY or its officers, employees, agents, and instrumentalities as herein provided the obligations of this section shall survive the term of this Agreement. The obligations of this section shall survive the expiration or earlier termination of this Agreement.

12. IF THE RECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE RECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1ST AVE., DELRAY BEACH FLORIDA. THE CITY CLERK'S OFFICE MAY BE CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT CITYCLERK@MYDELRAYBEACH.COM.

The RECIPIENT shall comply with all public records laws in accordance with Chapter 119, Florida Statutes. In accordance with state law, both agree to:

- (1) Keep and maintain all records that ordinarily and necessarily would be required by the CITY.
- (2) Provide the public with access to public records on the same terms and conditions that the CITY would provide for the records and at a cost that does not exceed the costs provided in Chapter 119, Fla. Stat. or as otherwise provided by law.
- (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law.
- (4) Meet all requirements for retaining public records and transfer, at no cost, to the CITY all records in possession of the RECIPIENT at the termination

of the contract and destroy any public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the CITY in a format that is compatible with the information technology systems of the CITY. All records shall be transferred to the CITY prior to final payment being made to the RECIPIENT.

- (5) If the RECIPIENT does not comply with this section, the CITY shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this Agreement in accordance with state law.

13. **Inspector General.** RECIPIENT is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract and may demand and obtain records and testimony from the RECIPIENT and its subcontractors and lower tier subcontractors. The RECIPIENT understands and agrees that in addition to all other remedies and consequences provided by law, the failure of the RECIPIENT or its subcontractor or lower tier subcontractors to fully cooperate with the Inspector General when requested may be deemed by the CITY to be a material breach of this Agreement justifying its termination.

14. **Fiscal Funding.** The continuation of this Agreement beyond the end of any fiscal year shall be subject to both the appropriation and the availability of funds in accordance with Florida law.

15. **Termination.** The City, at its sole discretion, reserves the right to terminate this Agreement with or without cause immediately upon providing written notice to RECIPIENT.

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

CITY:

City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444
Attn: City Manager

RECIPIENT:

Omega Uplifts Foundation, Inc.
401 West Atlantic Avenue, Suite 09
Delray Beach, FL 33444
Attn: Seabron A. Smith

17. **Jurisdiction and Venue**. This Agreement shall be construed in accordance with the City of Delray Beach's Code of Ordinances and the laws of the State of Florida. Any dispute relating to this Agreement shall only be filed in a court of competent jurisdiction in Palm Beach County, Florida, and each of the parties to this Agreement submits itself to the jurisdiction of such court. In any litigation brought to enforce the terms of this Agreement, each party shall bear its own costs and attorney's fees incurred in connection therewith.

18. This Agreement contains the entire understanding between the CITY and RECIPIENT with respect to the subject matter hereof and merges and supersedes all prior and contemporaneous agreements. No modification, alteration, or amendment shall be effective unless made in writing, dated and signed by duly authorized representatives of both parties.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the day and year first written above.

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

Katerri Johnson, City Clerk

By: _____
Thomas F. Carney, Jr., Mayor Date

Approved as to Form:

Lynn Gelin, City Attorney

OMEGA UPLIFTS FOUNDATION, INC.

By: Seabron A. Smith

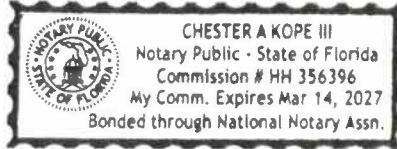
Print Name: Seabron A. Smith

Title: Chairman

STATE OF Florida
COUNTY OF PALEM BEACH

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 1 day of May, 2024, by Seabron A. Smith (name of person), as Chairman (type of authority) for OMEGA UPLIFTS FOUNDATION, INC.

Personally known OR Produced Identification
Type of Identification Produced _____



Chester A. Kope III
Notary Public – State of Florida