

AGREEMENT
with
CITY OF DELRAY BEACH FOR EMS GRANT FUNDS

THIS AGREEMENT ("the Agreement") is made as of the ____ day of _____, 2022, by and between the Board of County Commissioners, Palm Beach County, a political sub-division of the State of Florida (herein referred to as "COUNTY"), and the **City of Delray Beach**, a municipal corporation of the State of Florida (herein referred to as "MUNICIPALITY").

WITNESSETH

WHEREAS, the Department of Health, Bureau of Emergency Medical Services ("DOHEMS") is authorized by Chapter 401, Part II, Florida Statutes, to dispense pre-hospital emergency medical services grant funds ("EMS Grant") throughout the State to improve and expand pre-hospital emergency medical services; and

WHEREAS, Forty-five percent (45%) of EMS Grant funds are divided among the counties to be used by each county for its EMS needs including using the EMS Grant funds for reimbursement or expenditures of licensed emergency medical service providers; and

WHEREAS, the MUNICIPALITY has requested the COUNTY disburse a portion of the FY2021-2022 EMS Grant funds to reimburse the MUNICIPALITY for its purchase of **Advanced Airway Training for 100 Officers** (together "EMS Equipment"); and

WHEREAS, the MUNICIPALITY agrees to accept said reimbursement for EMS Equipment under the terms and conditions of the EMS Grant and this Agreement.

Now, therefore, in consideration of the mutual promises contained herein, COUNTY and MUNICIPALITY agree as follows:

ARTICLE 1 – RECITALS

The above recitals are true, correct and incorporated herein.

ARTICLE 2 - REPRESENTATIVE/MONITORING POSITION

The COUNTY'S representative/Agreement monitor during the term of this Agreement shall be Lynette Schurter, whose telephone number is 561-712-6696

The MUNICIPALITY representative/contact monitor during the term of the Agreement shall be Sean Gibson whose telephone number is 561-243-7432.

ARTICLE 3 – REIMBURSEMENT OF MUNICIPALITY

The COUNTY agrees to reimburse the MUNICIPALITY for MUNICIPALITY purchased EMS Equipment from the COUNTY'S FY2021-2022 EMS Grant funds in an amount not to exceed **Ten thousand five hundred dollars (\$10,500.00)** The MUNICIPALITY shall purchase the EMS

Equipment and submit the required purchase documentation for reimbursement (referenced in Article - 4) to the COUNTY Representative at least ninety (90) days before the expiration of the FY2021-2022 EMS Grant. Approved documentation will be processed by the County Finance Department for payment to the MUNICIPALITY.

ARTICLE 4 - GRANT PROGRAM REQUIREMENTS

MUNICIPALITY SHALL:

- A. Comply with general requirements of COUNTY and the conditions of the EMS Grant.
- B. Submit to the COUNTY Representative on or before **January 31, 2023** copies of paid receipts, invoices, or other documentation acceptable to the Palm Beach County Finance Department to establish that EMS Equipment was purchased by the MUNICIPALITY.
- C. Immediately return the purchased EMS Equipment to the COUNTY should the MUNICIPALITY cease to operate its pre-hospital emergency medical services during the life of the EMS Equipment.
- D. Submit a training report to the COUNTY'S Division of Emergency Management to include a sign in sheet, date, title and contact number of the persons trained in use and operation of the EMS Equipment if applicable, within 90 days of the effective date of this Agreement. This report shall include all of the necessary training provided for the EMS Equipment. It is the responsibility of the MUNICIPALITY purchasing the EMS Equipment to provide the training. The MUNICIPALITY'S failure to satisfactorily complete the training in the timeframe provided shall constitute a material breach of Agreement. As such, COUNTY may terminate this Agreement and demand return of the EMS Equipment.

ARTICLE 5 – LIABILITY

Each party to this Agreement shall be liable for its own actions and negligence. To the extent permitted by law, and solely within the limits established by Section 768.28, Florida Statutes, the MUNICIPALITY agrees to indemnify, defend and hold harmless the COUNTY against any actions, claims demands, costs or damages arising out of the MUNICIPALITY'S use, care and/or maintenance of the EMS Equipment. This provision does not constitute consent of either party to be sued by third parties and is not to be construed as a waiver of either party's sovereign immunity.

ARTICLE 6 - AVAILABILITY OF FUNDS

The COUNTY'S performance and obligation under this Agreement, including to reimburse the MUNICIPALITY under this Agreement, are contingent upon an annual budgetary appropriation for the purposes hereunder and the availability of FY2021-2022 EMS Grant funds. Ongoing costs for EMS Equipment including, but not limited to, operation, use, maintenance and replacement, is the responsibility of the MUNICIPALITY and will not be funded under this Agreement or the EMS Grant program.

ARTICLE 7 – REMEDIES

This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any

party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or the MUNICIPALITY.

ARTICLE 8 – ARREARS

The MUNICIPALITY shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any Agreement, debt, obligation, judgment, lien, or any form of indebtedness. The MUNICIPALITY further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

ARTICLE 9 - ACCESS AND AUDITS

The MUNICIPALITY shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least five (5) years after completion or termination of this Agreement. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the MUNICIPALITY'S place of business. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the MUNICIPALITY, its officers, agents, employees, and lobbyists in order to ensure compliance with Agreement requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

ARTICLE 10 – NONDISCRIMINATION

The COUNTY is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the MUNICIPALITY warrants and represents that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Agreement.

ARTICLE 11- AUTHORITY TO PRACTICE

The MUNICIPALITY hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct pre-hospital emergency medical services during the life of the equipment. Proof of such licenses and approvals shall be submitted to the COUNTY's representative upon request.

ARTICLE 12 – SEVERABILITY

If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 13 – NOTICE

All notices required in this Agreement shall be sent by certified mail, return receipt requested, hand delivery or other delivery service requiring signed acceptance. If sent to the COUNTY, notices shall be addressed to:

Lynette Schurter, EMS Specialist
20 South Military Trail
WPB, FL 33401

With copy to:

Palm Beach County Attorney's Office
301 North Olive Ave. – 6th Floor
West Palm Beach, Florida 33401

If sent to the MUNICIPALITY, notices shall be addressed to:

City Manager
100 N.W. 1st Ave.
Delray Beach, FL 33444

ARTICLE 14 - INSURANCE

Without waiving the right to sovereign immunity as provided by section 768.28, Florida Statutes, (the "Statute"), the MUNICIPALITY represents that it is self-insured with coverage subject to the limitations of the Statute, as may be amended. If MUNICIPALITY is not self-insured, MUNICIPALITY shall, at its sole expense, purchase and maintain in full force and effect at all times during the life of this Agreement, insurance coverage at limits not less than those contained in the Statute.

Should MUNICIPALITY purchase excess liability coverage, MUNICIPALITY agrees to include COUNTY as an Additional Insured. The MUNICIPALITY agrees to maintain or to be self-insured for Workers' Compensation insurance in accordance with Chapter 440, Florida Statutes. Should MUNICIPALITY contract with a third-party (Contractor) to perform any service related to the Agreement, MUNICIPALITY shall require the Contractor to provide the following minimum insurance:

- Commercial General Liability insurance with minimum limits of \$1,000,000 combined single limit for property damage and bodily injury per occurrence and \$2,000,000 per aggregate. Such policy shall be endorsed to include MUNICIPALITY and COUNTY as Additional Insureds. MUNICIPALITY shall also require that the Contractor include a Waiver of Subrogation against COUNTY.

- Business Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits for property damage and bodily injury per occurrence.
- Workers' Compensation insurance in compliance with Chapter 440, Florida Statutes, and which shall include coverage for Employer's Liability with minimum limits of \$1,000,000 each accident.

When requested, the MUNICIPALITY shall provide an affidavit or Certificate of Insurance evidencing insurance or self-insurance. Compliance with the foregoing requirement shall not relieve the MUNICIPALITY of its liability and obligations under this Agreement.

ARTICLE 15 - ENTIRETY OF CONTRACTUAL AGREEMENT

The COUNTY and the MUNICIPALITY agree that this Agreement sets forth the entire Agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

ARTICLE 16 - EXPIRATION OF AGREEMENT

This Agreement shall automatically expire in five (5) years from the effective date or upon the expiration of the life of the EMS Equipment, whichever comes first, in accordance with the State EMS County Grant Program. At such time, the MUNICIPALITY may dispose of said EMS Equipment as surplus property with no further municipal purpose.

ARTICLE 17 - EFFECTIVE DATE

This Agreement shall become effective upon execution by both the COUNTY and the MUNICIPALITY.

ARTICLE 18 - E-VERIFY - EMPLOYMENT ELIGIBILITY

Each party warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended. Each party has registered with and uses, and shall continue to use, the E-Verify System (E-Verify.gov), to electronically verify the employment eligibility of all newly hired employees. If either party has a good faith belief that the other party has knowingly violated Section 448.09(1), Florida Statutes, as may be amended, said party shall terminate this Agreement with the violating party.

ARTICLE 19 - PUBLIC RECORDS

Both parties shall comply with Florida's public records laws.

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IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Agreement on behalf of the COUNTY and MUNICIPALITY has hereunto set its hand the day and year above written.

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
BY ITS COUNTY ADMINISTRATOR**

By: _____
Verdenia C. Baker
County Administrator

CITY OF DELRAY BEACH

By: _____
Shelly Petrolia, Mayor

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

By: _____
Asst. County Attorney

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

By: _____
Lynn Gelin, City Attorney

**APPROVED AS TO TERMS
AND CONDITIONS**

By: _____
Department Director

ATTEST:

By: _____
Katerri Johnson, City Clerk