

AGREEMENT

by and between

THE SHERIFF OF BROWARD COUNTY

and

CITY OF POMPANO BEACH

providing for

TEMPORARY USE OF

FIRE RESCUE AND EMERGENCY SERVICES'
EQUIPMENT AND/OR VEHICLES

This Agreement is made and entered into by and between the SHERIFF OF BROWARD COUNTY, hereinafter referred to as "SHERIFF," and

City of Pompano Beach, a governmental entity organized and existing under the laws of the State of Florida, its successors and assigns, hereinafter referred to as "Licensee."

W I T N E S S E T H

WHEREAS, LICENSEE has requested and SHERIFF agrees to allow LICENSEE to temporarily utilize certain SHERIFF-owned equipment and/or vehicle(s) referenced herein for the LICENSEE's purposes more fully described herein; NOW, THEREFORE,

In consideration of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, SHERIFF and LICENSEE agree as follows:

ARTICLE 1
GENERAL PROVISIONS

- 1.1 This Agreement sets forth the terms and conditions related to the LICENSEE's temporary use of SHERIFF-owned equipment and/or vehicles for emergency response, as the LICENSEE's need for such use shall arise during the term of this Agreement.

- 1.2 In the event the LICENSEE has a need to temporarily use SHERIFF-owned equipment and/or vehicles, the LICENSEE's Fire Chief shall submit a written request to the SHERIFF's Director of Fire Rescue and Emergency Services detailing the type of equipment/vehicle requested, the reason for such request and the desired time period for such use. The LICENSEE's request will be made as soon as practicable based upon the facts and circumstances surrounding the request. The SHERIFF's Director of Fire Rescue and Emergency Services shall have the sole discretion as to whether the request is approved or denied. The SHERIFF makes no representations or guarantees that the equipment and/or vehicle(s) will be available for the LICENSEE's use.
- 1.3 LICENSEE agrees to return said equipment and/or vehicle(s) clean and in the same condition as when LICENSEE took possession of the equipment and/or vehicle(s), except for normal wear and tear. In the event the equipment and/or vehicle(s) are not returned in such condition, LICENSEE shall reimburse SHERIFF for any loss or damage. Notwithstanding the foregoing, the LICENSEE shall have a right to inspect the equipment and/or vehicle when such a loss or damage has been deemed to have occurred. Inspection shall take place within three (3) business days from the date that the SHERIFF reports a loss or damage. LICENSEE will not alter the vehicle(s) and/or equipment without the expressed written permission of the SHERIFF. LICENSEE understands that the SHERIFF enters this Agreement as a public service and SHERIFF makes no express or implied warranty as to the operability or fitness of said equipment and/or vehicle(s) for any purpose and the equipment and/or vehicle(s) are being provided in an "as is" condition.
- 1.4 LICENSEE recognizes and acknowledges that the equipment and/or vehicle(s) do not give the LICENSEE or any of its officers, employees or agents the authority to act on behalf of the SHERIFF. Therefore, LICENSEE shall ensure that its employees, officers, and agents do not represent to any third party that they are acting on behalf of the SHERIFF.
- 1.5 LICENSEE agrees that the equipment and/or vehicle(s) will only be used and/or operated by personnel that are licensed, certified and trained to use and/or operate such equipment and/or vehicle(s) and only for the purposes set forth in paragraph 1.1.

ARTICLE 2 COMPENSATION TO SHERIFF

LICENSEE agrees to pay SHERIFF the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged by the parties, for LICENSEE's right to use the SHERIFF-owned

equipment and/or vehicle(s) described herein for LICENSEE's referenced purposes.

ARTICLE 3
TERM AND TERMINATION OF AGREEMENT

- 3.1 The term of this Agreement shall commence on the effective date, which is herein defined as the date at which the last signature is entered below and remain in effect for one year. The Agreement may be renewed, with City Commission approval, for an additional period of three (3) one-year periods upon written consent of both the LICENSEE and the SHERIFF, unless otherwise terminated or agreed to in writing between the LICENSEE's Fire Chief and the SHERIFF's Director of the Department of Fire Rescue and Emergency Services.
- 3.2 This Agreement may be terminated by the SHERIFF or LICENSEE for convenience upon providing notice of such termination to the other party. Upon receipt or delivery of the notice of termination, the LICENSEE shall immediately return the equipment and/or vehicle(s).

ARTICLE 4
NOTICES

Wherever either party desires to give notice unto the other, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to wit:

FOR SHERIFF: Department of Fire Rescue and Emergency Services
 Broward Sheriff's Office
 2601 W. Broward Boulevard
 Fort Lauderdale, FL 33312

With copy to: Office of the General Counsel
 Broward Sheriff's Office
 2601 W. Broward Boulevard
 Fort Lauderdale, FL 33312

FOR LICENSEE: Mayor Lamar Fisher
 City of Pompano Beach
 100 West Atlantic Blvd

Pompano Beach, FL 33060

With copy to:

City Attorney's Office
City of Pompano Beach
100 West Atlantic Blvd
Pompano Beach, FL 33060

ARTICLE 5
LIABILITY, INDEMNIFICATION AND INSURANCE

- 5.1 LICENSEE hereby knowingly, freely, and voluntarily assumes all liability for any and all damage or injury to any person or property of whatsoever nature, which may occur as a result of LICENSEE's use and/or operation of the equipment and/or vehicle(s). LICENSEE agrees to release, waive, discharge and covenant not to sue the Broward Sheriff's Office, BSO, the SHERIFF, his officers, agents, employees and volunteers from any all liability or claims which may arise, either directly or indirectly, out of LICENSEE's use or operation of said equipment and/or vehicle(s), including any claim based upon the negligence, actions or inactions of the Broward Sheriff's Office, BSO, the SHERIFF, his directors, officers, deputies, employees, agents, representatives, volunteers and/or servants.
- 5.2 Indemnification. LICENSEE shall to the extent permitted by law and subject to the limitations contained in Section 768.28, Florida Statutes, indemnify, save harmless and, at SHERIFF's option, defend or pay for an attorney selected by the SHERIFF's attorney to defend SHERIFF, its officers, agents, and employees against any and all claims, losses, liabilities, and expenditures of any kind, including attorney fees, court costs, and expenses, caused by any intentional or negligent act or omission of LICENSEE, its employees, agents, or officers, or accruing, resulting from, or related to LICENSEE's use and/or operation of the referenced equipment and/or vehicle(s) including, without limitation, any and all claims, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by, or alleged to have been sustained by, any person or property. This provision shall survive the termination of this Agreement.
- 5.3 LICENSEE shall be responsible for repairing any and all physical damage to the equipment and/or vehicle(s) incurred during the term of this Agreement, subject to the LICENSEE's right to inspect the equipment and/or vehicle(s) as noted in Section 1.3 of this Agreement. If the equipment and/or vehicle(s) is/are damaged beyond repair, LICENSEE shall be responsible for all costs and expenses to replace the equipment and/or

vehicle(s) with equipment and/or vehicle(s) of comparable specifications and value.

- 5.4 Insurance: LICENSEE and SHERIFF agree to insure or self-insure their respective interests in the equipment and/or vehicle(s) subject to this Agreement to the extent each deems necessary or appropriate. LICENSEE hereby waives all rights of subrogation under any policy or policies that each may carry on the equipment and/or vehicle(s)

ARTICLE 6 MISCELLANEOUS

- 6.1 Amendments. There shall be no modifying amendments or alterations in the terms or conditions contained herein which shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
- 6.2 Successors and Assigns. It is hereby covenanted and agreed among the parties hereto that all covenants, conditions, agreements and undertakings contained in this Agreement shall extend to and be binding on the respective successors and assigns of the respective parties hereto.
- 6.3 Contract Administrators. SHERIFF's Contract Administrator for this Agreement is the SHERIFF's Director of the Department of Fire Rescue and Emergency Services or designee. LICENSEE's Contract Administrator for this Agreement is LICENSEE's Fire Chief or designee. In the implementation of the terms and conditions of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the respective Contract Administrators.
- 6.4 Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the designated Contract Administrator for the party against whom it is asserted and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed a continuing or future waiver.
- 6.5 Merger. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties hereto agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

- 6.6 Modification. SHERIFF and LICENSEE agree that no modification, alteration or amendment in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
- 6.7 Joint Preparation. The preparation of this Agreement has been a joint effort of the parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one party than the other.
- 6.8 Applicable Law and Venue. This Agreement shall be governed by the laws of the State of Florida and venue in any proceeding or action between the parties arising out of this Agreement shall be in Broward County, Florida.
- 6.9 Severance. In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless SHERIFF or LICENSEE elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

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AGREEMENT BY AND BETWEEN THE SHERIFF OF BROWARD COUNTY AND THE CITY OF POMPANO BEACH PROVIDING FOR TEMPORARY USE OF FIRE RESCUE AND EMERGENCY SERVICES' EQUIPMENT AND/OR VEHICLE(S)

IN WITNESS WHEREOF, the parties execute this Agreement on the date(s) set forth below:

SHERIFF OF BROWARD COUNTY

Joseph R. Fernandez, Fire Chief, Executive Director
Department of Fire Rescue and Emergency Services

Date: _____

Approved as to form and legal sufficiency
Subject to execution by the parties:

By _____
Ron Gunzburger, General Counsel

Date: _____

(Remainder of page intentionally blank – Licensee signature page follows)

“LICENSEE”:

Witnesses:

CITY OF POMPANO BEACH

By: _____
LAMAR FISHER, MAYOR

By: _____
DENNIS W. BEACH, CITY

MANAGER

Attest:

(SEAL)

ASCELETA HAMMOND
CITY CLERK

Approved As To Form:

MARK E. BERMAN
CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instruments were acknowledged before me this _____ day of _____, 2016 by **LAMAR FISHER** as Mayor, **DENNIS W. BEACH** as City Manager and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY’S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number