

**AGREEMENT FOR WATER TRANSPORTATION SERVICES**

**THIS AGREEMENT** is entered into this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by and between the CITY OF POMPANO BEACH, a Florida municipal corporation, having its principal office located at 100 W. Atlantic Boulevard, Pompano Beach, Florida 33060 (referred to as "CITY"), and Water Taxi of Fort Lauderdale, LLC, a Florida limited liability company, having its principal office located at 1366 SE 17<sup>th</sup> Street, Fort Lauderdale, Florida 33316 (referred to as "CONTRACTOR"), collectively referred to as “the Parties.”

**WHEREAS**, the CITY desires to provide a sustainable regional transportation service that will link restaurants, hotels, the beach, and local attractions and amenities with similar locations along the Intracoastal Waterway within the cities of Pompano Beach, Deerfield Beach, Lighthouse Point, Lauderdale by the Sea, Fort Lauderdale, and Hollywood; and

**WHEREAS**, the CITY, in furtherance of its desire, issued Request for Proposals (“RFP”) P-17-24, Intracoastal Water Taxi Services, requesting proposals to provide turnkey water taxi services along the Intracoastal Waterway within the boundaries of the City of Pompano Beach, attached and incorporated in this Agreement as Exhibit G; and

**WHEREAS**, the CONTRACTOR currently provides water taxi services in the cities of Fort Lauderdale and Hollywood and is adequately equipped to provide similar services in the CITY, and, following electronically posting and advertising for a period exceeding seven business days and receiving no information from another company on its ability to supply and provide the contractual service solicited, it was determined by the CITY to be a responsive and responsible bidder to the CITY’s solicitation and a single-source vendor; and

**WHEREAS**, the CITY finds that this Agreement serves a municipal and public purpose and conforms to the requirements of Florida law, and the Parties desire to enter into this Agreement for Water Transportation Services;

**NOW THEREFORE**, in consideration of the promises, mutual covenants, provisions and undertakings contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

1. Incorporation of Recital. The above recitals are true and correct and are incorporated by reference.

2. Scope of Services

2.1 The CONTRACTOR shall provide Services to the CITY in accordance with and pursuant to the terms and conditions of this Agreement. The Services may be adjusted to facilitate increased ridership, including, but not limited to, changes in the Schedule, Routes and designated stops. All changes must be reflected in a written amendment executed by the Contractor and City Manager. Any change that increases the CITY’s annual appropriation

for Services shall be placed in a written amendment to be approved by the City Commission and authorized for execution by the Contractor and the City Manager.

2.2 The CONTRACTOR shall provide a year-round transportation program to provide the City of Pompano Beach residents and visitors ("Riders") with convenient and efficient transportation options along the Intracoastal Waterway. The Services should be hospitality-oriented and may include supplementary service during special events.

2.3 Water Transportation Services. CONTRACTOR will be responsible for providing the Services within the boundaries of the Service Area, at the designated stops, as shown in the map in **Exhibit "A,"** which is attached and incorporated in this Agreement by reference.

2.4 The goals of the Services to be provided by CONTRACTOR are to accomplish the following:

2.4.1. Operate a water transportation system throughout the boundaries of the Service Area indicated in **Exhibit "A."** All rides shall either commence or terminate at the designated stops described in **Exhibit "A."**

2.4.2. Provide a safe and pleasing passenger experience with capable, qualified, and courteous staff who will serve as ambassadors, as more specifically described in Section 2.6.

2.4.3. Feature a mobile application with which the user can locate an available vessel, their position, and aboard an approaching vessel.

2.4.4. Allow Riders to reach their destinations within the Service Area without driving, parking, or even owning a personal vehicle.

2.4.5. Reduce traffic and vehicle emissions in the Service Area.

2.5 CONTRACTOR shall utilize no less than two (2) 40 ft. U.S. Coast Guard Certified Water Taxi Vessels with a 55-passenger capacity in CONTRACTOR's fleet of vessels (the "Vessels") plus one (1) Captain and one (1) Deckhand to provide Services pursuant to this Agreement. The boats will be equipped with Tier 3 compliant engines for emissions and low wake, security cameras, a sound system, an accessible deck area, and a unisex bathroom. All Vessels will meet the US Coast Guard Safety Standards. CONTRACTOR shall also supply necessary equipment for the Vessels for the duration of this Agreement.

2.6 The CONTRACTOR agrees to meet the following performance criteria for the Services to be provided pursuant to this Agreement:

2.6.1 Services:

2.6.1.1 The CONTRACTOR shall provide the Services to the Riders by providing rides to various stops along the Intracoastal Waterway for shopping,

restaurants, events, nightlife access, and other venues along the Service Area identified in **Exhibit "A."**

2.6.1.2 Service will be provided Sunday through Saturday (7 Days per week) from 10:00 a.m. until 10:00 p.m., consistent with Exhibit "C," the Operating Schedule, which is attached and incorporated in this Agreement.

2.6.1.3 The Parties shall meet at least annually to review the Services provided in the Service Area and determine if any adjustments are necessary. Any agreed-upon adjustments shall be reduced to a written amendment to this Agreement, to be executed by both Parties.

2.6.1.4 The Water Transportation Services shall be provided to each Rider at a cost consistent with Exhibit "D," Rate Schedule, attached and incorporated in this Agreement. Gratuity may be solicited but is not required.

2.6.1.5 CONTRACTOR and its staff are permitted to refuse a Rider service when, in the staff's opinion, a Rider poses a threat to themselves, other passengers, the staff, the vessel, or other vessels or persons.

2.6.1.6 CONTRACTOR is permitted to establish reasonable restrictions on providing services to non-service animals.

2.6.1.7 CONTRACTOR shall be prepared to adjust fleet to adhere to changing demands, such as during special events, as more particularly defined in Section 3.4 of the Agreement.

2.6.1.8 CONTRACTOR will communicate any problems or requests to the City Manager or their designee.

2.6.1.9 CONTRACTOR will have the right to suspend the operation of the vehicles without penalty in the case of severe weather, unsafe operating conditions, or the issuance of a tropical storm or hurricane watch or warning, subject to providing written notification to the CITY.

## 2.6.2 Vessel Operators/Captain/Deckhand

2.6.2.1 The CONTRACTOR agrees that their staff shall serve as ambassadors for the City of Pompano Beach and shall present themselves in a friendly, personable, and customer-service-oriented manner at all times.

2.6.2.2 The CONTRACTOR shall provide professional, experienced, well-groomed, hospitality-oriented personnel and resources to engage and communicate with riders while answering their questions.

2.6.2.3 Staff must be knowledgeable about and comfortable speaking of the City of Pompano Beach as a visitor destination. Preference shall be given to hiring staff who reside in the City of Pompano Beach. An ability to communicate in other languages (French and Spanish) would be helpful.

## 2.6.3 Vessels:

2.6.3.1 CONTRACTOR's vessels shall be properly licensed and authorized to legally operate on the navigable waters in the State of Florida.

2.6.3.2 Vehicles shall be equipped with equipment/hardware to collect ridership data and with GPS units for vessel location.

2.6.3.3 Vessels shall be aesthetically suitable for mooring and shuttling riders.

2.6.3.4 CONTRACTOR shall be responsible for the cleanliness of the interior and exterior of the vessels. Vessels shall be free of graffiti, vandalism, defacement, and other damage to the satisfaction of the CITY.

2.6.3.5 CONTRACTOR must ensure that at least one vessel in use, at all times, is wheelchair-accessible.

2.6.3.6 The CONTRACTOR must perform vessel maintenance.

#### 2.6.4 Technology/App:

2.6.4.1 After requesting a ride, Riders/riders must be picked up promptly and safely and delivered to their destination. They are also reminded to use the app again for subsequent trips back to their point of origin or another destination.

2.6.4.2 CONTRACTOR shall offer a mobile application ("App") that is available to individuals on their Android and iPhone electronic devices. The App will allow an individual to do the following with their Android and iPhone devices:

- a. View the location of vessels, stops, and estimated arrival times ("ETA") in real time.
- b. App shall be at no cost to the user.
- c. App shall allow Riders to provide feedback and rate CONTRACTOR's staff.
- d. Allow an individual to estimate wait time based on the vessel's availability.

2.6.4.3 CONTRACTOR shall maintain updates to the App, provide App maintenance, and solve any App issues at no cost to the CITY. The CONTRACTOR shall be able to track Rider and usage data and provide reports to CITY. The App will allow CONTRACTOR's staff to enable real-time tracking and passenger counting. CONTRACTOR shall fully retain all rights and ownership in its App.

2.6.5 CONTRACTOR shall provide a toll-free telephone number that Riders may use to access service information.

2.7 Customer service is one of the CITY's key factors in determining the Services to be provided by the CONTRACTOR. The CONTRACTOR will be responsible for addressing all complaints in a courteous and timely manner and providing reports to the CITY as needed and upon the CITY's request.

2.8 CONTRACTOR will provide Services using its own vessels. Creative, tourist-oriented and colorful designs of the vessels are encouraged. CONTRACTOR will provide notice to the CITY for review and comment on the final design, which shall be subject to the CITY's consent, and such consent shall not be unreasonably withheld. The CITY shall be deemed to have consented to the final design if the CITY has not objected to such design within forty-eight (48) hours of notice. CONTRACTOR will be responsible for all costs associated with the design of the vessels.

2.9 CONTRACTOR shall replace any vessel at its sole expense when the vessel cannot be maintained in good working order, in accordance with applicable laws and regulations, or the vessels can no longer be maintained in accordance with the requirements of this Agreement. CONTRACTOR shall use its best efforts to restore non-operational vessels within five (5) business days from the date of any incident requiring the vessel to be removed from operation. CONTRACTOR shall provide verbal and written notice to the CITY of any delay in restoring a non-operational vessel that extends beyond five (5) business days from the date of malfunction. If the CITY determines that any such delay is due to the CONTRACTOR's lack of diligence, the CITY will have the right to pursue any remedy provided for in this Agreement or at law or equity.

2.10 If the Parties agree on modifications or revisions to an element of the Services after the CITY has approved the performance of a particular task or project, and a budget has been established for that task or project, the CONTRACTOR shall submit a revised budget to the CITY for approval before proceeding with the task or project.

2.11 Reporting. CONTRACTOR shall provide CITY with monthly, quarterly, and yearly level of service reports. All reports will be due within 15 days of the period end. Upon request by the CITY, CONTRACTOR shall provide the CITY with weekly level of service reports. These reports shall include the following:

2.11.1 Number of Riders on a daily, weekly, and monthly basis and locations for pickup and drop-off;

2.11.2 Number of vessels not in operation on a daily, weekly, and monthly basis, including a description of the malfunction or reason for the inoperable vessel and the length of time to place the vessel back in service;

2.11.3 Average wait time on a daily, weekly, and monthly basis;

2.11.4 Average trip duration on a daily, weekly, and monthly basis;

2.11.5 Number of passenger complaints received and resolution of complaints that occur daily, weekly, and monthly.

If the CONTRACTOR does not provide the required report, the CITY reserves the right to withhold payment until the required report is received. To the extent that the CITY requires additional information related to the above reporting requirement, the CONTRACTOR shall provide the information to the CITY.

2.12 Dockage and Upland Area License. The CITY grants the CONTRACTOR a revocable exclusive license to occupy and use the City's dockage and adjacent upland area reasonably related to the provision of the Services, including all ingress, egress and approaches to and from such dockage and upland area.

2.12.1 The CONTRACTOR shall control and assume responsibility for the use, operation, and security of the upland area, as defined in Exhibit "A," during operating hours; such responsibility includes controlling access to the upland area and associated dockage, ticketing, guest service functions, security, cleaning, and general operational organization. The CONTRACTOR shall continually evaluate the condition and suitability of the dockage and upland area for the Services. The CONTRACTOR shall properly secure the dockage and upland area at the conclusion of each day of Services. The CONTRACTOR shall notify the CITY of any potential or actual hazardous conditions immediately upon notice by any of its employees.

2.12.2 At times other than CONTRACTOR's operating hours, the CITY shall maintain the dockage and upland area in a clean and orderly condition. The CITY shall be responsible for all maintenance and repairs to the dockage and upland areas, but the CONTRACTOR understands that the CITY is under no obligation to repair such dockage or the upland areas in the event that the City Commission, in its sole discretion, determines that it is not in the City's best economic interest to repair such impacted areas due to substantial damage. The CITY will, however, make a good faith effort to avoid or mitigate substantial damage to such dockage and upland areas.

2.12.3 The dockage and upland areas shall not be used by the CONTRACTOR for any use other than the use necessary to provide the agreed Services. No occupation or alternative use shall be available to the CONTRACTOR, which, at the sole discretion of the CITY, is deemed hazardous, inconsistent with this Agreement, or increases the CITY's liability.

### 3. Compensation; Additional Services; Invoicing.

3.1 Annual Service Fee. The CONTRACTOR shall faithfully perform the Services, and the City agrees to pay for such Services, in accordance with Exhibit "E," which is attached and incorporated in this Agreement in an annual amount not to exceed EIGHT HUNDRED SEVENTY SIX THOUSAND DOLLARS AND NO CENTS (\$876,000.00) ("Annual Service Fee"), payable in monthly installments of SEVENTY-THREE THOUSAND DOLLARS AND NO CENTS (\$73,000.00), less any credits or discounts or other reductions agreed by the Parties. The Annual Service Fee is all-inclusive for the work being performed by CONTRACTOR, and the CITY shall not be responsible for the payment of any additional fees unless otherwise agreed to by the Parties and reflected in a written amendment to this Agreement approved by the City Commission and

executed by both Parties. The CITY will not make any additional payments such as fuel surcharges, demurrage fees, or delays in delivery charges.

3.2 Additional Services. Any additional services performed by the CONTRACTOR outside of the scope of Services, mutually agreed upon by the Parties from time to time, shall be billed in accordance with Section 3.4 below and will be provided in a separate invoice to the CITY and paid by the CITY to CONTRACTOR on a monthly basis.

3.3 Invoices.

3.3.1 For payment purposes, CONTRACTOR will invoice the CITY every month for the Services provided pursuant to this Agreement. CONTRACTOR shall submit an invoice to the CITY no later than the 15th day of the month. CITY may withhold payment until a final determination is made that all Services have been or are being performed pursuant to this Agreement. Notwithstanding the foregoing, in no event shall CITY withhold payment that is more than fifteen (15) days past due unless it has provided CONTRACTOR with written notice of a material breach of this Agreement for which payment is being withheld, with an opportunity to cure as more fully outlined in Section 11.

3.3.2 The invoices submitted by the CONTRACTOR shall contain the following basic information: The CONTRACTOR's name and address, invoice number, date of invoice, description of the service performed, and any credits to the CITY.

3.4 For services to be provided outside of the Services agreed upon by the parties under this Agreement, the CITY agrees to pay the CONTRACTOR the service rate per vessel outlined in Exhibit "E." Any services provided by the CONTRACTOR outside of the Services agreed upon by the parties under this Agreement shall require the CITY's prior written authorization. Upon request from the CITY, the cost for any additional vessels shall be provided by CONTRACTOR to the CITY. The CITY shall only be obligated to pay the cost for the use of additional vessels, and the CONTRACTOR shall only be obligated to supply the additional vessels following the execution of an amendment by the Parties.

3.5 Prompt Payment. The CITY prides itself on paying its vendors promptly and efficiently and requires that vendors accept payment by wire transfer, ACH (direct deposit), or an appropriate electronic payment method. All payments shall be made in accordance with the Florida Prompt Payment Act, Section 218.74, Florida Statutes, upon presentation of a proper invoice by the CONTRACTOR.

3.6 The CITY will assess the following Schedule of Penalties against the CONTRACTOR as a consequence of the CONTRACTOR's failure to conform to the customer service requirements:

3.6.1 Failure to provide backup service within twenty-four (24) hours in the event that one or more vessels are out of service shall result in a penalty of \$1,000.00 per occurrence.

3.6.2 Failure to maintain vessel exterior and interior cleanliness and aesthetics, following a written warning to the CONTRACTOR from the CITY with a twenty-four (24) hour opportunity to cure, shall result in a penalty of \$250.00 per occurrence.

3.6.3 Failure to notify the CITY regarding any changes in schedule shall result in a penalty of \$100.00 per occurrence.

Penalty charges incurred in any given month will be deducted from the payment for that month.

### 3.7 Marketing and Promotion

3.7.1 CONTRACTOR shall promote the Services through its website, social media platforms, digital programmatic advertising, online advertising, and print media (“marketing outlets”). Ticket sales will be administered through CONTRACTOR’s Rocket Rez system for ticketing, concessions, and scheduling. CONTRACTOR will promote the service through partnerships including, but not limited to, the Cruise and Save Program with local restaurants and businesses, Reseller Program with hotels and businesses in the CITY, to connect patrons to the Water Taxi by selling tickets; and through Community Engagement including the Chamber of Commerce, the Greater Fort Lauderdale/Broward County Alliance, and Visit Lauderdale; and through sponsorship and participation in local events (i.e., the Fort Lauderdale International Boat Show, Food and Wine Festival, Tortuga Music Festival and Christmas on Las Olas), all illustrated in Exhibit “F,” attached and incorporated in this Agreement.

3.7.2 The Parties agree that the marketing and promotion of Services through the CONTRACTOR’s marketing outlets will benefit the CITY and its local businesses and that any revenue generated from such marketing attributable to local businesses within the jurisdiction of the City of Pompano Beach should be partially credited against the Annual Service Fee. The Parties further agree that the CONTRACTOR shall provide the CITY with a copy of its written agreements or arrangements with local businesses within the jurisdiction of the City of Pompano Beach to market and promote such businesses while performing the Services described in this Agreement. The CONTRACTOR shall also provide and an accounting of all revenue generated from such marketing and promotion (“Advertising Revenue”) in a report to accompany each monthly invoice.

3.7.3 The Parties agree that the CONTRACTOR shall credit to the CITY Fifty Percent (50%) of the Advertising Revenue within thirty (30) calendar days of such receipt by the CONTRACTOR.

3.7.4 CONTRACTOR shall determine the methods, details, and means for performing the marketing and promotion of the Services, subject to the CITY’s consent, which shall not be unreasonably withheld. The CITY shall be deemed to have consented if the CITY has not objected to such Marketing and Promotion within forty-



eight (48) hours of the notice to the CITY. CONTRACTOR shall not accept advertising content that includes or is related to the following:

- 3.7.4.1 Discrimination against persons or sections of the community on account of race, sex, age, sexual preference, religion, disability, sexual orientation, or political belief;
- 3.7.4.2 Contains strong or obscene language;
- 3.7.4.3 Promotes the use of tobacco and controlled substances;
- 3.7.4.4 Contains sexual or reproductive material;
- 3.7.4.5 Promotes or opposes "adult entertainment" strip clubs and/or the sale of pornographic materials;
- 3.7.4.6 Promotes the sale or distribution of firearms; and
- 3.7.4.7 Contravenes any applicable law.

3.8 CITY shall promote the service through its website, social media, and all available marketing platforms in accordance with established tourism, marketing, economic development, and city strategic communications plans.

4. The Term of this Agreement shall commence upon full and complete execution by the Parties and shall continue for three (3) years unless sooner terminated as provided in this Agreement. The parties may mutually agree to renew the term of this Agreement for two (2) additional one (1) year terms, subject to the approval of the CITY's City Commission, and the execution by both parties of a written amendment to this Agreement providing for the renewal term.

5. The CONTRACTOR shall hold all licenses and certifications, obtain and pay for all permits and inspections, and comply with all laws, ordinances, regulations, and building code requirements applicable to the required Services. Damages, penalties or fines imposed on the CITY or CONTRACTOR for failure to obtain and maintain required licenses, certifications, permits or inspections shall be borne by the CONTRACTOR. The CONTRACTOR shall comply with all laws and regulations applicable to provide the Services. The CONTRACTOR shall be familiar with all federal, state, and local laws that may affect the goods and services being provided.

6. The CONTRACTOR shall not subcontract any portion of the work without the prior written consent of the CITY. Subcontracting without the prior consent of the CITY shall constitute a material breach of the agreement and may result in termination of the Agreement.

7. The CONTRACTOR shall not assign, transfer, hypothecate, or otherwise dispose of this contract, including any rights, title, or interest, or its power to execute such contract to any person, company, or corporation without the prior written consent of the CITY, which

shall not be unreasonably withheld. Assignment without the prior consent of the CITY may result in termination of the Agreement.

8. CONTRACTOR's Employees.

8.1 The employee(s) of the CONTRACTOR shall be considered to be at all times its employee(s) and not an employee(s) or agent(s) of the CITY or any of its departments.

8.2 CONTRACTOR shall provide competent employee(s) capable of performing the work as required. CONTRACTOR shall obtain complete background checks on all staff, including driving records, criminal records checks, and employment references, conduct initial drug testing, and provide a training program for newly hired staff. CONTRACTOR will not hire staff with more than three (civil or criminal) traffic infractions in driving a motorized vehicle within the previous 24 months. CONTRACTOR shall review each staff's driving and criminal records at least annually.

8.3 CONTRACTOR shall prohibit staff from texting or using smartphones or another mobile device, eating, wearing headphones, and engaging in any activity that may cause the staff to become distracted while driving the vehicle. The Parties acknowledge and agree that (i) staff will only be permitted to wear Bluetooth-enabled devices or similar technology while operating the vehicles for the service provided pursuant to this Agreement and in accordance with all laws governing such devices; and (ii) staff may use smartphones mounted to the dashboard or windshield of the vehicles only in accordance with all laws governing such devices.

8.4 All employees of the CONTRACTOR shall wear proper identification and a uniform.

8.5 The CITY reserves the right to require the immediate dismissal of any of CONTRACTOR's employees who fail to meet the requirements of this Agreement. Relief personnel shall be readily available throughout the term of the Agreement.

8.6 The CONTRACTOR is responsible for ensuring that all its employees and subcontractors comply with the employment regulations required by the US Coast Guard. The CITY shall have no responsibility to check or verify the legal immigration status of any CONTRACTOR employee.

9. Indemnification. CONTRACTOR shall indemnify, keep and save harmless and defend the CITY and its officers, employees, agents, and contractors from any and all liability, losses, or damages, including attorney's fees and costs of defense, which the CITY or its officers, employees, agents, or contractors 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 any unlawful, willful,

negligent, or reckless acts or omissions by CONTRACTOR or its employees, agents, servants, partners, principals, or subcontractors in the performance of the Services to be provided pursuant to this Agreement. CONTRACTOR shall pay all claims and losses, and shall investigate and defend all claims, suits, or actions of any kind or nature arising out of, relating to, or resulting from any unlawful, willful, negligent, or reckless acts or omissions by CONTRACTOR or its employees, agents, servants, partners, principals, or subcontractors in the performance of the Services to be provided pursuant to this Agreement 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. The CONTRACTOR expressly understands and agrees that any insurance protection required by this contract agreement or otherwise provided by the CONTRACTOR shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the CITY or its officers, employees, agents, and contractors. This paragraph shall survive the expiration or termination of this Agreement

10. Modifications or Amendments. This Agreement may only be modified by mutual consent, in writing, through the issuance of an amendment executed by the CITY and the CONTRACTOR or their authorized representative. Amendments to the Contract Price and the Term shall require the approval of the CITY's City Commission. Amendments to other provisions, including Services, Service Area, and Core Service Area, may be approved by the CITY's City Manager.

11. Termination.

11.1 Mutually Agreed Upon Termination: The Parties, by mutual written agreement executed by both parties, may agree to terminate this Agreement for convenience at any time without cause.

11.2 CITY's Right to Terminate for Convenience: The CITY, at its sole discretion, reserves the right to terminate this Agreement for convenience upon providing ninety (90) days' written notice to the CONTRACTOR. Notwithstanding, if at any time the City Manager determines that termination of the Agreement is necessary to protect public health, safety, or welfare, the City Manager may terminate the Agreement upon providing such written notice as the City Manager deems appropriate under the circumstances.

11.3 Termination for Cause: If either party believes that the other party has failed in any material respect to perform its obligations under this Agreement or any addendums, then that party shall provide written notice to the other party describing the alleged failure in reasonable detail. If the breaching party does not, within fifteen (15) calendar days after receiving such written notice, either: (a) cure the material failure, or (b) reach a satisfactory compromise with the non-breaching party if the breach is not one that can reasonably be cured within fifteen (15) calendar days, then the non-breaching party may terminate this Agreement, in whole or in part, for cause by providing written notice of termination to the breaching party.

11.4 Termination for Bankruptcy: The CITY shall have the immediate right to terminate this Agreement by providing written notice to the CONTRACTOR in the event: (i) the other party enters into receivership or is the subject of a voluntary or involuntary bankruptcy proceeding or makes an assignment for the benefit of creditors; or (ii) a substantial part of the CONTRACTOR's property becomes subject to any levy, seizure, assignment or sale for or by any creditor or government agency.

11.5 Payments Due: The termination of this Agreement shall not release either party from its obligation to make payment of any and all amounts then or thereafter due or payable including credit or refunds.

11.6 Continuation of Services: CONTRACTOR will continue to perform Services during the notice period unless otherwise mutually agreed upon between the Parties in writing. In the event that the CITY provides notice of termination and directs CONTRACTOR not to perform the services during the notice period, the CITY agrees to pay CONTRACTOR for all services performed in connection with the services provided under this Agreement and any addendum through the date of termination.

## 12. Effect of Default

12.1 In the event the CONTRACTOR defaults in the performance of the Agreement, and does not cure any such default within the notice period provided in Section 11, the CITY reserves the right to suspend or debar the CONTRACTOR in accordance with the appropriate CITY ordinances, resolutions or policies. In the event of termination for default, the CITY may procure the required Services from any source and use any method deemed in its best interest.

12.2 The acceptance of all or part of monies due for any period after default shall not be deemed as a waiver of any of these options or a waiver of the default or subsequent default of the same or any other term, covenant, and condition. The CONTRACTOR agrees that the CITY shall not be responsible or have any liability whatsoever for any alleged damages, claim of lost profits, or otherwise in the event the CITY declares the CONTRACTOR in default, provided that the CITY has articulable grounds for doing so.

13. Any individual, corporation, or other entity that attempts to meet its contractual obligations with the CITY through fraud, misrepresentation, or material misstatement, may be debarred for up to five (5) years. The CITY, as a further sanction, may terminate or cancel any other contracts with such individual, corporation, or entity. Such individual or entity shall be responsible for all direct or indirect costs associated with termination or cancellation, including attorney's fees.

14. The Contractor shall permit the authorized representatives of the City to inspect and audit all data and records of the Contractor, if any, relating to performance under the contract until the expiration of three years after final payment under this contract. The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the

subcontractor agrees that the City or any of their duly authorized representatives shall, until the expiration of three years after final payment under the subcontractor, have access to and the right to examine any directly pertinent books, documents, papers and records of such subcontractor, involving transactions related to the subcontractor.

15. The CONTRACTOR shall at all times comply with all rules, regulations, and ordinances of the City and other governmental agencies having jurisdiction. The CONTRACTOR shall further take all precautions and extreme care to conduct its activities in a safe, professional, and prudent manner.

16. Insurance

16.1 The CONTRACTOR shall not commence any performance pursuant to the terms of this Agreement until certification or proof of insurance has been received and approved by the CITY's City Manager or their designee.

16.2 The required insurance coverage is to be issued by an insurance company authorized, licensed and registered to do business in the State of Florida, with the minimum rating of B+ or better, in accordance with the latest edition of A.M. Best's Insurance Guide. This insurance shall be documented in certificates of insurance which provides that the City of Pompano Beach shall be notified at least thirty (30) days in advance of cancellation, non-renewal, or adverse change. The receipt of certificates or other documentation of insurance or policies or copies of policies by the CITY or by any of its representatives, which indicate less coverage than is required, does not constitute a waiver of the CONTRACTOR's obligation to fulfill the insurance requirements.

16.3 Before commencing any work pursuant to this Agreement, the CONTRACTOR must submit a current Certificate of Insurance, naming the City of Pompano Beach as an additional insured and listed as such on the insurance certificate. New certificates of insurance are to be provided to the CITY upon expiration. The CONTRACTOR shall provide insurance coverage as prescribed in **Exhibit "D,"** which is attached and incorporated to this Agreement.

17. CONTRACTOR's Responsibilities.

17.1 The CONTRACTOR shall be responsible for ensuring that all its employees comply, at all times, with this Agreement and the applicable Terms and Conditions outlined in the Public Transportation Service Grant Agreement between the Florida Department of Transportation and the City of Pompano Beach dated August 2, 2024, which is attached and incorporated in this Agreement as **Exhibit "G."**

17.2 The CONTRACTOR shall be responsible for obtaining all necessary permits, licenses, and/ or registration cards in compliance with all applicable Federal, State, and Local statutes pertaining to the services as specified or required.

17.3 The CONTRACTOR will be responsible for securing its office and storage space.

17.4 The CONTRACTOR will be responsible for costs associated with operating and maintaining its own fleet of vehicles, including but not limited to fueling, maintenance, registration, and insurance. The CONTRACTOR shall ensure that all items to be purchased under this contract shall be in accordance with all governmental standards, including, but not limited to, those issued by the Occupational Safety and Health Administration (OSHA), and the National Institute of Occupational Safety Hazards (NIOSH), and any other applicable federal, state, or local law, ordinance, regulation, or policy.

17.5 If any of the goods or services to be acquired under this solicitation are to be purchased, in part or in whole, with Federal funding, it is agreed and understood that Section 60-250.4, Section 60-250.5, and Section 60-741.4 of Title 41 of the United States Code, which addresses Affirmative Action requirements for disabled workers, is incorporated into the solicitation and the resultant contract by reference.

17.6 If the CONTRACTOR is found noncompliant with Paragraph 17, such noncompliance shall constitute an event of default.

18. All of the terms and provisions of this Agreement, whether so expressed or not, shall be binding upon, inure to the benefit of, and be enforceable by the parties and their respective legal representatives, successors, and permitted assigns.

19. If any part of this Agreement is contrary to, prohibited by, or deemed invalid under applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited, or invalid, but the remainder of this Agreement shall not be invalidated and shall be given full force and effect so far as is possible.

20. This Agreement must 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 will 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 will be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, EACH PARTY EXPRESSLY WAIVES 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.**

21. In the event of any litigation involving the provisions of this Agreement, both parties agree that the prevailing party in such litigation shall be entitled to recover from the non-prevailing party reasonable attorney and paraprofessional fees as well as all out-of-pocket costs and expenses incurred by the prevailing party in such litigation through all appellate levels.

22. The CONTRACTOR further acknowledges and agrees to provide the CITY with all information and documentation that may be requested by the CITY from time to time regarding the solicitation, selection, treatment, and payment of subcontractors, suppliers, and in connection with this contract.

23. Unless otherwise specified, all labor, materials, and equipment required for the performance of the requirements of the contract shall be supplied by the CONTRACTOR.

24. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, war, civil disorder, sabotage, epidemic, pandemic, governmental order, accident, flood, acts of nature or by any reason of any other matter or condition beyond the control of either party which cannot be overcome by reasonable diligence and without unusual expense (“Force Majeure”). In no event shall economic hardship or lack of funds be considered an event of Force Majeure. If either party is unable to perform or delayed in their performance of any obligations under this Agreement by reason of any event of Force Majeure, such inability or delay shall be excused at any time during which compliance is prevented by such event and during the period afterwards as may be reasonably necessary for either party to correct the adverse effect of such event of Force Majeure. CONTRACTOR must follow all Federal, State, County, and City safety guidelines, including all CDC safety guidelines in effect during the term of the program, including but not limited to social distancing, and personal protection equipment. Inability to conduct the Services and follow any and all required safety guidelines from the COVID-19 crisis or other similar emergency, or failure to follow such requirements, including but not limited to, social distancing, shall constitute grounds for immediate cancellation of this Agreement unilaterally by the City upon written notice, which may be provided via electronic mail. The parties, by mutual agreement, may reschedule the performance of the services to a later date pursuant to the terms of this agreement.

25. Precautions shall be exercised at all times for the protection of persons and property. All CONTRACTOR's Services provided pursuant to this Agreement shall conform to all relevant OSHA, State, and County regulations during the course of such effort. Any fines levied by the above-mentioned authorities for failure to comply with these requirements shall be borne solely by the CONTRACTOR.

26. The Services provided pursuant to this Agreement include various functions and classes of work required as necessary to provide the Services. Any omissions of inherent technical functions or classes of work within the specifications or statement of work shall not

relieve the CONTRACTOR from furnishing or performing such work where required to the satisfactory provision of Services.

27. The CITY's obligation pursuant to any contract or agreement entered into in accordance with this solicitation is specifically contingent upon the lawful appropriation of funds. Failure to lawfully appropriate funds for any contract or agreement awarded shall result in automatic termination of the contract or agreement. A non-appropriation event shall not constitute a default or breach of this Agreement by the CITY.

28. The CITY, at all times and as it relates to this Agreement, shall be responsible for ensuring its compliance with the Terms and Conditions of the Public Transportation Grant Agreement between the Florida Department of Transportation and the City of Pompano Beach dated August 2, 2024, **Exhibit "G."**

29. 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 acknowledgment of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, and a copy of such notice sent by electronic mail, 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:

For CITY:

City of Pompano Beach  
c/o City Manager  
100 W. Atlantic Boulevard, 4<sup>th</sup> Floor  
Pompano Beach, Florida 33060

With copy to:

Mark Berman, City Attorney  
City of Pompano Beach  
100 W. Atlantic Blvd., 4<sup>th</sup> Floor  
Pompano Beach, Florida 33061  
mark.berman@copbfl.com  
954-786-4614 office

Earl Bosworth, Assistant City Manager  
100 W. Atlantic Blvd., 4<sup>th</sup> Floor  
Pompano Beach, FL 33062  
suzette.sibble@copbfl.com  
Telephone: 954-786-4606



For CONTRACTOR:

Water Taxi of Fort Lauderdale, LLS  
1366 SE 17th Street  
Fort Lauderdale, FL 33316  
c/o William Walker  
[bwalker@watertaxi.com](mailto:bwalker@watertaxi.com)  
954-467-6677

30. CONTRACTOR shall comply with the applicable provisions of Chapter 119, Florida Statutes. Specifically, the CONTRACTOR shall:

- a. Keep and maintain public records required by the City in order to perform the service;
- b. Upon request from the City's custodian of public records, provide the City with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost 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 records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City; and
- d. Upon completion of the contract, transfer, at no cost to the City, all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service.

If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City upon request from the City's custodian of public records in a format compatible with the City's information technology systems.

**Failure to comply with such statutory requirements may subject the Contractor to penalties under Section 119.10, Florida Statutes, as amended.**

**PUBLIC RECORDS CUSTODIAN  
IF THE CONTRACTOR HAS QUESTIONS REGARDING THE  
APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE  
CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS  
RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN  
OF PUBLIC RECORDS AT:**

**CITY CLERK**  
**100 W. Atlantic Blvd., Suite 253**  
**Pompano Beach, Florida 33060**  
**(954) 786-4611**  
[RecordsCustodian@copbfl.com](mailto:RecordsCustodian@copbfl.com)

31. Approvals. Whenever CITY approval(s) shall be required for any action under this Agreement, such approval(s) shall not be unreasonably withheld.
32. Absence of Conflicts of Interest. Both parties represent they presently have no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with their performance under this Agreement and that no person having any conflicting interest shall be employed or engaged by either party in their performance under this Agreement.
33. Sovereign Immunity. Nothing in this Agreement shall constitute a waiver by the City of its sovereign immunity limits as set forth in section 768.28, Florida Statutes. Nothing herein shall be construed as consent from either party to be sued by third parties.
34. Entire Agreement. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.
35. E-Verify. As a condition precedent to entering into this Agreement, and in compliance with Section 448.095, Fla. Stat., CONTRACTOR and its subcontractors shall register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021. CONTRACTOR shall require each of its subcontractors to provide CONTRACTOR with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. CONTRACTOR shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this Agreement. CITY, CONTRACTOR, or any subcontractor/subconsultant who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Fla. Stat. or the provisions of this section shall terminate the contract with the person or entity. CITY, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but CONTRACTOR otherwise complied, shall promptly notify CONTRACTOR, and CONTRACTOR shall immediately terminate the contract with the subcontractor. An agreement or contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any agreement or contract termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Fla. Stat. CONTRACTOR acknowledges that upon termination of this Agreement by the City for a violation of this section by CONTRACTOR, CONTRACTOR may not be awarded a public contract for at least one (1) year. CONTRACTOR further acknowledges

that CONTRACTOR is liable for any additional costs incurred by the City due to termination of any contract for a violation of this section. The CONTRACTOR or subcontractor shall insert the clauses set forth in this section in any subcontracts, requiring the subcontractor to include these clauses in any lower tier subcontracts. CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

36. Scrutinized Companies. By execution of this Agreement, in accordance with the requirements of F.S. 287.135 and F.S. 215.473, CONTRACTOR certifies that CONTRACTOR is not participating in a boycott of Israel. CONTRACTOR further certifies that CONTRACTOR is not on the Scrutinized Companies that Boycott Israel list, not on the Scrutinized Companies with Activities in Sudan List, and not on the Scrutinized Companies with Activities in Iran Terrorism Sectors List, nor has CONTRACTOR been engaged in business operations in Syria. Subject to limited exceptions in state law, the City will not contract for the provision of goods or services with any scrutinized company referred to above. In accordance with Section 287.135, Florida Statutes as amended, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with any agency or local government entity for goods or services of:

36.1 Any amount if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:

36.2. Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, created pursuant to Section 215.473, Florida Statutes, or is engaged in business operations in Syria.

37. Submitting a false certification or being placed on a list created pursuant to Section 215.473, Florida Statutes relating to scrutinized active business operations in Iran after the CONTRACTOR has submitted a certification shall be deemed a material breach of contract. The City shall provide notice, in writing, to the CONTRACTOR of the City's determination concerning the false certification. CONTRACTOR shall have five (5) days from receipt of notice to refute the false certification allegation. If such false certification is discovered during the active contract term, the CONTRACTOR shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the CONTRACTOR does not demonstrate that the City's determination of false certification was made in error, then the City shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes, as amended from time to time.

38. CONTRACTOR does not use coercion for labor or services as defined in Section 787.06, Florida Statutes, entitled "Human Trafficking".

39. Anti-Discrimination. CONTRACTOR-- for itself, its personal representatives, successors in interests, assigns, subcontractor, and sub-lessees, as a part of the consideration, covenants and agrees that:

39.1 No person on the grounds of race, color, religion, sex, national origin, age, marital status, political affiliation, familial status, disability, sexual orientation, pregnancy, or gender identity, expression or veteran or service member status be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of or performance of services described herein; and

39.2 No employee or applicant for employment on the grounds of race, color, religion, sex, national origin, age, marital status, political affiliation, familial status, disability, sexual orientation, pregnancy, gender identity or expression, or veteran or service member status will be discriminated against during the course of employment or application for employment to be employed in the performance of this Agreement with respect to hiring, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to the performance of this Agreement.

40. Discriminatory Vendor List. CONTRACTOR acknowledges its continuous duty to disclose to the City if the CONTRACTOR or any of its affiliates, as defined by Section 287.134(1)(a), Florida Statutes, are placed on the Discriminatory Vendor List. According to Section 287.134(2)(a), Florida Statutes: "An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a ' CONTRACTOR, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity."

41. Public Entity Crimes Statement. Pursuant to Section 287.133(2)(a), Florida Statutes, as amended from time to time, CONTRACTOR certifies that neither it nor its affiliate(s) have been placed on the convicted vendor list following a conviction for a public entity crime. If placed on that list, CONTRACTOR must notify the City immediately and is prohibited from providing any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a CONTRACTOR, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 Florida Statutes, as amended from time to time, for Category TWO (\$35,000) as may be amended, for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

42. Foreign Gifts and Contracts. The CONTRACTOR must comply with applicable disclosure requirements in Section 286.101, Florida Statutes. Pursuant to Section 268.101(7)(b), Florida Statutes: "In addition to any fine assessed under [§ 286.101 (7)(a), Florida Statutes], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision must automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission [Governor and Cabinet per §14.202, Florida Statutes] for good cause."

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed the day and year hereinabove written.

**CITY OF POMPANO BEACH**

By: \_\_\_\_\_  
REX HARDIN, MAYOR

By: \_\_\_\_\_  
GREGORY P. HARRISON, CITY MANAGER

Attest:

\_\_\_\_\_  
KERVIN ALFRED, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
MARK E. BERMAN, CITY ATTORNEY

**“CONTRACTOR”**

Witnesses:

[Signature]

Alexis Leutinger.  
(Print or Type Name)

[Signature]

Holly Groskong  
(Print or Type Name)

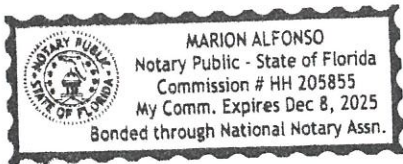
By: [Signature]  
William Walker, CEO

STATE OF FLORIDA

COUNTY OF Broward

The foregoing instrument was acknowledged before me, by means of  physical presence or  online notarization, this 17 day of October, 2024, by William Walker, as CEO of Water Taxi of Fort Lauderdale, LLC, a Florida Limited Liability Company. He is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

NOTARY’S SEAL:



[Signature]  
NOTARY PUBLIC, STATE OF FLORIDA

Marion Alfonso  
(Name of Acknowledger Typed, Printed or Stamped)

HH 205855  
Commission Number

L:manager/2025-50