Meeting Date: October 13, 2015

Agenda Item 38

REQUESTED COMMISSION ACTION:

Consent	X Ordinance	Resolution	Consideration/ Discussion	Presentation

SHORT TITLE AN ORDINANCE APPROVING AND AUTHORIZING THE PROPER OFFICIALS TO EXECUTE AN AGREEMENT FOR POLICE SERVICES BETWEEN THE CITY OF POMPANO BEACH AND THE SHERIFF OF BROWARD COUNTY, FLORIDA, PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE. (Fiscal impact: $38,480,163)

Background:

This police services agreement provides for a five (5) year term beginning October 1, 2015 and expiring September 30, 2020. Either party may terminate with a ninety (90) day written notice, with or without cause.

The price is negotiated each year throughout the term. The cost of the agreement for this fiscal year was budgeted in the FY2015-16 General Fund Budget adopted by the City Commission on September 21, 2015.

(1) Origin of request for this action: Broward Sheriff's Office and City

(2) Primary staff contact: Dennis W. Beach/Mark Berman 786-4601

(3) Expiration of contract, if applicable: September 30, 2020

(4) Fiscal impact and source of funding: $38,480,163 budgeted in the General Fund for Fiscal Year 2015-16 and approved at the Special City Commission Meeting/ Public Hearing of September 21, 2015.

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
City Attorney	10/7/15	Approval	
Finance	10/7/15		
Budget	10/7/15		

X City Manager

ACTION TAKEN BY COMMISSION:

Ordinance	Resolution	Consideration	
Workshop			
1st Reading	1st Reading	Results:	Results:
2nd Reading			

2015 SEP 25 PM 4:07

City Attorney's Communication #2015-1660

September 25, 2015

TO: Dennis W. Beach, City Manager

FROM: Mark E. Berman, City Attorney

RE: Ordinance – Agreement for Police Services

As requested attached please find the following Ordinance addressing the above-referenced matter:

> **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AN AGREEMENT FOR POLICE SERVICES BETWEEN THE CITY OF POMPANO BEACH AND THE SHERIFF OF BROWARD COUNTY, FLORIDA; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

Please do not hesitate to contact me if I may be of further assistance.

MARK E. BERMAN

/jrm
l:cor/mgr/2015-1660

Attachment

ORDINANCE NO. 2016-_____

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AN AGREEMENT FOR POLICE SERVICES BETWEEN THE CITY OF POMPANO BEACH AND THE SHERIFF OF BROWARD COUNTY, FLORIDA; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That an Agreement for Police Services between the City of Pompano Beach and the Sheriff of Broward County, Florida, a copy of which Agreement is attached hereto and incorporated herein by reference as if set forth in full, is hereby approved.

SECTION 2. That the proper City officials are hereby authorized to execute said Agreement.

SECTION 3. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of

this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 4. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2015.

PASSED SECOND READING this _____ day of _____, 2015.

_____

LAMAR FISHER, MAYOR

ATTEST:

_____

ASCELETA HAMMOND, CITY CLERK

/jrm
9/16/15
l:ord/2015-498

AGREEMENT FOR POLICE SERVICES

THIS AGREEMENT FOR POLICE SERVICES, dated the [___] day of _____, 2015, is made by and between the City of Pompano Beach, Florida, (hereinafter referred to as the "CITY"), and the Broward Sheriff's Office (hereinafter referred to as "BSO")

W I T N E S S E T H:

WHEREAS, the CITY has heretofore contracted with BSO to provide a high level of professional police protection for the benefit of the citizenry thereof, and

WHEREAS, the CITY is desirous of maintaining the high level of competent professional police service in conjunction and harmony with its fiscal policies of sound, economical management, and

WHEREAS, the CITY is desirous of maintaining its Charter police power but at the same time wishes to provide for daily police services through contractual agreement, and

WHEREAS, BSO has agreed to render to the CITY a high level of professional police service, and the CITY is desirous of contracting for such services upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The above recitals are true and correct and incorporated herein by reference.

2. This Agreement is comprised of this document, the Special Terms and Conditions set forth in Exhibit A, which is attached and incorporated herein and the General Terms and Conditions that are set forth in Exhibit B, which is also attached and incorporated herein.

3. In the event there is a conflict between the General Terms and Conditions and the Special Terms and conditions, the Special Terms and Conditions shall be controlling.

AGREEMENT FOR POLICE SERVICES BETWEEN THE CITY OF POMPANO BEACH, FLORIDA, AND THE BROWARD SHERIFF'S OFFICE

IN WITNESS WHEREOF, each of the parties hereto have authorized its duly authorized representative to execute this Agreement on the day and date first set forth above.

BSO:

SHERIFF OF BROWARD COUNTY

By: _____

SCOTT J. ISRAEL, SHERIFF

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

By: _____

RONALD M. GUNZBURGER, GENERAL COUNSEL

AGREEMENT FOR POLICE SERVICES BETWEEN THE CITY OF POMPANO BEACH, FLORIDA AND THE BROWARD SHERIFF'S OFFICE

CITY:

CITY OF POMPANO BEACH

ATTEST:

By: _____
LAMAR FISHER
MAYOR

_____
ASCELETA HAMMOND
CITY CLERK

Dated: _____

(SEAL)

By: _____
DENNIS W. BEACH
CITY MANAGER

Dated: _____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

_____
MARK E. BERMAN
CITY ATTORNEY

EXHIBIT A
SPECIAL TERMS AND CONDITIONS

The following Special Terms and Conditions have been agreed upon by and between the CITY and BSO:

CITY:	City of Pompano Beach
EFFECTIVE DATE:	October 1, 2015
FIRST YEAR:	October 1, 2015 – September 30, 2016
TERM:	October 1, 2015 – September 30, 2020
RENEWAL OPTION:	Renewable for one (1), five (5) year term upon the City and BSO agreeing to such renewal and the terms and conditions thereto.
STAFFING STRUCTURE:	District Complement 1 Major 3 Captains 6 Lieutenants 22 Sergeants 194 Deputy Sheriffs 16 Community Service Aides 1 Investigative Aide II 2 Records Technician 8 Secretarial Support 253 TOTAL GENERAL FUND PERSONNEL 7 COPS Grant Positions
MINIMUM STAFFING:	BSO will assign a minimum of one (1) Patrol Deputy Sheriff to cover each Patrol Zone per shift; however the District Chief shall have the right to temporarily re-deploy such Deputies as needed to meet the law enforcement needs of the CITY during any shift.

CONSIDERATION: Monthly Consideration For Fiscal Year 2016	$3,206,680.25
POLICE SERVICES CENTER ADDRESS:	100 SW 3rd Street Pompano Beach, FL
FACILITIES ADDRESSES::	100 SW 3rd Street Pompano Beach, FL Marine Patrol Building at Alsdorf Park at 2901 NE 14th Street, Pompano Beach Braggs/Cristwell Substation located at 1820 Hammondville Road, Pompano Beach
CODE ENFORCEMENT:	NO
FUEL SITE:	YES
NOTICE CITY ADDRESS:	City Manager City of Pompano Beach 100 W. Atlantic Blvd Pompano Beach, FL 33060
Specific Terms:	Five Details for City Sponsored Events are included in the annual consideration as follows: 1. MLK Jr. Parade 2. July 4th Parade & Festivities 3. Memorial Day Parade & Festivities 4. Yuletide Parade 5. Blanche Ely and Pompano Beach H.S. Homecoming Parades

EXHIBIT B

POLICE SERVICES GENERAL CONDITIONS

1. DEFINITIONS

The following terms when used in this Agreement, including its preamble and recitals, shall, except where the context otherwise requires, have the following meanings (such meanings to be equally applicable to the singular and plural forms thereof):

a. Agreement. "Agreement" shall mean this Agreement for Police Services between the CITY and BSO, including all exhibits.

b. Applicable Laws. "Applicable Laws" shall mean all provisions of constitutions, statutes, laws, rules, ordinances, regulations, charters and orders of governmental bodies or regulatory agencies applicable to the subject matter.

c. BSO. "BSO" shall mean the duly elected and qualified Sheriff of Broward County, Florida.

d. CITY. "CITY" shall mean the City that has contracted with BSO for Police Services pursuant to this Agreement and is identified in the Special Terms and Conditions.

e. CITY Boundaries. "CITY Boundaries" shall mean the area within the municipal boundaries of the CITY, as shown in the Special Terms and Conditions of this Agreement.

f. City Manager. "City Manager" shall mean the duly appointed and validly existing City Manager of the CITY. In the absence of the City Manager, the Assistant City Manager or person acting in the capacity of City Manager shall have the same authority as that of the City Manager.

g. Consideration. "Consideration" shall mean the monthly payment and other amounts payable by the CITY hereunder in consideration of the Services performed by BSO, as set forth herein.

h. District. "District" shall mean (a) the CITY Boundaries, or (b) the Annexed CITY Boundaries on the date the CITY's annexation plan becomes effective after the Florida Legislature approves such annexation plan, provided BSO has received the required notification thereof as set forth herein (c) any additional geographic area to be serviced by the District employees based upon a mutual written agreement of the CITY and BSO.

i. District Chief. "District Chief" shall mean the individual responsible for supervising all law enforcement employees and law enforcement activities within the CITY. The District Chief shall be the rank of Major. The District Chief shall serve as the liaison between CITY and BSO.

j. District Employees. "District Employees" shall mean BSO employees permanently assigned to the District who possess the necessary qualifications and experience to provide police and support services.

k. Effective Date. "Effective Date" shall mean the date in which the Agreement is to commence. The Effective Date is set forth in the Special Terms and Conditions of this Agreement.

l. Facilities. "Facilities" shall mean that portion of the Police Services Center which is used by BSO and any additional facilities that are owned by the City and used by BSO on a permanent basis to provide police services. The Facilities are listed in the Special Terms and Conditions of this Agreement.

m. Lien. "Lien" shall mean any lien, security interest, pledge, mortgage, easement, leasehold, assessment, covenant, restriction, reservation, conditional sale, prior assignment, or any other encumbrance, claim, burden or charge of any nature whatsoever.

n. Patrol Zone shall mean the geographic areas within the District, as mutually agreed upon by the District Chief and the City Manager, in which Patrol Deputy Sheriffs are assigned.

o. Police Services Center. "Police Services Center" shall mean the premises owned by the CITY in which the BSO command staff assigned to the CITY maintains their offices. The address of the Police Services Center is set forth in the Special Terms and Conditions of this Agreement.

p. Police Services. "Police Services" shall mean the aggregate of all police related services provided by BSO pursuant to this Agreement.

q. Renewal Option. "Renewal Option" shall mean the time period that the agreement may be extended; the number of extensions and the means to exercise such option, as set forth in the Special Terms and Conditions of this Agreement.

r. Term. "Term" shall mean the length of this Agreement and any extensions thereto.

s. Uniformed Deputy. "Uniformed Deputy" shall mean a uniformed Deputy Sheriff employed by BSO who patrols the District.

2. **STAFFING**

a. **Structure**. The staffing structure for the District shall be as set forth in the Special Terms and Conditions of this Agreement and may be modified as set forth herein. The Staffing Structure shall not be modified except through a written amendment to this Agreement executed by both the CITY and BSO with the same formalities as set forth herein.

BSO and the CITY shall work cooperatively to establish the proper balance of experience levels for those BSO employees assigned to the CITY.

b. **Deletions and Additions.** The CITY shall have the right to unilaterally delete services upon no less than sixty (60) calendar days prior written notice, and such deletions shall be memorialized in an amendment to this Agreement, and the compensation shall be adjusted accordingly based on actual cost of the service. If, in BSO's opinion, the requested deleted services (i.e. staffing levels) would negatively impact the safety of BSO's employees or the community, the parties shall collaborate to resolve the issue to their mutual satisfaction. The City may add services, as mutually agreed upon by both parties, and such additions shall be memorialized in an amendment to this Agreement, and the compensation shall be adjusted accordingly.

c. **Shift Length.** In the event there is a modification in the length of the hours of shifts, the modification will not occur until the next scheduled shift pick at least sixty (60) calendar days from the date that the Sheriff and City Manager agree upon the modification.

d. **Deployment**. BSO shall have the discretion to deploy District Employees as necessary to meet the goals and objectives of the CITY.

The District Chief's discretion regarding the deployment of the personnel shall be exercised with the intent of providing the most effective police services to the CITY pursuant to the terms and conditions of this Agreement. The District Chief shall keep the City Manager informed of the deployment of such personnel through weekly staff meetings and as requested by the City Manager. During such meetings, the City Manager and District Chief shall discuss the results of previous deployments, alternative deployment strategies and the benefits and risks associated with each strategy.

BSO's Personnel assigned to the CITY shall only be utilized for appropriate police services within the CITY, except as otherwise authorized in applicable automatic and mutual aid agreements. BSO shall not use District Employees to service any other contracts, clients or obligations of BSO, except as otherwise provided in this Agreement.

e. **Minimum Staffing**. BSO shall provide to the CITY a minimum number of deputy sheriffs to patrol the CITY per day/shift. The minimum number of deputies shall be set forth in the Special Terms and Conditions of this Agreement.

f. **Employment Standards**. BSO shall be responsible for setting employment standards (i.e. hiring, discipline, training) for District Employees consistent with BSO agency standards. BSO is committed to providing the CITY with highly skilled certified law enforcement personnel to provide police services to the CITY.

g. **Employment Responsibilities**. All District Employees shall be and remain BSO employees, and such employees shall not be considered employees of the CITY for purposes of pension benefits, insurance benefits, civil service benefits, compensation and/or any status or right. Accordingly, the CITY shall not be called upon to assume any

liability for direct payment of any salaries, wages, or other compensation, contributions to pension funds, insurance premiums, workers' compensation (Chapter 440, Florida Statutes), vacation or compensatory time, sick leave benefits or any other amenities of employment to any District Employee whatsoever, arising out of BSO's employment of such Persons and such Persons' performance of the Services. The CITY and BSO understand and acknowledge that all costs, including the employment related costs as well as legacy costs for the Pompano Beach Police Pension, are included in the consideration payable by the CITY to BSO in accordance with this Agreement.

h. **Staffing Review and Modifications**. As part of the CITY's annual budgetary process, BSO shall evaluate the Staffing requirements for the CITY to determine if the current staffing level and composition adequately meets the City's goals and objectives. If BSO believes the staffing requirements need to be adjusted, BSO shall provide staffing recommendations to the City Manager for review. If both parties agree to the recommended staffing changes, this Agreement shall be modified through an amendment executed by both the CITY and BSO with the same formalities as contained herein, which shall reflect the agreed upon staffing change(s) and a compensation adjustment based on actual cost of the staffing change(s).

In addition to the annual review, the District Chief or City Manager shall have the right to request a staffing adjustment at any time during the year. Upon making such request to the City Manager or District Chief, the District Chief and City Manager shall meet and discuss the need for such adjustment. If the City Manager and District Chief agree upon the need for the staffing adjustment, a formal amendment shall be prepared and presented to the Sheriff and City Commission for approval and signature.

In the event the CITY and BSO do not agree upon the Staffing Structure adjustments after good faith negotiations and such unresolved adjustments impact the safety of BSO employees or the public, either the CITY or BSO may exercise its rights as set forth herein or by law.

i. **Transfers – BSO's Rights**. BSO shall have the right to transfer any Employee out of the District. The City Manager shall be kept informed of all transfers.

Notwithstanding the above provisions, the transfer of the District Chief and District Captains shall be governed by specific provisions related to the District Chief as set forth herein in Section 9.

j. **Transfers – City Right**. Except for the District Chief, which is covered in Section 9 of these General Terms and Conditions, the City Manager shall have the right to request the transfer of BSO personnel out of the CITY, which shall not be arbitrary or capricious. The request must be sent to the District Chief in writing setting forth the name of the employee, employee's rank and the reason for the request (the "Transfer Request"). The Transfer Request must be approved in writing by BSO, however such approval shall not be unreasonably withheld. BSO shall notify the CITY in writing as to whether BSO approves of the Transfer Request within 5 business days of receipt of the Transfer Request. If BSO

fails to notify the CITY within 5 business days of the Transfer Request, the Transfer Request shall be deemed approved. If BSO approves the Transfer Request, the employee shall be transferred out of the District as soon as reasonably possible but in no event more than 30 days after BSO approves the Transfer Request.

k. **Transfers – Layoffs**. Notwithstanding anything herein to the contrary, transfers in and out of the District may result from employees exercising seniority rights pursuant to the collective bargaining agreement in the event of layoffs at the Broward Sheriff's Office.

l. **Replacements**. Any Personnel transferred or reassigned out of the CITY shall be replaced within thirty (30) days of the transfer.

m. **Staffing Continuity**. The CITY and BSO recognize the importance of combining the efforts and resources of BSO and the CITY in order to have a positive impact on reducing neighborhood crime, helping to reduce any community fears regarding crime and thus enhancing the quality of life throughout the CITY. It is further recognized that such a collaborative effort requires law enforcement personnel that have intimate knowledge of the community. In furtherance of such objective, BSO shall make every reasonable effort to maintain the continuity of BSO law enforcement personnel assigned to the District, subject to the transfer provisions set forth herein and to develop and implement community policing initiatives.

n. **Education**. The parties acknowledge the importance of the District Employees' knowledge of the general make-up of the CITY and its geographic areas, its industrial, business, and residential composition, its City Code of Ordinances, and its crime problems. BSO shall offer appropriate continuing education to assure that all District Employees are acquainted with the District's general make-up, geographic areas, industrial, business, City's Code of Ordinances and residential composition and its crime trends. Upon enactment, the CITY shall forward to the District Chief a copy of new ordinances for training and enforcement purposes.

3. ASSIGNMENT OF POLICE POWERS

The CITY does hereby vest in each sworn Deputy Sheriff of BSO the police powers of the CITY which are necessary to implement and carry forth such law enforcement services, for the sole and limited purpose of giving official and lawful status and validity to the performance thereof by such sworn deputies. Each sworn Deputy Sheriff of BSO so empowered hereby and engaged in the performance of the law enforcement services shall be deemed to be a sworn officer of the CITY while performing such law enforcement services. Accordingly, such sworn Deputy Sheriffs of BSO are hereby vested with the power to enforce the ordinances of the CITY, to make arrests incident thereof and to do such other things and to perform such other acts as are necessary with respect thereto.

4. QUARTERLY GOALS AND OBJECTIVES

On a quarterly basis (on or about October 1st and January 1st, April 1st and July 1st) or as requested by the City Manager, the District Chief shall meet with the City Manager to discuss law enforcement activities within the City occurring during the previous three (3) month period. At such meeting, the District Chief shall present the City Manager with information regarding the following:

a. Calls for service by time of day, geographic location, date and type of call;
b. Reported incidents, criminal and non-criminal;
c. Number and types of arrests;
d. Traffic crashes;
e. Traffic citations;
f. Staffing and Transfers;
g. Vacancy Credits;
h. Grant Review;
i. Community Policing Initiatives;
j. Response time reports, citizen complaints and their status/disposition;
k. BSO's Year-To-Date Budget Versus Actual Cost - Line Item Report, which shall include, but not necessarily be limited to, the budgeted amount, expenditures, encumbrances and remaining balance for each line item within the budget. The City Manager may reasonably request documentation necessary to substantiate any of the costs included on such Report; and
l. Any additional information requested by the City Manager.

Based upon the information presented by the District Chief to the City Manager, the District Chief, in concert with BSO command, and the City Manager shall review the law enforcement goals and objectives of the CITY, the staffing requirements to meet the goals and objectives and the general strategies to achieve such goals and objectives. Thereafter, BSO shall develop and implement operational initiatives to further such goals and objectives.

5. REPORTS

BSO shall provide monthly reports to the City Manager that include the following information:

- Monthly Crime Report (FDLE/UCR categories) and year-to-date comparison;
- Monthly calls for service based on Deputies responding (percentage);
- Monthly encumbered times for zone Deputies by day of week; and
- Monthly crime prevention activities (past month and planned current month).

At any time during the term of this Agreement, the City Manager shall have the right to make reasonable modifications to the reporting format(s), reporting content, and reporting period(s).

BSO shall provide to CITY in June of each fiscal year, a report on BSO's performance in light of the established goals and objectives. The format and content of the Annual Report made to the CITY by the District Chief shall be mutually agreed upon by BSO and the City Manager.

BSO shall provide the City with detailed reports indicating budget amounts, year to date expenditures, variances, etc., quarterly or upon request to the District Chief.

6. **CONSIDERATION**

a. For the period from the Effective Date through the end of the September 30, 2016, the annualized consideration amount and the monthly payment amount for police services shall be as set forth in the Special Terms and Conditions, payable on the 1st of each month.

b. For fiscal year 2017 and each fiscal year thereafter during the Term of this Agreement, BSO will submit a proposed budget to the CITY on or before the preceding May 1st. The budget will have a summary of major classifications (Personnel Services, Operating Expenses, Capital Outlay, Pompano Police Pension Costs, and FRS, etc.), an estimated average cost per staffing category and any overhead costs that are being considered. _ The CITY and BSO will negotiate in good faith any adjustments to the Consideration; however the CITY acknowledges that the CITY is responsible for the total legacy cost of the Pompano Beach Pension Plan. The parties recognize and acknowledge that time is of the essence in resolving this issue. Therefore, the parties agree that final resolution must be reached on or before June 30th.

c. If BSO and the CITY are able to reach an agreement regarding the consideration, the CITY will pay BSO the consideration in twelve (12) equal monthly installments, payable on the first of each month

d. BSO shall submit a proposed budget to the CITY on or before the preceding May 1st. The budget shall have a summary of major classifications (Personnel Services, Operating Expenses, Capital Outlay, etc.). At the request of the City Manager, BSO shall provide supporting documentation for the budgeted line items to include the cost to outfit and equip District Employees (i.e. uniforms, computer, patrol vehicle, Taser, etc.).

e. For purposes of calculating the budget for Personnel Services, the District Employees assigned to the District on the second payroll period in February of each year shall be the employees used to calculate the budget for the upcoming fiscal year, which is due to the CITY on or before May 1st as set forth above. The annual wages, taxes, pension and health insurance costs associated with each employee shall be determined based upon factors such as contractual wage increases, FICA rates and maximums, pension rates (as dictated by the applicable plan) and proposed health insurance rates. If there are any vacant positions in the second payroll period of February, the budgeted cost of the vacant positions for the upcoming fiscal year shall be calculated based upon the average budgeted cost of the filled District Employee positions within the same job classification for the second payroll period in February.

f If BSO and the CITY are able to reach an agreement regarding the consideration, the CITY shall pay BSO the consideration in twelve (12) equal monthly installments, payable on the first of each month.

g. BSO shall reimburse or provide a credit to the CITY for any payment received from the Broward County School Board for School Resource Deputies.

h. The CITY and BSO understand and acknowledge that staffing vacancies will occur throughout the term of this Agreement; however it is the intent of both the CITY and BSO to work cooperatively towards reducing vacancies and thus increasing the number of deputies working within the District.

i. BSO shall provide the CITY with full staffing. The CITY shall be entitled to a credit for any vacancies that occur during the fiscal year. The CITY's entitlement to the vacancy credit shall be calculated quarterly. A vacancy occurs when a deputy or employee is absent from work and such absence results in a salary savings to the BSO. The CITY's credit shall be calculated using the average budgeted cost of District Employees within the same job classification for that fiscal year. BSO shall submit a monthly report detailing vacancy days. This report shall be delivered to the City Manager by the twentieth day of the month immediately following the month in which the vacancy occurred.

   The credit shall be calculated on a quarterly basis for each fiscal year. For purpose of the last quarter for each fiscal year, vacancies shall be projected for August and September based upon BSO's vacancies during the month of July. In the event the actual vacancy credit for the month of August and September differs from the above projected figures, such difference shall be adjusted in the CITY's November payment.

j. BSO shall have the right to temporarily fill any vacancy within the CITY, through temporary staffing or overtime, provided that BSO fills the vacancy with an employee with a job classification and rank equivalent to the absent BSO employee. BSO shall educate any temporary staff assigned to the District with respect to the general make-up of the CITY and its geographic areas, its industrial, business and residential composition and its crime trends. The CITY shall be entitled to a vacancy credit for any vacancy, unless the vacant position is temporarily filled through overtime or temporary staffing, and if BSO receives a salary savings.

k. The parties recognize that the CITY has no right of setoff or to reduce the consideration payable to BSO by amounts in dispute absent a mutual written agreement of the parties other than as set forth in this Agreement.

l. In the event that the BSO subsequently enters into an agreement, amends an agreement or renews an agreement with a municipality or Broward County for police services (an "Eligible Agreement"), the SHERIFF shall post the Eligible Agreement on the BSO website within 10 business days of execution thereof and shall notify the CITY of such posting within 14 business days of the posting. If the CITY reasonably determines that the

Eligible Agreement overall includes material terms that are more beneficial than the terms set forth herein (except for terms relating to grant funding designated for a particular municipality or Broward County, which are excluded from this Section), then the CITY shall be entitled to (i) the incremental dollar value of the more beneficial term(s), which shall be calculated in the same manner and methodology as used to calculate the estimated actual costs for the CITY and all other municipalities, or (ii) the terms, services or equipment under the Eligible Agreement, at the City's sole discretion, retroactive to the effective date of the Eligible Agreement. Thereafter, the parties shall proceed under this Agreement in accordance with the more beneficial terms. The Parties acknowledge that the SHERIFF may implement different operational programs and units in different customer jurisdictions based on the operational requirements of such jurisdictions.

m. In addition to the consideration being paid by the CITY to BSO under this Agreement, and pursuant to the Regional Interlocal Agreement Between Broward County and the CITY Providing for Cooperative Participation in a Regional Public Safety Intranet, the CITY agrees to pay its pro rata share for BSO's mobile and portable radios and auxiliary equipment to the extent allocated for the District, and all needed repairs and replacements thereto in accordance with the Regional Interlocal Agreement.

n. To resolve an issue of past due consideration, BSO will provide vacancy credit reports to the CITY on a quarterly basis and include the past due amounts received and amount still outstanding. CITY will issue a check to BSO in an amount equal to the vacancy credit for the respective quarterly period to resolve the past due consideration issue. The procedure and amount of the past due consideration issue shall be evidenced by a separate MOU executed by the City Manager and Sheriff. The CITY shall continue to use the vacancy credit amounts to pay BSO until the past due amount is paid in full.

7. VEHICLE MARKINGS

Each patrol vehicle assigned to the District shall prominently display on the vehicle's exterior, the name of the CITY in three (3) to six (6) inch lettering, in accordance with the BSO standard vehicle markings.

8. FACILITIES

The CITY shall provide BSO with a Police Services Center.

The Police Services Center and any other facilities owned by the CITY and used by BSO on a permanent basis are hereinafter collectively referred to as the "Facilities". BSO shall occupy the Facilities and use the furnishings and equipment contained in the Facilities in connection with performing the Police Services within the District, at no additional cost to BSO.

The CITY shall be responsible for major repairs of the Facilities and property (i.e., to include HVAC systems, electrical systems, roof systems and storm damage to the facility and property). BSO shall be responsible for daily janitorial services and shall maintain the

Facilities in a clean condition, free from debris, normal use excepted. BSO further agrees not to destroy, deface, damage, impair, or remove any part of the Facilities. In the event BSO, it employees, agents, or invitees destroy, deface, damage, impair, or remove any part of the CITY's Facilities, BSO shall be responsible for repairing or replacing such property.

Except as provided in the preceding paragraph, maintenance and repair services for the Facilities shall be supplied by the CITY. CITY agrees to keep the Facilities in good structural repair. CITY shall maintain and keep in good repair the roof, lighting, walls, foundations, sidewalks, ceilings, doors, windows, sprinkler and hot water systems, heating systems, air conditioning systems, plumbing, wiring, electrical fixtures and all other structural components. CITY further agrees to maintain in good repair the parking area and all common areas. CITY shall also make any repairs necessitated by water seepage or by other causes not under BSO's control. CITY shall also make all repairs or changes which may be necessary to make the premises and the use herein contemplated comply with applicable laws, ordinances, orders or regulations of any federal, state, county or municipal authority now or hereafter in effect unless specifically exempted therefrom.. In the event of termination of this Agreement, BSO shall surrender the facilities in broom swept condition, normal wear and tear excepted.

BSO shall pay for all utility costs including, but not limited to, voice and data hardware, software, and connectivity, electric, sewer and water for the Police Services Center.

BSO's personnel shall not conduct personal business at the Facilities. BSO's personnel shall only park personal vehicles required to commute to and from work in designated parking areas. The Facilities shall only be utilized for appropriate police services within the City, unless otherwise mutually agreed upon by BSO and the City Manager. BSO shall not use the Facilities to service any other contracts, clients or obligations of BSO, except as otherwise provided in this Agreement. The CITY and BSO shall not permit the Facilities or the vehicles provided by the CITY to be utilized for political or campaign purposes by candidates running for public or private office or ballot initiatives.

BSO shall not permit unaccompanied minors in the Facilities.

The CITY shall provide BSO with adequate parking spaces within reasonable proximity to the Police Services Center so as not to hinder BSO's ability to perform its obligations set forth herein.

9. DISTRICT CHIEF

BSO shall provide, pursuant to this Agreement, a District Chief. The District Chief shall be assigned full-time to the CITY and shall provide direct supervision of activities at the CITY's Police Services Center and District Employees provided pursuant to this Agreement. The District Chief shall, among other specified duties, act as liaison between BSO and the CITY. BSO's District Chief shall also function as a member of the CITY's staff with regard to law enforcement issues and report to the City Manager in that capacity. The District Chief shall be responsible for all law enforcement related emergency management duties on behalf of the CITY, and his or her responsibilities, except for his or her responsibilities to BSO, shall be

limited to the CITY, as described herein. The CITY and BSO understand and acknowledge that the District Chief is employed by BSO and therefore has certain employment responsibilities to BSO, however such responsibilities shall not substantially interfere with the District Chief's responsibilities as the CITY's District Chief.

The CITY currently has a District Chief. In the event the position of District Chief becomes vacant, the selection of a District Chief shall be in the absolute discretion of the City Manager and shall be initiated by BSO selecting three (3) qualified candidates for the position of District Chief. BSO agrees to make such selections in good faith and in the best interest of the CITY. BSO shall provide the CITY with written notification of the selected candidates and their qualifications within 15 days of the vacancy of the District Chief or within 15 days of the BSO's knowledge that the District Chief position will become vacant, whichever occurs first. Within ten (10) days after the CITY's receipt of such notice, representatives from both BSO and the CITY shall meet to discuss the candidates' qualifications. In the event none of the candidates are acceptable to the City Manager, BSO shall submit the names of three (3) additional candidates for consideration. This process shall continue until such time as the City Manager has selected an individual to serve as the District Chief. The CITY shall have the opportunity to interview each of the candidates. The District Chief position shall be subject to the provisions of this Agreement. During the selection process, SHERIFF shall put in place a temporary Chief until the permanent Chief is selected.

In the event the CITY becomes dissatisfied with the performance of the District Chief, the CITY shall provide notification to BSO. Thereafter, representatives of BSO and the CITY shall meet to discuss possible remedies of the problems experienced by the CITY. BSO agrees to act in good faith in resolving any problems experienced by the CITY. The City Manager may remove the District Chief at any time, without cause. If the City Manager, in his or her sole discretion, with or without cause, still desires that BSO remove the District Chief, BSO shall do so immediately.

BSO, in its sole discretion, shall have the right to remove the District Chief and/or District Captains from the CITY at any time for any of the following reasons:

a. The District Chief/Captain is being promoted in rank;
b. The District Chief/Captain is being demoted;
c. The District Chief/Captain is being disciplined;
d. The District Chief/Captain is retiring;
e. The District Chief/Captain submits a request to transfer out of the City;
f. The District Chief/Captain is under investigation by BSO or any other federal, state or local law enforcement agency;
g. The District Chief/Captain's failure to meet documented BSO performance standards and requirements; or
h. Prior to the removal of the District Chief/Captain, the Sheriff meets with the City Manager and notifies the City Manager that the SHERIFF has lost confidence in the District Chief/Captain.

The removal of the District Chief and/or District Captain from the City for any reason not specified above shall require the prior approval of the City Manager.

10. **FINES, FORFEITURES, REVENUES: PAYMENT**

a. All law enforcement education funds levied and collected by the Clerk of the Court and earmarked for and forwarded to the CITY pursuant to Florida Statutes, Section 943.25, shall be assigned over to the BSO and used by the District for the law enforcement education purposes authorized in the statute. Apart from such funds and except for the provisions set forth in subsection 10(k) of these General Terms and Conditions, Grant Funds and Miscellaneous Revenues, BSO shall have no claim or right to any other monies or things of value that the CITY receives or may hereinafter receive by way of entitlement programs, grants or otherwise in connection with law enforcement activities.

b. The CITY and BSO do hereby acknowledge, one to the other, that nothing contained herein shall in anyway be construed to impair the CITY's right to the disposition of fines and forfeitures to which the CITY would be entitled, pursuant to Florida Statutes, Section 316.660 as may be amended from time to time, or as to proceeds and forfeitures arising under the sale or disposition of unclaimed property or under any statutory or common law proceeding to which the CITY would otherwise be entitled, except as limited herein.

c. The CITY and BSO agree that BSO shall be responsible for determining whether asset forfeiture proceedings for property seized within the CITY through active participation of District personnel shall be initiated, except as otherwise indicated herein. Any state law forfeiture actions filed under Chapter 932, Florida Statutes, for property seized within the CITY through active participation of District personnel shall be initiated and managed by BSO, which shall have sole discretion to determine legal strategy and litigation resolution based upon the best interests of the CITY and BSO.

d. BSO agrees that any currency seized within the CITY, through active participation of the District's personnel, pursuant to Chapter 932 of the Florida Statutes, and subsequently forfeited solely to BSO, shall be deposited into the City's Law Enforcement Trust Fund established by the CITY, less any costs as described in paragraph 10(h) herein (hereinafter referred to as the "Funds"). The Funds shall be and shall always remain in the ownership of the CITY and BSO shall not have any right to ownership and control of such Funds. During the term of this Agreement, such Funds may be earmarked for the BSO's use within the confines of the City, upon approval of the CITY as follows:

1. Upon concurrence of the District Chief, with approval of the BSO chain of command, and the City Manager, BSO may apply to the CITY for the use of such Funds, within the boundaries of the CITY, if such application is in compliance with Florida Statutes.

2. The District Chief shall first submit the request to the SHERIFF's legal counsel for a determination as to whether the request complies with applicable law. If the SHERIFF's legal counsel finds that the request complies with applicable law, the District Chief shall then submit the request, accompanied by a written certification that the request complies with the provisions of §932.7055(4) Florida Statutes, to the City Manager.

3. If the request and accompanied written certification are acceptable to the City Manager, the City Manager may place the request and written certification on the agenda for the City Commission's consideration.

4. Upon appropriation, such funds shall be made available to BSO for its designated use within the confines of the City. The City shall transfer ownership of any personal property purchased with the Funds to BSO for exclusive use within the District.

e. The parties agree that the decision to dispose of or use personal property, other than currency, seized within the CITY through active participation of the District personnel and subsequently forfeited solely to the CITY under Chapter 932, Florida Statutes, shall be in the sole discretion of the CITY.

1. If the CITY decides to use personal property, other than currency, forfeited to the CITY under Chapter 932, Florida Statutes, the City shall reimburse BSO for any costs, as described in paragraph 10(h), below, incurred in the seizure and forfeiture of such property.

2. BSO shall annually invoice the CITY for all actual costs incurred by BSO in the forfeiture action including, but not limited to, filing fees and advertising costs, and the CITY shall have forty-five (45) calendar days to pay such invoice. BSO shall submit the annual invoice to the CITY on or before September 30th of each fiscal year;

3. Upon concurrence of the District Chief, with approval of the BSO chain of command, and the City Manager, BSO may apply to the CITY to use such personal property either within or outside the CITY, and if approved by the CITY, BSO may use such personal property in accordance with such approval, however BSO shall then be responsible for all costs incurred in the forfeiture of that personal property.

4. In the event BSO disposes of the property prior to termination of this Agreement, BSO shall allocate the net proceeds from the disposition to the CITY's Law Enforcement Trust Fund.

5. In the event that this Agreement is terminated and such property is still in use by BSO within or outside the CITY, such property shall be turned over to the CITY.

6. If the CITY decides to dispose of personal property, other than currency, forfeited to the CITY under Chapter 932, Florida Statutes, proceeds of the sale of such property, less costs as described in paragraph 10(h) herein, shall be deposited in the CITY's Law Enforcement Trust Fund. Proceeds from the sale of property deposited in the CITY's Law Enforcement Trust Fund may be designated for BSO's use within the confines of the City, in the same manner as provided in subsection 10(d) above.

7. If the personal property is approved by the CITY for use by BSO outside of the City boundaries, BSO will promptly notify the City Manager of such use.

f. BSO agrees to notify the CITY of its intent to initiate forfeiture proceedings involving real property seized solely by District staff, prior to the filing of a Complaint for Forfeiture. The CITY shall notify BSO within five (5) business days of any objections it has related to the impending forfeiture proceeding. In the event, the parties are unable to reach a mutually agreed upon decision, the final decision to proceed shall be made by the CITY. The parties agree that the decision to use or dispose of real property seized within the CITY, through active participation of the District's personnel, and subsequently forfeited solely to the District pursuant to Chapter 932, Florida Statutes, shall be in the absolute and sole discretion of the CITY.

1. If the CITY decides to dispose of such real property, proceeds from the sale of the real property shall be deposited into the CITY's Law Enforcement Trust Fund, less any loans, mortgages, liens, costs (as described in subsection 10(h) herein, below) or any other encumbrance on the property incurred by BSO in the seizure, forfeiture, or sale of such property. Proceeds from the sale of real property deposited in the CITY's Law Enforcement Trust Fund may be designated for BSO's use within the confines of the City, in the same manner as provided in subsection 10(d), above.

2. If the CITY decides to use such real property, the City shall reimburse BSO for any loans, mortgages, liens, costs (as described in paragraph 10(h), below) or any other encumbrance on the property incurred by BSO in the seizure and forfeiture of such property. However, prior to filing a forfeiture complaint for real property seized within the CITY, BSO's legal staff shall first consult with CITY's legal advisor for authorization to proceed with the forfeiture due to the potential for excessive costs to the CITY from mortgages, liens or other encumbrances on the real property. CITY shall provide BSO with a filing decision on the prospective forfeiture within three (3) working days after obtaining all relevant information from BSO required to adequately evaluate the equity of the seized real property, including, but not limited to, the value of the property and any liens thereon.

   i. BSO shall invoice the CITY for all actual costs incurred by BSO in the forfeiture action, and the CITY shall have thirty (30) days to pay such invoice;
   ii. BSO may apply to the CITY to use such real property, and if approved, BSO may use such real property in accordance with such approval.
   iii. In the event that this Agreement is terminated and such property is still in use by BSO, such property shall be turned over to the CITY.

g. In the event that real or personal property is seized within the CITY through active participation of District personnel and the active participation of personnel from other law enforcement agencies, and such property is forfeited to multiple law enforcement agencies pursuant to Chapter 932, Florida Statutes, the decision to use or dispose of such property shall be made by agreement of the participating agencies. If such property is sold, the CITY's share of the proceeds of such sale, less costs (defined in Section 10(h)) incurred in

the seizure, forfeiture, and sale of such property, shall be based upon the ratio that the District's personnel's participation bears to the participation of all law enforcement agencies and units that participated in the seizure of the property. The City's share of proceeds from the sale of such property shall be deposited into the CITY's Law Enforcement Trust Fund, and may be earmarked for BSO's use, in the same manner as provided in subsection 10(d), above.

h. Any costs incurred in the seizure, forfeiture, or sale of personal or real property seized within the CITY, through active participation of the District personnel and subsequently forfeited shall be paid by the CITY or reimbursed to BSO, in the following priority:

    1. Payment of the balance due on any lien on personal or real property preserved by the court in the forfeiture proceedings.

    2. Payment of the cost incurred in connection with the storage, maintenance, security, forfeiture proceeding (i.e. court costs, publication costs) and sale of such property.

i. BSO shall, on a quarterly basis, supply the CITY with a written report of the above-described fines and forfeitures. The report(s) shall include a description and estimate of value of properties seized under the laws of the State of Florida, whether or not disposition thereof has been adjudicated. Moreover, the report(s) shall be amended, from time to time, by reflecting the ultimate disposition of property described in an earlier report(s), and such amendatory report(s) shall be submitted to the CITY within thirty (30) days of the ultimate adjudication with regard to the seizure of the property.

j. CITY shall be responsible to meet all reporting requirements for all forfeiture proceeds under federal and state law, and BSO shall provide all necessary information pertaining to same to CITY in a timely manner for such purpose. BSO shall also provide technical assistance to CITY staff if requested with regard to the reporting procedure.

k. Grant funds and miscellaneous revenues. BSO shall cooperate with the CITY and, to the extent allowable by law, act as the law enforcement agent on behalf of the CITY in the continued application, maintenance, and accounting of grants and entitlements as well as aggressively pursuing additional grant program funds as they become available. The CITY shall make these funds available to the BSO to carryout the intent of the grant program as approved by the granting agency and the CITY. Except as otherwise set forth herein, it is understood by both parties that all revenues currently received by the CITY as a result of law enforcement activities shall continue to be received by the CITY as previously mentioned herein or as may be added in the future. This shall include, but not be limited to, towing fees per the CITY's current agreement.

11. **TOWING**

BSO will use the selected City vendor for all vehicle removal needs when required to remove damaged, stolen, abandoned, and inoperable vehicles from all public roadways and properties within the City limits unless it is determined by BSO that the vendor cannot appropriately preserve evidence in a specific criminal case or the storage of the vehicle is directed elsewhere by the lead law enforcement agency or prosecuting agency in charge if other than BSO. The CITY's agreement with the towing vendor will include provisions that require BSO to be listed as an additional insured on insurance policies meeting the specifications of BSO's Risk Manager. The City's agreement with the towing vendor will also include provisions that any and all BSO vehicles assigned to the Pompano Beach District or in need of towing while in the Pompano Beach District will be towed at no charge to BSO. BSO shall use the CITY selected towing company of its choice for towing of vehicles seized for forfeiture.

12. **INSURANCE**

BSO shall maintain liability and automobile insurance policies in the amounts set forth below:

General Liability	$1,000,000/$2,000,000
Automobile Liability	$1,000,000/$2,000,000

BSO shall maintain these insurance policies throughout the Term. BSO shall provide the CITY with copies of the insurance policies required hereunder and all renewals thereof. The costs of all these insurance policies shall be the sole obligation of BSO; however the CITY understands and acknowledges that the cost of this coverage is allocated to the CITY through the consideration set forth in the Special Terms and Conditions of this Agreement. BSO may provide the insurance required in this Section through a self insurance program.

The CITY shall during the Term, at its sole cost and expense, maintain appropriate insurance coverage to include General Liability and Fire and Casualty coverage either through a commercial insurance carrier or a self-insurance program of sufficient coverage to protect the CITY and the BSO in the event of claims related to the Facilities or damage/destruction of Facilities.

13. **DEFAULT**

a. The occurrence of any one or more of the following shall constitute a "Default" by the party causing same (the "Defaulting Party"):

   1. Payment. Failure of the Defaulting Party to pay any amount required hereunder, whether for Consideration, taxes, utilities, insurance or any other obligations, within ten (10) days after such is due hereunder, provided the Defaulting Party is first given written notice with ten (10) calendar days to cure;

   2. Performance of Services. Failure of BSO to perform the Police Services as required herein at any time during the Term;

3. Other Performance. Failure of the Defaulting Party to perform any other covenant, condition, agreement or provision contained herein (other than the Police Services) or to cure any misrepresentation or breach of any representation or warranty herein within thirty (30) days after receipt by the Defaulting Party of written notice of such failure, misrepresentation or breach;

4. Bankruptcy of Defaulting Party. Commencement of bankruptcy, insolvency, assignment for the benefit of creditors or receivership proceedings in respect of the Defaulting Party; or

5. Default. Failure of the Defaulting Party to perform any covenant, condition, agreement or provision contained in any other agreement or to cure any misrepresentation or breach of any representation or warranty in any other agreement between the parties hereto within any applicable grace period provided in such agreement.

b. Upon the occurrence and continuance of a Default by the Defaulting Party, the party not in Default (the "Non-Defaulting Party") may, at its option and without any obligation to do so and in addition to any other remedies otherwise set forth in this Agreement, elect any one or more of the following remedies:

1. Terminate this Agreement pursuant to Section 14 herein;

2. Withhold payment or performance under this Agreement until such time as such Default is cured, provided the performance level does not compromise the safety of the public;

3. Cure such Default and recover the costs thereof, together with interest thereon at the lesser of 18% or the maximum legal rate permitted by applicable law, from the Defaulting Party;

4. Seek injunctive relief to enjoin any act of the Defaulting Party in violation hereof;

5. Seek specific performance of any covenant or obligation of the Defaulting Party hereunder; or

6. Pursue any other remedy now or hereafter available under the laws or judicial decisions of the State of Florida.

c. Interest and Late Charges. Any payments due hereunder, whether for Consideration, rents, taxes, utilities, insurance or any other obligations, overdue for more than ten (10) days shall bear interest from the date due at the lesser of eighteen percent (18%) or the maximum legal rate permitted by Applicable Law. In addition, the Defaulting Party shall pay for the Non-Defaulting Party's administrative and collection expenses incurred in connection therewith, and not as interest, a late charge equal to five percent (5%) of the amount overdue. The terms of this paragraph shall also apply to BSO's payment obligations under this Agreement.

14. TERMINATION

a. Either party may terminate this Agreement at its discretion either with or without cause, by giving written notice thereof to the other party; provided the other party has no less than ninety (90) days prior written notice of such termination. At the expiration of the ninety (90) day notice period as described in the preceding provision, the transition period as set forth in subsection (c) of this Section 14 shall commence.

b. In the event of a material breach, either party may provide the other party with written notice of the material breach. The other party shall have thirty (30) days from the date of its receipt of such notification to cure such material breach, except for a material breach of any payment obligation under this Agreement in which case the other party shall have 10 days from the date of receipt of the notice to cure the payment obligation breach. If the material breach is not cured within such time periods, the non-breaching party may terminate this Agreement immediately, subject to the transition period in subsection (c) of this Section 14. Material breaches shall include but are not limited to, failure by the CITY to pay BSO pursuant to the consideration provisions set forth in the Special Terms and Conditions of this Agreement, violations of Governing Standards, local or federal laws, the BSO policies and procedures, or the terms and conditions of this Agreement.

c. In the event of termination or expiration of this Agreement, the SHERIFF and the CITY shall cooperate in good faith in order to effectuate a smooth and harmonious transition from the SHERIFF to a CITY police department or other provider of police services and to maintain during such period of transition the same high quality of police service as contemplated by this Agreement. In the event of such termination or expiration and in the further event that the CITY is unable to provide for the same level of police protection at the time of such termination or expiration, the then pending term of this Agreement shall be deemed automatically extended for a period of 24 months or until CITY is capable of rendering such police service, whichever occurs sooner. The consideration to be paid to the SHERIFF during the transition period shall be based upon the actual cost of providing such services during the transition period at the level of staffing determined reasonably necessary by BSO.

d. Equipment and Vehicles. In the event of termination or upon the expiration of this Agreement, the CITY may request to purchase from BSO any piece of equipment, including police vehicles owned by BSO that is directly attributable to or in use by the Pompano Beach District at the time of such termination or expiration in connection with the services contemplated herein. The purchase price for such equipment shall be determined by mutual agreement of the parties based on the fair market value of such equipment at the time of the CITY's election to purchase.

   Upon termination or expiration of this Agreement, all equipment and vehicles shall remain in service within the CITY until such time as the CITY and BSO execute such documents as are necessary to transfer liability for such vehicles and/or equipment from BSO to the CITY at the time the CITY takes possession of such vehicles and/or equipment.

Upon the parties reaching a mutual agreeable purchase price for the equipment pursuant to this Section, and payment by the CITY, BSO shall convey all of its rights, title and interest, thereto, including police vehicles, to the CITY by Bill of Sale Absolute or Certificate of Title, as applicable.

15. INDEMNIFICATION

15.1 The CITY and the SHERIFF shall each be separately liable and responsible for the actions of their respective officers, agents and employees in the performance of their respective obligations under this Agreement.

15.2 To the extent permitted by law, the CITY shall indemnify, defend, and hold the SHERIFF, its officials, agents, servants and employees, harmless from any and all liability, actions, causes of action, suits, trespasses, damages, judgments, executions, claims and demands of any kind whatsoever, in law or in Equity, which results from or arises out of the intentional or negligent acts or omissions of the CITY, its employees, agents, or servants and to that extent the CITY shall indemnify the SHERIFF, its officials, agents, servants and employees, for damages, judgments, claims, costs, expenses, including reasonable attorney's fees, which the SHERIFF, its officials, agents, servants and employees, might suffer in connection with or as a result of the intentional or negligent acts of the CITY, its employees, agents, or servants. For purposes of this provision, the CITY's employees shall not be deemed agents or servants of the SHERIFF and the SHERIFF's employees shall not be deemed agents or servants of the CITY. The CITY shall at all times be entitled to the benefits of sovereign immunity as provided in Florida Statutes, Section 768.28, and common law. Nothing contained in this Agreement shall be construed as a waiver of sovereign immunity.

15.3 To the extent permitted by law, the SHERIFF shall indemnify, defend, and hold the CITY, its officials, agents, servants and employees, harmless from any and all liability, actions, causes of action, suits, trespasses, damages, judgments, executions, claims and demands of any kind whatsoever, in law or in equity, which results from or arises out of the intentional or negligent acts or omissions of the SHERIFF, its employees, agents, servants and to that extent the SHERIFF shall indemnify the CITY, its officials, agents, servants and employees, for damages, judgments, claims, costs, expenses, including reasonable attorney's fees, which the CITY, its officials, agents, servants and employees, might suffer in connection with or as a result of the intentional or negligent acts of the SHERIFF, its employees, agents, or servants. For purposes of this provision, the CITY's employees shall not be deemed agents or servants of the SHERIFF and the SHERIFF's employees shall not be deemed agents or servants of the CITY. The SHERIFF shall at all times be entitled to the benefits of sovereign immunity as provided in Florida Statutes, Section 768.28, and common law. Nothing contained in this Agreement shall be construed as a waiver of sovereign immunity.

16. CONTRACTOR RELATIONSHIP

CITY hereby retains BSO as an independent contractor to provide Police Services for the CITY, subject to the terms and conditions contained herein. As an independent contractor, BSO shall have discretion and operational oversight regarding the manner and means in which

Police Services shall be provided to the CITY, unless otherwise provided herein. Notwithstanding BSO's independent contractor status hereunder, BSO and the District Employees shall have the power and authority granted by the CITY pursuant to Section 3 hereof.

17 **NO PARTNERSHIP**

The relationship between the CITY and BSO shall be solely as set forth herein. Neither party shall be deemed the employee, agent, partner or joint venturer of the other, nor have, or represent to have, any authority or capacity to make or alter any agreement on behalf of the other, to legally bind the other, to credit or receive money due on behalf of the other or to do any other thing on behalf of the other, except as specifically set forth herein. Neither the CITY nor BSO shall have or attempt to exercise any control or direction over the methods used by the other to perform its work, duties and obligations under this Agreement except as specifically set forth herein. The respective employees, agents and representatives of each of the CITY and BSO shall remain their own employees, agents or representatives, and shall not be entitled to employment benefits of any kind from the other, except as specifically set forth herein. The CITY and BSO shall assume full responsibility for their own compliance with any and all Applicable Laws.

18. **REPRESENTATIONS AND WARRANTIES OF CITY**

The CITY represents, warrants and covenants to BSO as of the date hereof and throughout the Term the following:

a. The CITY is and shall remain duly organized, validly existing and in good standing under the laws of the State of Florida, has and shall retain the requisite power and authority to conduct its business, to enter into this Agreement and to perform the terms hereof and by proper action on behalf of the CITY has duly authorized, executed and delivered this Agreement and any and all instruments in connection herewith.

b. This Agreement has been duly executed and delivered by the CITY and constitutes the valid and legally binding obligation of the CITY enforceable in accordance with its terms, except as limited by bankruptcy, reorganization or similar laws affecting creditors' rights generally.

c. Neither the execution and delivery of this Agreement, the consummation of the transaction contemplated hereby nor the fulfillment of or compliance with the terms and provisions hereof (a) conflicts with, or result in a material default under or breach of or grounds for termination of, any material agreement or any license, permit or other governmental authorization to which CITY is a party or by which CITY is bound, (b) results in the violation by the CITY of any provision of any Applicable Law applicable to CITY or to which CITY may be subject, (c) violate or conflict with any charter or other document governing the actions of CITY, or (d) require CITY to obtain or make any consent, authorization, approval, registration or filing under Applicable Law or order of any court or governmental agency, board, bureau, body, department, authority or any other person which has not already been obtained. The CITY is not in default with respect to any order,

judgment, ordinance, award or decree of any governmental agency or instrumentality affecting this Agreement or the transactions contemplated hereby.

d. No representation or warranty made by the CITY herein or in any schedule, exhibit or other document executed or delivered in connection herewith when taken as a whole contains any untrue statement of a material fact or omits to state any material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading in any material respect.

19. **REPRESENTATIONS AND WARRANTIES OF BSO**

BSO represents, warrants and covenants as of the date hereof and throughout the term of this Agreement the following:

a. The Sheriff is the duly elected or appointed, qualified and incumbent Sheriff of Broward County, Florida, has and shall retain the requisite power and authority pursuant to the power so vested in him under Applicable Law to conduct its business, to enter into this Agreement and to perform the terms hereof and by proper action has duly authorized, executed and delivered this Agreement and any and all instruments in connection herewith;

b. This Agreement has been duly executed and delivered by BSO and constitutes the valid and legally binding obligation of BSO enforceable in accordance with its terms, except as limited by bankruptcy, reorganization or similar laws affecting creditors' rights generally.

c. Neither the execution and delivery of this Agreement, the consummation of the transaction contemplated hereby nor the fulfillment of or compliance with the terms and provisions hereof (a) conflicts with, or result in a material default under or breach of or grounds for termination of, any material agreement or any license, permit or other governmental authorization to which BSO is a party or by which BSO is bound, (b) result in the violation by BSO of any provision of any Applicable Law applicable to BSO or to which BSO may be subject, (c) violate or conflict with any charter or other document governing the actions of BSO, or (d) require BSO to obtain or make any consent, authorization, approval, registration or filing under Applicable Law or order of any court or governmental agency, board, bureau, body, department, authority or any other person which has not already been obtained. BSO is not in default with respect to any order, judgment, ordinance, award or decree of any governmental agency or instrumentality affecting this Agreement or the transactions contemplated hereby.

d. BSO has complied and shall comply with all Applicable Laws relating to the performance of the Police Services and the employment of the District Employees.

e. No representation or warranty made by BSO herein or in any schedule, exhibit or other document executed or delivered in connection herewith when taken as a whole contains any untrue statement of a material fact or omits to state any material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading in any material respect.

f. The parties recognize that neither party has the right to modify the terms and conditions of this Agreement (i.e. staffing, consideration), unless such modification is mutually agreed upon through a formal written amendment or authorized in accordance with Section 6(l). Additionally, neither party shall have the right of setoff or the right to reduce its contractual obligation to the other party by amounts in dispute absent a mutual written agreement of the parties, except as otherwise provided herein.

20. INTERPRETATION

Except where the context otherwise requires, reference to something in the singular shall include the plural and vice versa. Unless otherwise noted, reference to a party to this Agreement includes that party, and its permitted successors and assigns. Lastly, the captions or headings in this Agreement are for convenience only, and are not meant to limit the scope or intent of the particular provisions.

21. ACCOUNTING TERMS

All references in this Agreement to generally accepted accounting principles shall be to such principles as in effect from time to time in the United States of America. All accounting terms used herein without definition shall be used as defined under such generally accepted accounting principles.

22 CROSS REFERENCES

Unless otherwise specified, references in this Agreement to any Article or Section are references to such Article or Section of this Agreement, and, unless otherwise specified, references in any Article, Section or definition to any clause are references to such clause of such Article, Section or definition. The words "hereof", "hereby", "hereto", "herein", "hereunder" and the like refer to this Agreement in its entirety.

23. DRAFTING

This Agreement shall not be construed more strictly against one party than against the other merely because it may have been prepared by counsel for one of the parties, it being recognized that both parties have contributed substantially and materially to its preparation.

24. NOTICE

All notices and other communications under this Agreement shall be in writing and shall be deemed to have been given three (3) business days after deposit in the mail, designated as certified mail, return receipt requested, postage-prepaid, or one (1) business day after being entrusted to a reputable commercial overnight delivery service, or when sent by email or facsimile on a business day addressed to the party to which such notice is directed at its address determined in accordance with this Article with customary confirmation of receipt of such email or facsimile received. All notices and other communications under this Agreement shall be given to the parties hereto at the following addresses:

CITY:

See Special Terms and Conditions

BSO:

Sheriff
Broward Sheriff's Office
2601 W. Broward Boulevard
Fort Lauderdale, FL 33312

Any party hereto may change the address to which notices shall be directed under this Section by giving ten (10) days written notice of such change to the other parties.

25. **NON-ASSIGNABILITY**

Neither party shall assign any of its obligations or benefits imposed hereby or contained herein, except upon the other party's prior written approval.

26. **TIME OF THE ESSENCE**

Time shall be of the essence in the payment and performance of all obligations hereunder. All references herein to this Agreement or the Term shall include the initial Term and any renewal or extension of the Term.

27. **ENTIRE AGREEMENT**

This Agreement, together with any other agreements entered into contemporaneously herewith, constitutes and represents the entire agreement between the parties hereto and supersedes any prior understandings or agreements, written or verbal, between the parties hereto respecting the subject matter herein. This Agreement may be amended, supplemented, modified or discharged only upon an agreement in writing executed by all of the parties hereto. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and permitted assigns. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

28. **APPLICABLE LAW**

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, United States of America, and, unless otherwise agreed to in writing by both parties hereto, venue and jurisdiction shall lie only in Broward County, Florida. Each of CITY and BSO hereby submits to such jurisdiction and venue and waives any defense of inconvenient forum in relation hereto.

29. **WAIVER OF RIGHTS**

CITY and BSO hereby irrevocably waive, to the fullest extent permitted by law, the posting of any bond, surety or other security that might be required of any party in any actions, proceeding or counterclaim, whether at law or equity, brought by either of them. Further, CITY and BSO hereby irrevocably waive, to the fullest extent permitted by law, trial by jury on any action, proceeding or counterclaim, whether at law or equity, brought by either of them.

30. **SEPARABILITY**

Each and every covenant and agreement herein shall be separate and independent from any other and the breach of any covenant or agreement shall in no way or manner discharge or relieve the performance of any other covenant or agreement. Each and all of the rights and remedies given to the Non-Defaulting Party by this Agreement or by law or equity are cumulative, and the exercise of any such right or remedy by the Non-Defaulting Party shall not impair the Non-Defaulting Party's right to exercise any other right or remedy available to the Non-Defaulting Party under this Agreement or by law or equity.

31. **WAIVER**

No delay in exercising or omission of the right to exercise any right or power by any party hereto shall impair any such right or power, or shall be construed as a waiver of any breach or default or as acquiescence thereto. One or more waivers of any covenant, term or condition of this Agreement by either party shall not be construed by the other party as a waiver of a continuing or subsequent breach of the same covenant, provision or condition. The consent or approval by either party to or of any act of the other party of a nature requiring consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act. Payment or receipt of a lesser amount than that due hereunder shall not be deemed to be other than on account of the earliest amount due hereunder. Any endorsement or statement on any check or letter accompanying any check shall not be deemed an accord and satisfaction and the receiving party may accept and negotiate such check or payment without prejudice to that party's right to recover the balance of the full amount due or pursue any other remedy available hereunder.

32. **DESCRIPTION OF SERVICES**

BSO shall provide comprehensive law enforcement services within the municipal boundaries of the CITY which includes services (a) customarily rendered by municipal police departments or BSO, and (b) required to be performed under Applicable Laws or CITY Ordinances, unless the subsequent modification or adoption of an Ordinance or Law results in additional costs to BSO in which case the CITY and BSO shall negotiate in good faith to address the increased costs.

BSO shall not utilize a third party provider for the provision of service referenced in this Agreement unless approved by the CITY in its sole and absolute discretion.

BSO law enforcement services are comprised of direct services, indirect services, special detail services and countywide services, which are defined as follows:

a. Direct Services – are those services that are provided by the District Employees.

b. Indirect Services – are those BSO-provided Non-District Employee services that are centralized within BSO, but provide benefits throughout Broward County (including the CITY).

c. Special Detail Services – are those services offered by BSO pursuant to §30.2905, Florida Statutes, which authorizes BSO to administer a program that allows public and private entities to contract for the services of sheriff's deputies during off-duty hours.

d. Countywide Services - those services that are funded by Broward County as a countywide service and provided by BSO to any and all Broward County law enforcement agencies (irrespective of whether they have an agreement with BSO) that request such service.

Each of these services is detailed further below.

DIRECT SERVICES:

The law enforcement services provided by the District Employees pursuant to this Agreement are as follows:

a. *Uniformed law enforcement patrol*
BSO shall provide uniformed law enforcement patrol services for the CITY twenty-four (24) hours per day, seven (7) days a week. Included in the staffing complement are three (3) marine patrol deputies BSO shall utilize to provide marine patrol services within the CITY boundaries.. BSO shall provide parking enforcement services utilizing existing staff as appropriate.

The Patrol Zones may be modified upon mutual written agreement of the District Chief and the City Manager. In order to address the ever-changing law enforcement needs of the City, the District Chief or the Chief's designee shall have the discretion to modify the deployment of BSO staff within those patrol zones.

Deputy Sheriffs shall make every reasonable effort to respond to emergency calls as expeditiously as possible while maintaining safe operations, subject to BSO's response standards and protocols.

b. Other Law Enforcement Services

In addition to uniformed law enforcement patrol service described above, District Employees shall provide the following law enforcement services for the CITY:

1. BSO shall provide public education programs;

2. BSO shall provide law enforcement action (i.e. DUI checkpoints, drug enforcement initiatives) as determined by the District Chief based on trends and statistics within the CITY;

3. The District Chief or designee shall attend and participate at CITY staff meetings, CITY Commission meetings as requested by the City Manager or designee;

4. Upon the request of a homeowners' association, the District Chief or designee shall attend the association's membership meeting;

5. BSO shall provide the CITY with School Resource Deputies consistent with BSO's contractual arrangement with the School Board of Broward County subject to funding. School Resource Deputies shall report to the District Chief and shall be assigned to schools subject to CITY approval. Any money paid to BSO from the School Board of Broward County for School Resource Deputies assigned to schools within the CITY shall be transferred to the CITY or credited to the CITY;

6. BSO shall provide the Specific Services set forth in Exhibit A to this Agreement;
7. BSO shall utilize Automatic License Plate Readers provided by the CITY. The cost of the purchase and maintenance of the License Plate Readers will be paid for by CITY. BSO shall use the Readers in accordance with manufacturer specifications. BSO will notify CITY of the need for repair/replacement of the Readers and
8. BSO deputies will bring cases before the CITY's Nuisance Abatement Board as appropriate.

<u>INDIRECT SERVICES:</u>

The CITY indirectly receives the benefit of the following services associated with law enforcement by virtue of this Agreement with BSO:

a) Administration;

b) Budget;
c) Central Supply;
d) Citizen Observer Patrol;
e) Compensation and Assessment;
f) Employee Assistance Program;
g) Employee Benefits;
h) Information Technology Division;
i) Equal Employment Opportunity Division;
j) Evidence;
k) Department of Community Services (Media Relations, Public Relations and Crime Stoppers);
l) Finance;
m) Fleet Control;
n) Grants Management;
o) Human Resources;
p) Institute for Criminal Justice Studies;
q) Office of the General Counsel;
r) Labor Relations;
s) Purchasing;
t) Records;
u) Recruitment;
v) Selection and Assessment;
w) Victim Services; and
x) Any other services that meet the definition of Indirect Service as mutually agreed upon by BSO and the CITY.

The costs of indirect services are allocated to this Agreement.

SPECIAL DETAIL SERVICES

1. BSO shall provide security and traffic detail deputies to support special event activities occurring within the CITY in accordance with the BSO's Special Details Policies and Procedures. BSO shall cooperate with the CITY and follow CITY procedures in the permitting of special events. Special details for which deputies must be dedicated or assigned to an event shall be worked out with the sponsoring agency. Special details for CITY-sponsored events shall be provided based upon the terms set forth in Exhibit A, Special Terms and Conditions.

2. BSO will provide special detail services for CITY sponsored events; however the District Chief, in his/her discretion, will determine whether the services can be provided through the on-duty staff assigned to the District or through a special detail. If in the District Chief's discretion, BSO is able to provide the required level of services with on-duty personnel within the District at the time of the event, the City will incur no additional costs associated with such services; however the CITY understands and acknowledges that the on-duty personnel may be called to an incident during the CITY sponsored event. For those City-Sponsored events in which the District Chief determines that BSO is unable to provide the required level of services with on-duty personnel within the District at the time of the event, BSO will provide

the required level of services through a special detail and the CITY will be charged at BSO's special detail rates at the time of the event.

Any and all special details requested by the CITY shall be paid based upon the terms and conditions of the CITY's permit filed with BSO's Special Details Unit.

District Employees shall be offered first choice to work the special details requested by the CITY for a City-sponsored event, unless interested personnel from the District cannot be identified, in which case other BSO personnel may be assigned.

COUNTYWIDE SERVICES

Unless otherwise agreed or set forth herein and subject to County funding, the following services shall be provided to the CITY by BSO as Countywide Services to the extent that such services would be provided by BSO to any and all other municipalities in Broward County that request such service irrespective of whether or not the CITY has a contract with BSO for such services:

a) Regional narcotics investigations;
b) Career criminal investigation;
c) Multi-agency gang task force operations;
d) Case filing;
e) Marine /dive team;
f) Canine deployment;
g) SWAT team response;
h) Major investigations to include homicide, aggravated felonies, abuse and neglect, sex crimes, missing persons, robbery, economic crimes, traffic homicide, bomb and arson, environmental crimes, auto theft, fugitive apprehension, crime scene technicians and major crime scene technical expertise;
i) Drug enforcement and money laundering; and
j) Strategic intelligence functions;
k) The use of the mounted patrol;
l) Law enforcement technical support services;
m) Street crimes enforcement;
n) Full-service crime lab;
o) Helicopter patrol and air rescue services;
p) Prisoner and jail services for municipal ordinance violators;
q) E-911 (law enforcement, fire, and EMS dispatch), and subject to the terms and conditions set forth in the E-911 Regional Inter-Local Agreement entered into by the CITY and the County; and
r) Any other services, excluding those indirect services listed, BSO generally provides to other law enforcement agencies throughout Broward County, whether they have a contract with BSO or not.

The CITY recognizes that the Board of County Commissioners, Broward County, Florida is the authority which establishes, allocates or otherwise provides for BSO's budget year funding.

If in any budget year, funding, for any reason, is not provided sufficient to cover BSO's ability to provide the countywide services, as determined by BSO, BSO reserves the right to notify the CITY accordingly in writing. In such an event, the countywide service shall be discontinued, unless the CITY and BSO agree otherwise by a formal written amendment to this Agreement executed with the same formalities as set forth herein.

If Broward County does not fully fund the E-911 services and equipment used for dispatch, confirmations, teletype, locates and other queries conducted by BSO for CITY, then CITY shall timely pay BSO all costs associated with the personnel and equipment for such E 911 services rendered by BSO to the extent not funded by Broward County, in addition to the other fees and costs mentioned in this Agreement.

In the event Broward County does not provide funding for E-911 communications/dispatch services for the CITY, in whole or in part, BSO's obligation to provide such services to the CITY shall cease accordingly, unless the CITY agrees to fund the shortfall in BSO funding.

SHERIFF shall provide notice to the CITY of any substantive change to the Countywide Services due to Broward County not fully funding the services or equipment as provided for under this section.

ADDITIONAL SERVICES:

Upon the request of the CITY Manager and subject to BSO's availability of resources, BSO agrees to provide such additional resources at a cost mutually agreed upon by the parties.