



**AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY/ TOWN OF _____
FOR PARTICIPATION IN THE BROWARD RAPID ALERT AND INFORMATION NETWORK**

This Agreement ("Agreement") is between Broward County, a political subdivision of the State of Florida ("County"), and City/Town of _____, a municipal corporation of the State of Florida ("City/Town") (each a "Party" and collectively referred to as the "Parties").

RECITALS

A. The Broward Rapid Alert and Information Network ("RAIN") is a flood early warning system designed to assist residents and municipal partners to safely navigate the roads and provide critical services to commuters during severe weather events.

B. The flood early warning system involves the deployment of multiple urban flood units throughout Broward County. An urban flood unit consists of a water level sensor (placed within a catch basin or curb cut), data logger with integrated alarm capabilities, cellular telemetry module, solar panel, rechargeable battery, weatherproof enclosure fixed to a pole, and corresponding mounting hardware and wiring.

C. City /Town is the owner of certain property, as defined in Section 2(a) of this Agreement (the "Locations"), that is particularly suitable for monitoring flood waters in Broward County.

D. County desires, and City/Town supports, the installation and operation of an urban flood unit and weather monitoring equipment at the Locations.

F. City/Town and County believe that such an agreement will be mutually beneficial to all Parties and in the best interest of the citizens of City/Town and Broward County, Florida generally.

Now, therefore, in consideration of the premises and of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

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

2. Locations and Grant of Use.

a. City /Town is the owner of certain real estate located within City/Town boundaries as listed on Exhibit A, attached hereto and made a part of this Agreement.

b. City/Town agrees to designate an area of approximately 25 square feet (5 feet x 5 feet) at each location ("Designated RAIN Areas") for the purposes of use as defined in Section 3. The County shall have the right to access the designated areas for the purposes of use for the duration of this Agreement.

3. Purposes of Use.

- a. County is permitted to use the Designated RAIN Areas for the purpose of: (i) constructing, operating, maintaining, inspecting, and, if necessary, removing the urban flood unit; and (ii) monitoring real-time weather and hydrologic conditions. The Designated RAIN Areas are to be used strictly for such purpose and for none other unless specifically approved by the City in writing.
- b. The use of the Designated RAIN Areas by County shall be limited and restricted so as not to conflict in any way with the use of the surrounding property by the City/Town and shall be at all times in compliance with the laws, regulations, and rules of any governing authority.
- c. At each Designated RAIN Area, City/Town will construct a concrete foundation, install conduit, and anchor and mount the County-provided pedestal and pole pursuant to the specifications provided by County's Contract Administrator. City/Town shall obtain and maintain any necessary permits and/or licenses and pay related fees associated with the permits or licenses.
- d. The placement of any and all urban flood units, weather monitoring devices, and other equipment and the structures housing them at the Designated RAIN Areas shall be the responsibility of and at the sole expense of County. County will provide any and all poles, pole pedestals, anchor bolts, and all environmental sensing equipment (i.e., telemetry units, environmental sensors, solar panels, batteries, data loggers, and other corresponding equipment) necessary to make the urban flood unit fully functional. All construction shall meet the Florida Building Code standards. County will be responsible for all maintenance of the urban flood unit and replacement of any parts that fail.

4. Term. The Agreement begins on the date fully executed by the Parties ("Effective Date") and continues for a term of ten (10) years ("Initial Term"), unless otherwise terminated or extended as provided herein. This Agreement may be extended for one (1) additional ten (10) year period by mutual agreement of the Parties, consistent with all other terms of this Agreement. The Initial Term and any extension, as those terms are defined in this paragraph, are collectively referred to as the "Term." It is specifically understood and agreed that by mutual agreement of the Parties hereto, the term of this Agreement may be shortened, subject to the provisions of Paragraph 21 hereinafter set forth.

5. Compensation. City/Town shall pay County One Thousand Dollars (\$1,000) per year per urban flood unit installed to participate in Broward RAIN. County will submit annual invoices to City/Town. County shall submit its first invoice to City/Town thirty (30) days before the date the urban flood unit is commissioned. Commissioned means all equipment associated with the urban flood unit and weather monitoring equipment has been installed, calibrated, connected to the data system, and verified to be transmitting accurate, reliable data. Thereafter, County shall submit invoices no later than the first of the fiscal year for each year of the Term of this Agreement. City/Town shall pay County within forty-five (45) days following receipt of County's

invoice and as otherwise provided by Chapter 218, Florida Statutes. County may submit the final invoice up to sixty (60) days following end of the Term of this Agreement.

6. Termination. This Agreement may be terminated:

- a. For cause by the aggrieved Party if the Party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved Party identifying the breach. If County erroneously, improperly, or unjustifiably terminates this Agreement for cause, such termination shall be deemed a termination for convenience in accordance with Section 6.c.
- b. For convenience by either Party with at least thirty (30) calendar days advance written notice to the other Party.
- c. By the Broward County Administrator ("County Administrator") or the City/Town Manager upon such notice as deemed appropriate under the circumstances if the County Administrator or City Manager determines that termination is necessary to protect the public health, safety, or welfare.

Notice of termination shall be provided in accordance with the "Notices" section of this Agreement except that notice of termination by the County Administrator or City Manager to protect the public, health, safety, or welfare may be oral notice that shall be promptly confirmed in writing.

In addition to any termination rights stated in this Agreement, the Parties are entitled to seek any and all available contractual or other remedies available at law or in equity, including recovery of costs incurred by due to the failure to comply with any material term(s) of this Agreement.

7. Surrender. Upon the expiration or earlier termination of this Agreement, County shall remove all personal property, equipment, and any items County stored or placed on or in the Designated RAIN Areas within sixty (60) days after the expiration or termination of this Agreement, unless otherwise agreed upon in writing by the Parties. Any property remaining on City/Town property after the specified removal period, without written agreement for an extension, shall be considered abandoned by County, and in such case shall be deemed the property of City/Town without further liability to County.

8. Repairs and Maintenance. County shall, at its sole cost and expense, keep and maintain the urban flood unit placed on each of the Designated RAIN Areas in a clean, safe, good, and orderly condition at all times during the Term of this Agreement. Upon failure of County to comply with this provision, the City/Town shall give written notice to County of such failure to comply. If, after a period of ten (10) days from the date of such mailing, the County has not cleaned up or repaired the subject area or obtained a reasonable extension of time to do so from the City/Town, the City/Town may terminate this Agreement in accordance with Paragraph 6.

9. Location Conflicts. City/Town has the right to cause County to move the urban flood unit and associated equipment to another nearby location if the present location conflicts with evolving municipal or transportation infrastructure. City/Town will move the pole and pedestal, construct the concrete foundation, and install conduits required at the new location at its expense. County will be responsible for moving and installing the urban flood unit and related equipment at its expense.

10. Contract Administrator. Contract Administrator means the Director of Public Works and Environmental Services Department (“PWESD”), the Assistant Director of PWESD, or such other person designated by the Director of PWESD in writing. The Contract Administrator is authorized to coordinate and communicate with City/Town to manage and supervise the performance of this Agreement. City/Town acknowledges that the Contract Administrator has no authority to make changes that would increase, decrease, or otherwise materially modify the Agreement except as expressly set forth herein or, to the extent applicable, in the Broward County Procurement Code. Unless expressly stated otherwise in this Agreement or otherwise set forth in the Code or the Broward County Administrative Code, the Contract Administrator may exercise ministerial authority in connection with the day-to-day management of this Agreement. The Contract Administrator may approve in writing minor modifications to the Agreement, including location additions and changes, that do not increase the total cost to County or waive any rights of County.

11. Governmental Immunity. Except to the extent sovereign immunity may be deemed waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by either Party nor shall anything included herein be construed as consent by either Party to be sued by a third party in any matter arising out of this Agreement. Each Party is a state agency or political subdivision as defined in Section 768.28, Florida Statutes, and shall be responsible for the acts and omissions of its agents or employees to the extent required by applicable law. County will include indemnification language, substantially in the form below, in all contracts whereby County allows a party to access the Designated RAIN Areas pursuant to this Agreement:

Contractor shall at all times hereafter indemnify, hold harmless and, at the County Attorney's option, defend or pay for an attorney selected by the County Attorney to defend County and City/Town, or their officers, agents, servants, and employees (collectively and individually “Indemnified Party”) from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by any intentional, negligent, or reckless act of, or omission of, Contractor, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, losses, liabilities,

expenditures, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against an Indemnified Party by reason of any such claim, cause of action, or demand, Contractor shall, upon written notice from County, resist and defend such lawsuit *or* proceeding by counsel satisfactory to County or, at County's option, pay for an attorney selected by County Attorney to defend County and City/Town. The obligations of this section shall survive the expiration or earlier termination of this Agreement.

12. Insurance. The Parties are entities subject to Section 768.28, Florida Statutes. County will maintain a fiscally sound and prudent risk management program with regard to its obligations under this Agreement in accordance with the provisions of Section 768.28, Florida Statutes. Upon request, County shall provide written verification of liability protection in accordance with state law. Prior to any County contractor, subcontractor, or consultant using the Designated RAIN Areas, County shall require such contractor, subcontractor, or consultant to provide insurance coverage with minimum limits of coverage indicated in Exhibit B, and naming County and City/Town as additional insureds on the commercial general liability and business automobile liability policies.

13. Notices. Whenever each party desires to give notice upon the other, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified and the place for giving notice in compliance with the provisions of this paragraph. For the present, the Parties designated the following as the respective places for giving of notice to-wit:

FOR COUNTY:

Broward County Public Works and Environmental Services Department
Attn: Mr. Lenny Vialpando
115 South Andrews Avenue, Room 329, Fort Lauderdale, Florida 33301
Email address: Lvialpando@broward.org

FOR CITY/TOWN:

Email address: _____

14. Public Records. The Parties shall comply with all applicable requirements of Chapter 119, Florida Statutes, including the requirements of Section 119.0701, Florida Statutes.

15. Binding Effect. Each person executing this Agreement represents that he or she has been empowered by his or her respective Party to enter into this Agreement and to bind such Party to the commitments and undertakings contained herein. The provisions, conditions, terms, and

covenants contained herein shall be of a binding effect. The benefits and advantages hereof shall inure to the respective Parties and the respective successors and assigns.

16. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and discussions regarding same. All commitments, agreements, and understandings of the Parties concerning the subject matter of this Agreement are contained herein.

17. Joint Preparation. This Agreement has been jointly prepared by the Parties and shall not be construed more strictly against either party.

18. Multiple Originals and Counterparts. This Agreement may be executed in multiple originals or in counterparts, whether signed physically or electronically; each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same agreement.

19. Further Assurances. The Parties shall execute all such instruments and agree to take all such further actions that may be reasonably required by any Party to fully effectuate the terms and provisions of this Agreement.

20. Amendments. Unless expressly authorized herein, no modification, amendment, or alteration of any portion of this Agreement is effective unless contained in a written document executed with the same or similar formality as this Agreement and by duly authorized representatives of the City/Town and County.

21. Survival. Either Party's right to monitor, evaluate, enforce, audit, and review any obligations to indemnify and insure, any assurances and certifications, and items of financial responsibility shall survive the expiration or earlier termination of this Agreement but shall expire upon expiration of the statute of limitation as to that particular matter. Any provision of this Agreement that contains a restriction or requirement which extends beyond the date of termination or expiration set forth herein shall survive expiration or earlier termination of this Agreement and be enforceable but shall expire upon expiration of the statute of limitation as to that particular matter.

22. Independent Contractor. Each Party is an independent contractor under this Agreement, and nothing in this Agreement shall constitute or create a partnership, joint venture, or any other relationship between the Parties. In providing services, neither that Party nor its agents shall act as officers, employees, or agents of the other Party. The Parties shall not have the right to bind either Party to any obligation not expressly undertaken by that Party under this Agreement.

23. Third Party Beneficiaries. Neither party intends to primarily or directly benefit a third party by this Agreement. Therefore, the Parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

24. Assignment. Neither this Agreement nor any right or interest herein may be assigned by either Party without the prior written consent of the other Party. This provision shall not be construed to prohibit County from allowing its authorized subcontractors from performing services for County to use the Designated RAIN Areas; such use, however, shall not confer any right of the other Party to claim any rights under this Agreement. If a Party violates this provision, the other Party shall have the right to immediately terminate this Agreement.

25. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term. County's or City/Town's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or a modification of this Agreement. A waiver of any breach shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

26. Compliance with Laws. Each Party shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations.

27. Severability. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction or contrary to applicable law, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

28. Interpretation. The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include any other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all subsections thereof, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to "days" means calendar days, unless otherwise expressly stated. Any reference to approval by County shall require approval in writing, unless otherwise expressly stated.

29. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision within an article or section of this Agreement, the article or section shall prevail and be given effect.

30. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall 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 shall 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 shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, CITY/TOWN AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

31. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached Exhibit is incorporated into and made a part of this Agreement.

32. Force Majeure. If the performance of this Agreement, or any obligation hereunder, is prevented by reason of hurricane, earthquake, or other casualty caused by nature, epidemic, pandemic, or other public health emergency, or by labor strike, war, or by a law, order, proclamation, regulation, ordinance of any governmental agency (collectively, "Force Majeure Event"), the Party so affected, upon giving prompt notice to the other Party, shall be excused from such performance to the extent of such prevention, provided that the affected Party shall first have taken reasonable steps to avoid and remove such cause of nonperformance and shall continue to take reasonable steps to avoid and remove such cause, and shall promptly notify the other Party in writing and resume performance hereunder whenever such causes are removed; provided, however, that if such inability to perform due to the Force Majeure Event exceeds sixty (60) consecutive days, the Party that was not prevented from performance by the Force Majeure Event has the right to terminate this Agreement upon written notice to the other Party. This section shall not supersede or prevent the exercise of any right either Party may otherwise have to terminate this Agreement.

33. Representation of Authority. Each individual executing this Agreement on behalf of a Party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such Party and does so with full legal authority.

(Signature Pages to follow)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: Broward County, through its Board of County Commissioners, signing by and through its County Administrator, authorized to execute same by Board action on the _____ day of _____, 20____; and City/Town of _____, signing by and through its duly authorized representative.

COUNTY

BROWARD COUNTY, by and through
its County Administrator

By: _____
County Administrator

____ day of _____, 20____

Approved as to form by
Andrew J. Meyers
Broward County Attorney
115 South Andrews Avenue, Suite 423
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600

By _____
Jennifer D. Brown (Date)
Senior Assistant County Attorney

By _____
Maite Azcoitia (Date)
Deputy County Attorney

JDB/gmb
County Agreement Flood Monitoring Site [City/Town]
____/____/2025
#_____

**AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY/TOWN OF _____
FOR PARTICIPATION IN THE BROWARD RAPID ALERT AND INFORMATION NETWORK**

CITY/TOWN

CITY/TOWN OF _____, a
Florida Municipal Corporation

ATTEST:

By: _____
CITY/TOWN MAYOR

CITY/TOWN CLERK

Print Name

____ day of _____, 20____

I HEREBY CERTIFY that I have approved this
Agreement as to form and legal sufficiency
subject to execution by the parties:

City/Town Attorney

Exhibit A
Designated RAIN Areas

DRAFT

Exhibit B
Minimum Insurance Requirements

DRAFT