



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.13.

4/9/2024

Subject:

Brevard County Lifeguard Services Grant Program

Fiscal Impact:

The fiscal impact to the General Fund is dependent upon the level of County service provided and City participation. Based on current level of service, the FY25 anticipated program cost (combined tourist development tax (TDT) and general fund) is \$3,742,075. If cities do not participate and levels of service are adjusted accordingly, the FY25 anticipated costs to the General Fund is \$1,640,299 (no TDT contribution). If cities fully participate at requested levels of service, the FY25 anticipated cost to the General Fund is \$2,755,154.

Dept/Office:

County Manager's Office

Requested Action:

It is requested that the Board of County Commissioners:

- 1) Review and approve the Brevard County Lifeguard Services Grant Program;
- 2) Provide the County Manager and County Attorney the authority to offer eligible municipalities that have beaches along their managed parks the opportunity to participate in the grant program; and
- 3) Provide the County Manager the authority to execute the Grant Agreements, Notice of Awards, Request for Payments, and any necessary budget change requests associated with this program and agenda item.

Summary Explanation and Background:

At the February 29, 2024, Budget Workshop, the Board of County Commissioners provided direction on the establishment of a matching grant program for ocean lifeguard services. This proposed Lifeguard Services Grant Program, if approved by the Board, will be available to all municipalities that maintain beaches along Brevard's coast.

For beaches maintained by municipalities, this program will provide for a grant of 50% of the County costs for lifeguard services within each municipality with a match requirement of 50% from each participating municipality, based upon their desired level of service.

The County's portion of funding for these grants will be paid for out of the funds allocated for Ocean Rescue, which resides in the General Fund. This grant program will allow each municipality to choose their level of service with the County or, alternatively, use these grant funds to fund their own lifeguard programs.

Upon Board approval, staff will begin offering each eligible beachside municipality this grant opportunity to secure ocean lifeguard protection for beaches along municipal maintained parks. Staff will provide a deadline prior to July 1, 2024 for each affected municipality to secure matching funds for their desired level of public safety services through the use of ocean lifeguards. As this is a cost match grant program, a lack of response/request from a municipality to participate will reduce ocean rescue resources (both staffing and equipment) that would have been provided to eligible municipalities making these resources available for other Board designated public safety priorities.

Clerk to the Board Instructions:



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

April 10, 2024

M E M O R A N D U M

TO: Frank Abbate, County Manager

RE: Item F.13., Brevard County Lifeguard Services Grant Program

The Board of County Commissioners, in regular session on April 9, 2024, reviewed and approved the Brevard County Lifeguard Services Grant Program; provided you and the County Attorney the authority to offer eligible municipalities that have beaches along their managed parks the opportunity to participate in the Grant Program; and authorized you to execute the Grant Agreements, Notice of Awards, Request for Payments, and any necessary Budget Change Requests associated with this Program and Agenda Item.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

/ds

cc: County Attorney
Finance
Budget

LIFEGUARD SERVICES GRANT PROGRAM GUIDELINES

1. INTRODUCTION & BACKGROUND

This grant is provided by the Brevard County Board of County Commissioners (BOCC) through the use of General Funds to partially fund/support lifeguard services on beaches along city/town-maintained parks.

The BOCC has authorized the use of General Funds to be used to provide for a 50% cost share for lifeguard services based upon the calculated rate for services provided to the Board of County Commissioners at the February 29, 2024, Board Workshop.

The purpose of this grant program is as follows:

1. Create a matching grant program for lifeguard services which will be available to all municipalities that maintain beaches along Brevard's coast.
 - For beaches owned by municipalities - this program will provide for a grant of 50% of the County costs for lifeguard services within each municipality with a match requirement of 50% from said municipality.
 - The funding of the grant will be paid for out of general funds.
 - The grant program will allow each municipality to choose their level of service with the county or use funding for their own lifeguard services, based on the level of service provided on a 50% cost share.
2. Municipalities are required to let the County know prior to June 30th of their anticipated level of service for Fiscal Year 2024/2025.

2. STATEMENT OF APPLICANT RESPONSIBILITY

Please read this entire document carefully.

If the grant is awarded, the applicant agrees to be bound by all terms contained in their application, these guidelines, and any supporting documents.

3. APPLICATION PROCESS AND KEY DATES

The municipality must notify the County Manager, in writing no later than June 30, 2024 for FY 2024/2025 funding (October 1st through September 30th).

The Fire Rescue Department will monitor the agreed-upon lifeguard service levels to ensure compliance with the requested service level.

The Grant Program will be administered by the County Manager's Office.

4. ELIGIBILITY

The primary purpose of the Lifeguard Services Grant Program is to provide lifeguard services to beaches along County-maintained and City-maintained parks.

To be eligible to apply for a Lifeguard Services Grant, an eligible municipality must:

1. Provide notice to the County of its intention to be considered for a Lifeguard Services Grant Program;
2. Designate the Park/Beach location and the service/commitment level;
3. State the number of full-time towers and the number of seasonal towers per location; and
4. Establish if the municipality plans to utilize staffing/services as provided by Brevard County Fire Rescue (Ocean Rescue Division) or if the municipality plans to provide their own capital resources and trained personnel.

5. AVAILABLE FUNDS

Funds are available based upon the following criteria:

Annual Cost-Share Amounts		
Per Tower (Assets & Salary + Benefits)	Per Full-Time Tower	Per Seasonal Tower
	\$166,771.33 (50% Cost Share of \$333,542.66)	\$63,967.08 (50% Cost Share of \$127,934.17)

Funds may be available commencing with fiscal year 2024/25.

Upon receipt of a duly executed Grant Agreement, payment shall be made in twelve (12) equal monthly payments over the term of this contract. The 50% cost share payment shall commence within thirty (30) days of the start of the new fiscal year and provided to the participating municipality for those municipalities utilizing city-provided services. For those municipalities utilizing county-provided services, the municipality should provide payment to the County for the applicable 50% cost share in (twelve) 12 equal monthly payments over the term of this contract. The 50% cost share payment shall commence within thirty (30) days of the start of the new fiscal year.

In the event the municipality is unable to properly staff their towers or discontinues providing this service during the lifeguard season, these funds are subject to claw back on a pro-rata basis.

6. ELIGIBLE USE OF FUNDS

Funds received for the Lifeguard Services Grant Program must be used for lifeguard services at the location(s) as designated within the grant application.

7. PARTICIPATION REQUEST PROCEDURES

Municipalities participating in the Lifeguard Services Grant Program should complete the application which includes the following:

1. The Fiscal Year grant funding is requested (FY 2024/2025);
2. The location(s) of need and the appropriate type and number of towers per location;
3. Designate if lifeguard services are to be County-provided or City-provided;
4. Calculation of 50% cost share request;
5. All requests for funding should be submitted in accordance with the timelines outlined in Section 3. - Application Process and Key Dates.

8. EVALUATION CRITERIA AND APPROVAL PROCESS

All submissions should be received as follows:

1. Received by the deadline(s) as specified in Section 3.- Application Process and Key Dates;
2. Submissions are complete and contain all required information;
3. Applications are for eligible beach locations;
4. Applications provide for the requested number of full-time and/or seasonal towers; and
5. Applications have been executed by the municipality.

9. REPORTING REQUIREMENTS

Applicants are required to complete an annual report for each fiscal year grant cycle providing the following:

1. Location for which grant funds were received;
2. For each location/tower, was it County-provided services or City-provided services;
3. For City-provided services, provide written certification that the towers were staffed and remained open during full-time/seasonal timeframe, as applicable;
 - a. If City-provided services and towers were not staffed/remained open during applicable timeframes, a pro-rata portion of the grant is subject to claw back.
4. Annual Reports shall be submitted no later than November 30th following completion of the fiscal year in which grant funds were received.

10. TERMS & CONDITIONS

Upon award of the Lifeguard Services Grant, the applicant agrees to be bound by the following terms and conditions:

For County-provided services:

No later than June 30, 2024, the municipality shall provide notice to the County Manager for the chosen level of service (type of and number of towers) at eligible beach location(s).

Upon receipt of a duly executed Grant Application, payment for the applicable 50% cost share should be processed within thirty (30) days of the start of the new fiscal year and provided to the County by those municipalities utilizing County-provided lifeguard services.

Brevard County is a United States Lifesaving Association (USLA) certified agency.

For City-provided services:

No later than June 30, 2024, the municipality shall provide notice to the County Manager of the chosen level of service (type of and number of towers) at eligible beach location(s).

Full-Time Tower Funding Level Requirements (per Tower):

Full time towers operate 8 hours per day, 7 days a week - 365 days during the year. Each full-time tower has 2 lifeguards on duty as staffing allows with supervisory staff support. Full time employees usually work a normal 40-hour work week depending on beach conditions. Brevard County Ocean Rescue operates 4 daily roaming patrols, 8 hours per day, 7 days per week throughout the year. Each roaming patrol has 1-2 lifeguards on duty as staffing allows.

Seasonal Tower Funding Level Requirements (per Tower):

Seasonal towers shall operate 8 hours per day on weekends from March to May. During Spring Break and holidays, they shall operate 8 hours daily. June and July seasonal towers must operate 8 hours per day 7 days per week. From August to September (Labor Day) seasonal towers shall operate 8 hours per day on weekends and holidays as schools go back in session. Each seasonal tower shall have 2 lifeguards on duty as staffing allows and a supervisor for staff support.

All ocean lifeguard services shall be provided in accordance with USLA standards as evidenced by certification or accreditation by the USLA or an equivalent certification body approved in writing by Brevard County.

This grant is contingent upon documentation that the terms and conditions of receipt of grant funds have been met, and receipt of the annual report, as applicable.

This grant is not a lien, either legal or equitable.

City agrees and understands that all funding authorized through this grant shall be used only for eligible activities in accordance with the Lifeguard Services Grant Program.

Legal Responsibilities and Waiver of Trial by Jury:

The Parties agree that, in the case of a dispute, the Parties will first work to resolve the dispute informally. In case of legal action, each Party agrees to the following terms: To bear its own attorney's fees and costs; that venue is in a court of competent jurisdiction in Brevard County; **TO WAIVE ANY RIGHT TO A JURY TRIAL**; and that this grant is governed according to the laws of the State of Florida.

City agrees to comply with all federal, state and local laws. If the City chooses grant funding for City provided services, these services are to be provided independently and nothing contained in this Agreement shall be construed to be inconsistent with this relationship or status. Nothing in this grant shall be interpreted or construed to make the City, or any of its agents, or employees to be the agent, employee or representative of the County.

The City shall not engage the services of any person or persons now employed by Brevard County, on a private basis, to provide services relating to this grant without written consent from the Brevard County Manager's Office. The waiver by the County of any of City's obligations or duties under this grant shall not constitute a waiver of any other obligation or duty of the other Party under this grant, nor shall a waiver of any such obligation or duty constitute a continuing waiver of that obligation of duty.

This grant shall not obligate or make the County or the City liable to any party other than the Parties. Oversight of any City staff or contracted employee will be the responsibility of City. If any provision of this grant is held invalid, the remainder of this grant agreement shall not be affected if such remainder continues to conform to the terms and requirements of applicable law.

11. INDEMNIFICATION AND HOLD HARMLESS

For City-provided services, the City shall indemnify, defend, and hold harmless the County for the negligent acts and omissions of the City's own employees and agents in the provision of services sponsored by this grant, to the extent permitted by law, against any and all third-party claims, suits, proceedings, losses, liabilities, damages, fees and expenses (including reasonable attorney's fees and expenses) related to the services. The City expressly agrees that County has no liability to the City for City's provision of services under this grant program. Nothing in this grant is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. . Nothing contained in this paragraph is intended to nor shall it constitute a waiver of sovereign immunity of the County or the protections of or limits on the amounts established pursuant to Section 768.28, Florida Statutes. The Parties acknowledge specific consideration has been exchanged for this provision.

12. AMENDMENT, ASSIGNMENT OF AGREEMENT

Amendments to this grant may be initiated by either Party. Amendments shall be formally ratified and approved by written amendment to the grant by both Parties. The City shall not assign any portion of this grant.

All conditions and assurances required by this grant are binding on the Parties.

13. INSURANCE

If you are awarded a grant for City-provided services, you will be required to procure and maintain, at your own expense and without cost to the County, the following types of insurance. In the sole discretion of the County Manager's Office, the County may require additional amounts or types of insurance depending on the type of event or activity. Any additional requirements will be included in the notice of grant award. The insurance coverage enumerated below constitutes the minimum requirements and shall in no way lessen or limit the liability of the GRANTEE under the terms of the Grant.

- a. General Liability Insurance policy with a \$1,000,000 combined single limit for each occurrence to include personal injury, contractual liability, and errors and omissions coverage.
- b. Workers' Compensation and Employers Liability insurance policy covering all employees of the GRANTEE directly or indirectly engaged in work on this Grant with limits of coverage as required by State law.

GRANTOR shall be endorsed as Additional Insured. The following items are required of each Certificate of Insurance:

- Box labeled "Certificate Holder" – shall read "Brevard County"
- Box labeled "Description of Operations/locations/vehicles" – shall read "Brevard County is listed as an Additional insured"
- Provide the Endorsements pages which provide that the County is endorsed as an additional Insured

It is the responsibility of the GRANTEE to provide insurance documents to the County Manager's staff prior to the commencement of work under this grant demonstrating the insurance requirements have been met and to re-submit updated insurance prior to its expiration if this occurs during the grant period.

14. TERMINATION

If either Party fails or refuses to perform any of the provisions required under the grant guidelines, application, or otherwise fails to timely satisfy the grant provisions, either Party may notify the other Party in writing of the nonperformance and terminate the grant or such part of the grant award as to which there has been a delay or a failure to properly perform. Such

termination is effective upon the defaulting Party's receipt of the Notice of Termination. Upon termination, the County has no further obligation to the City, and shall make no further payments pursuant to the grant agreement.

Any payment made in advance of services to be provided shall be reimbursed to the County on a pro-rata basis.

15. RIGHT TO AUDIT RECORDS

In performance of this grant, the City shall keep books, records, and accounts of all activities related to this grant, in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the City in conjunction with the performance of this grant shall be open to inspection during regular business hours by an authorized representative of the office and shall be retained by the City for a period of five (5) years after the end of the grant period, unless returned to the County sooner.

16. SCRUTINIZED COMPANIES

- A. The City certifies that it and its Subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, Florida Statutes, the County may immediately terminate this grant at its sole option if the City or its Subcontractors are found to have submitted a false certification; or if the City, or its Subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel during the term of this grant.
- B. If this grant is for more than one million dollars, the City further certifies that it and its Subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes.
- C. Pursuant to Section 287.135, Florida Statutes, the County may immediately terminate this grant at its sole option if the City, its affiliates, or its Subcontractors are found to have submitted a false certification; or if the City, its affiliates, or its Subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the grant.
- D. The City agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this grant. As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize these contracting prohibitions, this section shall become inoperative and unenforceable.

17. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)

- A. The City shall comply with the applicable provisions of section 448.095, Florida Statutes. Upon request, the City shall provide acceptable evidence of their enrollment in the U.S. Department of Homeland Security's E-Verify system. Acceptable evidence shall include, but not be limited to, a copy of the fully executed E-Verify Memorandum of

Understanding for the business. If applicable, a City may alternatively provide an affidavit as to compliance with section 448.095(3)(b)(2), Florida Statutes.

- B. A City meeting the definition of a contractor in section 448.095, Florida Statutes shall require its subcontractors to provide the affidavit specified at section 448.095 (2)(b), Florida Statutes.
- C. As applicable, the City agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including, if applicable, participation by its subcontractors as required by section 448.095(2)(b), Florida Statutes, and to make such records available to the County consistent with the terms of City's enrollment in the program.
- D. Compliance with the terms of this section is made an express condition of this Grant and the County may treat a failure as grounds for immediate termination of this Grant.
- E. A City who registers with and participates in the E-Verify program may not be barred or penalized under this section if, as a result of receiving inaccurate verification information from the E-Verify program, the City hires or employs a person who is not eligible for employment.
- F. Nothing in this section may be construed to allow intentional discrimination of any class protected by law.
- G. The County will not intentionally award a publicly-funded Grant to any City who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 United States Code (USC) section 1324a(e)(section 274A(e) of the Immigration and Nationality Act (INA)). The County shall consider a City's intentional employment of unauthorized aliens as grounds for immediate termination of this Grant.

18. PUBLIC RECORDS DISCLOSURES

The City agrees that Florida has broad public disclosure laws, and that any written communications with the City, to include emails, email addresses, a copy of this grant, and any supporting documentation related to this grant are subject to public disclosure upon request, unless otherwise exempt or confidential under Florida Statute. Public records are defined as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. In this case, the portion of the City's records relating to the acceptance and use of the County grant are public records that may be subject to production upon request. The City agrees to keep and maintain these public records until completion of the event or activity. Upon completion, the City may continue to retain the public records for five years, or transfer, at no cost, to the County, any public records in its possession in an electronic format readable by County.

Upon a request for public records related to this grant, the County will forward any such request to the City. The County will respond to any public records request. Upon request, as to records in the City's possession, the City will provide access or electronic copies of any pertinent public records related to this grant to the County within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes. The City agrees that

the County will consider all documentation the City submits to Brevard County to support payment of this grant to be subject to public records disclosure.

19. NOTICES

Any notices required or permitted by this grant shall be in writing and shall be deemed delivered upon hand delivery, or three (3) days following deposit in the United States postal system, postage prepaid, return receipt requested, addressed to the parties at the following addresses:

GRANTOR/County:
Frank Abbate, County Manager
Brevard County Manager's Office
2725 Judge Fran Jamieson Way
Building C, Suite 301
Viera, FL 32940
Phone: (321) 633-2001

GRANTEE/CITY:
Contact information for City

20. EFFECTIVE DATE

The grant shall be effective on the last day the Parties execute the grant award (the "Effective Date"), with payment made in twelve (12) equal monthly payments over the term of this contract commencing within 30 days of the beginning of the applicable fiscal year in which the grant-funded lifeguard services are to be provided.

The Parties agree that all work performed by the City prior to the effective date but during the term of the grant is subject to the provisions of this Agreement, and do not require additional funding.

21. ENTIRETY, CONSTRUCTION OF AGREEMENT, AND COUNTERPARTS

The grant guidelines, application, Clerk to the Brevard County Board of County Commissioners memorandum ("Clerk's Memo"), any included exhibits or required documentation and the grant award represents the entire understanding between the Parties in its entirety and no other agreements, either oral or written, exist between County and the City.

The Parties acknowledge that they fully reviewed all requirements and had the opportunity to consult with legal counsel of their choice, and that this grant shall not be construed against any Party as if they were the drafter of this grant. This grant may be executed in counterparts all of which, taken together, shall constitute one and the same. The City warrants that it is possessed with all requisite lawful authority to apply for and accept this grant.

22. FOREIGN DISCLOSURES

The City will complete the County's foreign disclosure form and make any required disclosures to the State of Florida.

23. GRANT AWARD

Upon approval by the Brevard County Board of County Commissioners, the County will issue a Notice of Award to the City listing the grant award amount and any additional conditions or restrictions that may differ from the grant guidelines, grant application, Clerk's Memo, and other accompanying documents. Should there be any conflict, the Notice of Award shall control to the extent of said conflict.

Brevard County Lifeguard Services Grant Application Form

Section 1 - Application Period

Fiscal Year for Lifeguard Services Funding Request: FY _____ / _____

Section 2 - Contact Information

Grantee/Municipality Name: _____

Contact Name: _____

Contact Address: _____

Contract Phone Number: _____

Section 3 - Service Location (Please Complete a Form for Each Location, as Applicable)

Location/Park Name: _____

Location/Park Address: _____

Section 4 - Service Type

County-Provided Services: _____

If County Provided Services,
go to Section 5

Check Applicable Box

City-Provided Services: _____

If City Provided Services, skip
to Section 6

Section 5 - Payment Calculation for County-Provided Lifeguard Services

Number of Full-Time Towers Needed:	@ \$166,771.33 (50% Cost Share of \$333,542.66)	Total per Full-Time Towers:	
Number of Seasonal Towers Needed:	@ \$63,967.08 (50% Cost Share of \$127,934.17)	Total per Seasonal Towers:	
Total Payable to Brevard County for Lifeguard Services (50% Cost-Share)*:			

Section 6 - Grant Calculation for City-Provided Lifeguard Services

Number of Full-Time Towers Needed:	@ \$166,771.33 (50% Cost Share of \$333,542.66)	Total per Full-Time Towers:	
Number of Seasonal Towers Needed:	@ \$63,967.08 (50% Cost Share of \$127,934.17)	Total per Seasonal Towers:	
Total Payable to the City for Lifeguard Services (50% Cost-Share)*:			

* - Payment shall be made in twelve (12) equal monthly payments over the term of this contract. The 50% cost share payment shall commence within thirty (30) days of the start of the new fiscal year.

(Signature)

(Signature)

(Title)

Frank Abbate, County Manager

(Date)

(Date)

Brevard County Lifeguard Services Grant Annual Report		
Section 1 - Grant Receipt Period		
Fiscal Year for Lifeguard Services Funding Received:	FY _____/_____	
Section 2 - Contact Information		
Grantee/Municipality Name:		
Contact Name:		
Contact Address:		
Contract Phone Number:		
Section 3 - Service Type		
County-Provided Services:		If County Provided Services, skip to Section 5
City-Provided Services:		If City Provided Services, go to Section 4
Section 4 - Certification of Grant Agreement Criteria for Lifeguard Services		
Location/Park	Type of Tower (Full-time or Seasonal)	Number of Towers
Section 5 - Certification		
County-Provided Services:	By signing this form, I certify that the 50% required cost-share for the above-referenced towers was provided to the County in accordance with the Brevard County Lifeguard Services Grant Program.	
City-Provided Services:	By signing this form, I certify that any City-Operated towers for which County Grant Funds were received, were staffed, and remained open during the applicable full-time/seasonal timeframe, in accordance with the Lifeguard Services Grant Program Guidelines.	

 (Signature)

 (Title)

 Date

**Annual Reports shall be submitted no later than November 30th
following completion of the fiscal year in which grant funds were received.**

**GRANT AGREEMENT BETWEEN
THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS
AND
CITY OF _____
FOR
COUNTY-PROVIDED LIFEGUARD SERVICES PROGRAM**

THIS GRANT AGREEMENT (hereinafter the "Agreement") is made and entered under the authority of Section 125.0104, Florida Statutes and Chapter 102, Article III, Brevard County Code, by and between the GRANTOR, The Board of County Commissioners of Brevard County Florida, a political subdivision of the State of Florida (hereinafter referred to as "GRANTOR"), and the GRANTEE, City of _____, a political subdivision of the State of Florida (hereinafter referred to as the "GRANTEE"). This Agreement is administered by the County Manager's Office, a Department of Brevard County, Florida.

RECITALS

WHEREAS, pursuant to the approval of the Board of County Commissioners on _____, the GRANTOR implemented a Lifeguard Services Grant Program [for Fiscal Year 2024/2025] to provide a mechanism for cost-sharing of lifeguard services on beaches that are along city-owned or city-maintained parks in Brevard County; and

WHEREAS, Brevard County has beaches with multiple public access points via city-owned and/or city-maintained parks that are accessed by residents and tourists; and

WHEREAS, it is the desire of the Board of County Commissioners of Brevard County, Florida to provide safe access to the beaches with the provision of ocean lifeguard services during established hours; and

WHEREAS, on _____ the Board of County Commissioners approved the Lifeguard Services Grant Program and authorized the County Manager to execute the Grant Agreement on behalf of the GRANTOR;

WHEREAS, to secure funding for the upcoming fiscal year, on _____, the City of _____ submitted a request for cost-share for County-Provided Lifeguard Services under this program, in the amount of \$ _____; and

NOW, THEREFORE, both Parties agree as follows:

1. **Recitals.** The Recitals above are true and correct and incorporated into this Grant.

2. Description of Program.

This grant is provided by the Brevard County Board of County Commissioners through the use of General Funds to partially fund/support lifeguard services on beaches along city/town-maintained parks.

The Board of County Commissioners has authorized the use of General Funds to be used to provide for a 50% cost share for lifeguard services based upon the calculated rate for services provided to the Board of County Commissioners at the February 29, 2024, Board Workshop.

The purpose of this grant program is as follows:

- 1) Create a matching grant program for lifeguard services which will be available to all municipalities that maintain beaches along Brevard's coast.
 - For beaches owned by municipalities - this program will provide for a grant of 50% of the County costs for lifeguard services within each municipality with a match requirement of 50% from said municipality.
 - The funding of the grant will be paid for out of general funds.
 - The grant program will allow each municipality to choose their level of service with the county or use funding for their own lifeguard services, based on the level of service provided on a 50% cost share.
- 2) Municipalities are required to inform the County prior to June 30, 2024 of their anticipated level of service for Fiscal Year 2024/2025.

3. Service Levels and Tower Funding Requirements.

a) Funding requirements are based upon the following criteria:

Annual Cost-Share Amounts		
Grant Amount	Full-Time Tower	Seasonal Tower
Per Approved Tower (Assets & Salary + Benefits)	\$166,771.33 (50% Cost Share of \$333,542.66)	\$63,967.08 (50% Cost Share of \$127,934.17)

b) Full-Time Tower Funding Level Requirements (per Tower):

Full time towers operate 8 hours per day, 7 days a week - 365 days during the year. Each full-time tower has 2 lifeguards on duty as staffing allows with supervisory staff support. Full time employees usually work a normal 40-hour work week depending on beach conditions. Brevard County Ocean Rescue operates 4 daily roaming patrols, 8 hours per day, 7 days per week throughout the year. Each roaming patrol has 1-2 lifeguards on duty as manning allows.

c) Seasonal Tower Funding Level Requirements (per Tower):

Seasonal towers shall operate 8 hours per day on weekends from March to May. During Spring Break and holidays, they shall operate 8 hours daily. June and July seasonal towers must operate 8 hours per day 7 days per week. From August to September (Labor Day) seasonal towers shall operate 8 hours per day on weekends and holidays as schools go back in session. Each seasonal tower shall have 2 lifeguards on duty as staff allows and a supervisor for staff support.

d) Services:

- i. The County agrees to provide First Responder Certified Lifeguard services in accordance with United States Lifesaving Association (USLA) guidelines for the portions of the City municipal beach(es) located as designated in Addendum 1, within a portion of the beach 100 yards north and south of the lifeguard tower.
- ii. Lifeguard location for the lifeguarded beach will be at the discretion of the County.
- iii. Lifeguard personnel shall be on duty for the time periods as defined in Addendum 1.
- iv. The parties mutually agree and understand that in inclement weather or any other incident or occurrence which, in the sole discretion of the County, requires the closing of all or part of the beach for the protection of the public, the County may discontinue all or part of its lifeguard services in the affected areas for the duration of such condition, incident or occurrence. The County shall immediately notify the City when such beach closings occur. The County agrees to cooperate fully with the City in all matters relating to beach safety and the performance of the lifeguards. The County will provide radios and training to ensure that the lifeguards have the capacity to contact Brevard County Dispatch. Lifeguard response to emergencies occurring at adjacent beaches will be in accordance with County procedures.

- v. The parties agree and understand that in the event of a water related incident, the Brevard County Lifeguard Division personnel will maintain command/control of the scene until the victim(s) is removed from the water. After removal, the County Lifeguard Division will transfer the incident command/control of the scene to the law enforcement agency with jurisdiction of the location of the scene, and/or Fire Rescue. After removal, if law enforcement or Fire Rescue have not yet arrived on scene, then the Lifeguard Division will maintain incident command/control of the scene until law enforcement or Fire Rescue arrives.

4. Grant Award and Payments Due.

a) Grant and Term. GRANTOR awards GRANTEE a Grant in the amount of \$_____ which is a 50% cost-share the total expenditures. The remaining portion of the costs due to Brevard County is \$_____ which is payable to Brevard County Board of County Commissioners in twelve (12) equal monthly payments over the term of this contract, commencing within 30 days of the beginning of the fiscal year. The Grant term is October 1, 2024 to September 30, 2025. The Parties agree that all work related to the services occurring prior to the execution of this Grant are subject to the terms of this Grant.

b) This Agreement is contingent upon documentation that the terms and conditions of receipt of the grant funds have been met, and receipt of the annual report, which is to be submitted no later than November 30th following the completion of the fiscal year in which funds were received.

Additionally, GRANTOR may reduce services to GRANTEE on a pro-rata basis if GRANTEE does not make any required cost-match payment.

This Grant is not a lien or claim, either legal or equitable, on any of the GRANTOR's revenues. GRANTEE agrees and understands that all funding authorized through this Agreement shall be used only for eligible activities as outlined in the Lifeguard Services Grant Program Guidelines, GRANTEE's Grant Application, attached hereto as **Attachment A and B**, respectively, and as approved by the Board of County Commissioners of Brevard County, Florida in accordance with State and Local law, and this Agreement.

5. Reporting Procedures; Payment Procedures.

In order to receive lifeguard services pursuant to the Lifeguard Services Grant Program, the GRANTEE must notify the County Manager, in writing no later than June 30, 2024, of the funding service level for Fiscal Year 2024/2025 (October 1st through September 30th).

The GRANTEE must submit the application document outlining the location(s), type of lifeguard tower/service level, and number of lifeguard towers that GRANTEE requests to allow County residents and tourists to have safe access to the beaches that runs along a City-owned or City-maintained park. Applications for Fiscal Year 24/25 are due no later than June 30, 2024.

Upon receipt of a duly executed Grant Agreement, payment for the applicable 50% cost share should be processed in twelve (12) equal monthly payments over the term of this contract, commencing within thirty (30) days of the start of the new fiscal year and provided to Brevard County Board of County Commissioners. Notification to the GRANTEE shall be through the Notice of Award/Request for Payment (**Attachment C**).

6. Miscellaneous Provisions.

a) Third Parties. This Agreement shall not obligate or make GRANTOR or the GRANTEE liable to any party other than the Parties to this Agreement. Oversight of any GRANTEE staff will be the responsibility of the GRANTEE.

b) Severability. If any provision of this Agreement is held invalid or unenforceable, the remaining provisions of this Agreement will remain in effect and, if needed in order to carry out the original intention of the Agreement, the parties will negotiate in good faith a mutually acceptable amendment to this Agreement to affect such intention.

c) Disputes, Attorneys fees, Venue, **WAIVER of JURY TRIAL**. The Parties agree that, in the case of a dispute, the Parties will first work to resolve the dispute informally. In case of legal action, each Party agrees to the following terms: To bear its own attorney's fees and costs; that venue is in a court of competent jurisdiction in Brevard County; **TO WAIVE ANY RIGHT TO A JURY TRIAL AND SUCH TRIAL SHALL BE NON-JURY**; and that this Agreement is governed according to the laws of the State of Florida.

d) Compliance with Laws, Regulations, etc. GRANTEE agrees to comply with all federal, state and local laws, and is responsible for any and all permits, fees, and licenses necessary to

perform the Grant. Nothing in this Agreement shall be construed as a waiver by GRANTOR of any requirements for local permits, fees, and licenses.

e) Independent Contractor. GRANTOR shall perform the services independently under this Agreement and nothing contained in this Agreement shall be construed to be inconsistent with this relationship or status. Nothing in this Agreement shall be interpreted or construed to make GRANTEE, or any of its agents, or employees to be the agent, employee or representative of the GRANTOR.

f) Employment of County Employees. GRANTEE shall not engage the services of any person or persons now employed by Brevard County, on a private basis, to provide services relating to this Agreement without written consent from GRANTOR.

g) Unauthorized Alien Workers. (GRANTEE agrees it shall not knowingly engage the services of any person who is an unauthorized alien worker, thus constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324e (Section 274A(e) of the Immigration and Nationality Act "INA"). GRANTOR shall consider GRANTEE's intentional employment of unauthorized aliens as grounds for immediate termination of this Agreement.

7. Liability and Insurance.

a) Neither Party, nor its respective officers, employees, or agents shall assume any liability for the acts, omissions, or negligence of the other Party, or the other Party's officers, employees, or agents.

b) The Parties further agree that nothing contained herein shall be construed or interpreted as a waiver of sovereign immunity or the statutory limitations of liability under Section 768.28, Florida Statutes by either Party.

c) Each Party shall acquire and maintain throughout the term of the Agreement such liability insurance as required to respond to their obligations under this Agreement and Section 768.28, Florida Statutes.

8. Amendment, Assignment of Agreement. Amendments to this Agreement may be initiated by either Party. Amendments shall be formally ratified and approved by written amendment to this Agreement by both Parties. The GRANTEE shall not assign any portion of this Agreement without the written permission of GRANTOR. Any subcontracted services by GRANTEE shall be the sole responsibility of GRANTEE. The County Manager is authorized to sign amendments to this Agreement which do not increase the total dollar amount of the Grant.

9. Termination. If either Party fails or refuses to perform any of the provisions of this Agreement, or otherwise fails to timely satisfy the Grant provisions, either Party may notify the other Party in writing of the nonperformance and terminate this Agreement or such part of the Agreements as to which there has been a delay or a failure to properly perform. Such termination is effective upon the defaulting Party's receipt of the Notice of Termination. Upon Termination, GRANTOR has no further obligation to GRANTEE.

The waiver by the GRANTOR of any of GRANTEE's obligations or duties under this Agreement shall not constitute a waiver of any other obligation or duty of the other party under this Agreement, nor shall a waiver of any such obligation or duty constitute a continuing waiver of that obligation of duty.

10. Right to Audit Records. In performance of this Agreement, GRANTEE shall keep books, records, and accounts of all activities related to this Agreement, in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by GRANTEE in conjunction with this Agreement and the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the office and shall be retained by GRANTEE for a period of five (5) years after termination of this Agreement, unless returned to GRANTOR upon completion of the Agreement.

11. Public Records Disclosures. GRANTEE agrees that Florida has broad public disclosure laws, and that any written communications with the GRANTEE, to include emails, email addresses, a copy of this Agreement, and any supporting documentation related to this Agreement are subject to public disclosure upon request, unless otherwise exempt or confidential under Florida Statute.

Public records are defined as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. In this case, the portion of the GRANTEE's records relating to the acceptance and use of the Grant are public records that may be subject to production upon request. The GRANTEE agrees to keep and maintain these public records until completion of the Agreement. Upon completion of the Agreement, GRANTEE may continue to retain the public records for five years, or transfer, at no cost, to the GRANTOR, any public records in its possession in an electronic format readable by GRANTOR.

Upon a request for public records related to this Agreement, GRANTEE will forward any such request to the GRANTOR. GRANTOR will respond to any public records request. Upon request, as to records in the GRANTEE possession, GRANTEE will provide access or electronic copies of any pertinent public records related to this Agreement to GRANTOR within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes.

GRANTEE agrees that GRANTOR will consider all documentation the GRANTOR submits to Brevard County to support payment of this Grant to be subject to public records disclosure.

IF GRANTEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO GRANTEE’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE BREVARD COUNTY MANAGER’ OFFICE, C/O JOY ROTH, ADMINISTRATIVE ASSISTANT TO COUNTY MANAGER, 2725 JUDGE FRAN JAMIESON WAY, BUILDING C, SUITE 301. VIERA, FL 32940, JOY.ROTH@BREVARDFL.GOV, PHONE (321) 633-2001.

12. Notices. Any notices required or permitted by this Agreement shall be in writing and shall be deemed delivered upon hand delivery, or three (3) days following deposit in the United States postal system, postage prepaid, return receipt requested, addressed to the parties at the following addresses:

GRANTEE:	GRANTOR:
	Frank Abbate, County Manager
	Brevard County
	2725 Judge Fran Jamieson Way Bldg C - Ste 301
	Viera, FL 32940
	321-633-2001

13. Effective Date. This Agreement shall be effective on the last day the Parties sign this Grant Agreement (the “Effective Date”).

14. Entirety, Construction of Agreement, and Counterparts. This Agreement represents the understanding between the Parties in its entirety and no other agreements, either oral or written, exist between the GRANTOR and the GRANTEE. The Attachments are incorporated into this Agreement by this reference. The Parties acknowledge that they fully reviewed this agreement and had the opportunity to consult with legal counsel of their choice, and that this

Agreement shall not be construed against any party as if they were the drafter of this Agreement. This Agreement may be executed in counterparts all of which, taken together, shall constitute one and the same Agreement. GRANTEE warrants that it is possessed with all requisite lawful authority to enter into this Agreement.

15. Scrutinized Companies.

a.) The GRANTEE certifies that it and its Subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, Florida Statutes, the GRANTOR may immediately terminate this Agreement at its sole option if the GRANTEE or its Subcontractors are found to have submitted a false certification; or if the GRANTEE, or its Subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel during the term of this Agreement.

b.) If this Agreement is for more than one million dollars, the GRANTEE further certifies that it and its Subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes.

c.) Pursuant to Section 287.135, Florida Statutes, the GRANTOR may immediately terminate this Agreement at its sole option if the GRANTEE, its affiliates, or its Subcontractors are found to have submitted a false certification; or if the GRANTEE, its affiliates, or its Subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

d.) The GRANTEE agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

e.) As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize these contracting prohibitions, this section shall become inoperative and unenforceable.

16. Employee Eligibility Verification (E-Verify).

a) The GRANTEE shall comply with the applicable provisions of section 448.095, Florida Statutes. Upon request, GRANTEE shall provide acceptable evidence of their enrollment in the U.S. Department of Homeland Security's E-Verify system. Acceptable evidence shall include, but

not be limited to, a copy of the fully executed E-Verify Memorandum of Understanding for the business. If applicable, a GRANTEE may alternatively provide an affidavit as to compliance with section 448.095(3)(b)(2), Florida Statutes.

b) A GRANTEE meeting the definition of a contractor in section 448.095, Florida Statutes shall require its subcontractors to provide the affidavit specified at section 448.095 (2)(b), Florida Statutes.

c) As applicable, GRANTEE agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including, if applicable, participation by its subcontractors as required by section 448.095(2)(b), Florida Statutes, and to make such records available to the GRANTOR consistent with the terms of GRANTEE's enrollment in the program.

d) Compliance with the terms of this section is made an express condition of this Grant and the GRANTOR may treat a failure as grounds for immediate termination of this Grant.

e) A GRANTEE who registers with and participates in the E-Verify program may not be barred or penalized under this section if, as a result of receiving inaccurate verification information from the E-Verify program, the GRANTEE hires or employs a person who is not eligible for employment.

f) Nothing in this section may be construed to allow intentional discrimination of any class protected by law.

g) GRANTOR will not intentionally award a publicly-funded Grant to any GRANTEE who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 United States Code (USC) section 1324a(e)(section 274A(e) of the Immigration and Nationality Act (INA)). GRANTOR shall consider a GRANTEE's intentional employment of unauthorized aliens as grounds for immediate termination of this Grant.

Each Party represents that the person signing on its behalf has been fully authorized by all required action to sign on behalf of and to bind that Party to the obligations stated herein. All conditions and assurances required by this Agreement are binding on Parties and their authorized successors in interest.

IN WITNESS WHEREOF, the Parties have executed this Grant Agreement on the last date written below.

GRANTEE

GRANTOR

Name, Title

Frank Abbate, County Manager

Date

Date

Approved as to Legal Form & Content

Name, Title

Date

Notice of Award - Request for Payment
Brevard County Lifeguard Services Grant Program
Fiscal Year 2024-25

On _____ the Board of County Commissioners of Brevard County, Florida in regular session established the Brevard County Lifeguard Services Grant Program that provides for the cost-share for County-provided lifeguard services.

Upon receipt of application for the Lifeguard Services Grant Program for Fiscal Year FY 2024/2025, the County Manager's Office confirmed that the City/Town of _____ is eligible for a cost-share of \$_____ based upon _____ Full-Time Lifeguard Towers and _____ Seasonal Lifeguard Towers at the following location:

_____.

In accepting this Notice of Award, the Applicant agrees that they are authorized to accept this Grant and are bound by the Grant Guidelines, Applicant's Grant Application, including all attachments and submissions, and any limitations or requirements listed in the Clerk to the Board of County Commissioners Memorandum, attached, which are hereby incorporated into this Notice of Award/Request for Payment. In accordance with the cost-share agreement, the applicant further agrees to remit payment for the remainder of the 50% cost-share to the Board of County Commissioners in the amount of \$_____ made in twelve (12) equal monthly payments over the term of this contract, commencing within thirty (30) days of the start of the new fiscal year.

In Witness Whereof, the Parties hereto have set their hands and seals as of the date of last signature below.

Brevard County Board of County Commissioners: Applicant/Grantee:

By: _____
Frank Abbate, County Manager

By: _____

Date: _____

Date: _____

Approved for legal form and content:

By: _____

Attachment C

**GRANT AGREEMENT BETWEEN
THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS
AND
CITY OF _____
FOR
CITY-PROVIDED LIFEGUARD SERVICES PROGRAM**

THIS GRANT AGREEMENT (hereinafter the "Agreement") is made and entered under the authority of Section 125.0104, Florida Statutes and Chapter 102, Article III, Brevard County Code, by and between the GRANTOR, The Board of County Commissioners of Brevard County Florida, a political subdivision of the State of Florida (hereinafter referred to as "GRANTOR"), and the GRANTEE, City of _____, a political subdivision of the State of Florida (hereinafter referred to as the "GRANTEE"). This Agreement is administered by the County Manager's Office, a Department of Brevard County, Florida.

RECITALS

WHEREAS, pursuant to the approval of the Board of County Commissioners on _____, the GRANTOR implemented a Lifeguard Services Grant Program [for Fiscal Year 2024/2025] to provide a mechanism for cost-sharing of lifeguard services on beaches that are along city-owned or city-maintained parks in Brevard County; and

WHEREAS, Brevard County has beaches with multiple public access points via city-owned and/or city-maintained parks that are accessed by residents and tourists; and

WHEREAS, it is the desire of the Board of County Commissioners of Brevard County, Florida to provide safe access to the beaches with the provision of ocean lifeguard services during established hours; and

WHEREAS, on _____ the Board of County Commissioners approved the Lifeguard Services Grant Program and authorized the County Manager to execute the Grant Agreement on behalf of the GRANTOR;

WHEREAS, to secure funding for the upcoming fiscal year, on _____, the City of _____ submitted a request for cost-share for City-Provided Lifeguard Services under this program, in the amount of \$ _____; and

NOW, THEREFORE, both Parties agree as follows:

1. **Recitals.** The Recitals above are true and correct and incorporated into this Grant.

2. Description of Program.

This grant is provided by the Brevard County Board of County Commissioners through the use of General Funds to partially fund/support lifeguard services on beaches along city/town-maintained parks.

The Board of County Commissioners has authorized the use of General Funds to be used to provide for a 50% cost share for lifeguard services based upon the calculated rate for services provided to the Board of County Commissioners at the February 29, 2024, Board Workshop.

The purpose of this grant program is as follows:

- 1) Create a matching grant program for lifeguard services which will be available to all municipalities that maintain beaches along Brevard's coast.
 - For beaches owned by municipalities - this program will provide for a grant of 50% of the County costs for lifeguard services within each municipality with a match requirement of 50% from said municipality.
 - The funding of the grant will be paid for out of general funds.
 - The grant program will allow each municipality to choose their level of service with the county or use funding for their own lifeguard services, based on the level of service provided on a 50% cost share.
- 2) Municipalities are required to inform the County prior to June 30, 2024 of their anticipated level of service for Fiscal Year 2024/2025.

3. Service Levels and Tower Funding Requirements.

a) Funds are available based upon the following criteria:

Annual Cost-Share Amounts		
Grant Amount	Full-Time Tower	Seasonal Tower
Per Approved Tower (Assets & Salary + Benefits)	\$166,771.33 (50% Cost Share of \$333,542.66)	\$63,967.08 (50% Cost Share of \$127,934.17)

b) Full-Time Tower Funding Level Requirements (per Tower):

Full time towers operate 8 hours per day, 7 days a week - 365 days during the year. Each full-time tower has 2 lifeguards on duty as staffing allows with supervisory staff support. Full time employees usually work a normal 40-hour work week depending on beach conditions. Brevard County Ocean Rescue operates 4 daily roaming patrols, 8 hours per day, 7 days per week throughout the year. Each roaming patrol has 1-2 lifeguards on duty as manning allows.

c) Seasonal Tower Funding Level Requirements (per Tower):

Seasonal towers shall operate 8 hours per day on weekends from March to May. During Spring Break and holidays, they shall operate 8 hours daily. June and July seasonal towers must operate 8 hours per day 7 days per week. From August to September (Labor Day) seasonal towers shall operate 8 hours per day on weekends and holidays as schools go back in session. Each seasonal tower shall have 2 lifeguards on duty as staffing allows and a supervisor for staff support.

d) Services:

- i. The City agrees to provide First Responder Certified Lifeguard services in accordance with United States Lifesaving Association (USLA) guidelines for the portions of the City municipal beach(es) located as designated in Addendum 1, within a portion of the beach 100 yards north and south of the lifeguard tower.
- ii. Lifeguard location for the lifeguarded beach will be at the discretion of the City.
- iii. Lifeguard personnel shall be on duty for the time periods as defined in Addendum 1.
- iv. The parties mutually agree and understand that in inclement weather or any other incident or occurrence which requires the closing of all or part of the beach for the protection of the public, the City may discontinue all or part of its lifeguard services in the affected areas for the duration of such condition, incident or occurrence. The City shall immediately notify the County when such beach closings occur. In the event the County determines that a closure is unnecessary and/or inconsistent with applicable County policy, the amount of County funding provided under this grant agreement may be reduced on a pro rata basis.
- v. The City agrees to cooperate fully with the County in all matters relating to beach safety and the performance of the lifeguards. The City will provide radios and training to ensure that the lifeguards have the capacity to contact Brevard County Dispatch.

Lifeguard response to emergencies occurring at adjacent beaches will be in accordance with City procedures.

4. Grant Award and Findings.

a) Grant and Term. GRANTOR awards GRANTEE a Grant in the amount of \$_____ payable within 30 days of the beginning of the fiscal year, upon receipt of this duly executed Grant Agreement. "The Grant term is October 1, 2024 to September 30, 2025". The Parties agree that all work related to the Project/Event occurring prior to the execution of this Grant are subject to the terms of this Grant.

b) This Agreement is contingent upon documentation that the terms and conditions of receipt of the grant funds have been met, and receipt of the annual report, which is to be submitted no later than November 30th following the completion of the fiscal year in which funds were received.

Additionally, GRANTOR may reduce reimbursement to GRANTEE on a pro-rata basis if GRANTEE does not meet the program service requirements.

This Grant is not a lien or claim, either legal or equitable, on any of the GRANTOR's revenues. GRANTEE agrees and understands that all funding authorized through this Agreement shall be used only for eligible activities as outlined in the Lifeguard Services Grant Program Guidelines, GRANTEE's Grant Application, attached hereto as **Attachment A and B**, respectively, and as approved by the Board of County Commissioners of Brevard County, Florida in accordance with State and Local law, and this Agreement.

5. Reporting Procedures; Payment Procedures.

a) In order to receive the cost share for the Lifeguard Services Grant Funds, the GRANTEE must notify the County Manager, in writing no later than June 30, 2024, of the funding service level for Fiscal Year 2024/2025 (October 1st through September 30th).

The GRANTEE must submit the application document outlining the location(s), type of lifeguard tower/service level, and number of lifeguard towers that GRANTEE requests to allow County residents and tourists to have safe access to the beaches that runs along a City-owned or City-maintained park. Applications for Fiscal Year 24/25 are due no later than June 30, 2024.

Upon receipt of a duly executed Grant Agreement, payment for the applicable 50% cost share should be processed within thirty (30) days of the start of the new fiscal year and provided to the participating municipality. Notification to the GRANTEE shall be through the Notice of Award (**Attachment C**).

b) Applicants are required to complete an annual report (**Attachment D**) for each fiscal year grant cycle providing the following.

1. Location for which grant funds were received;
2. For each location/tower, was it County-provided services or City-Provided services;
3. For City-provided services, provide written certification that the towers were staffed and remained open during full-time/seasonal timeframe, as applicable;
 - a. If City-provided services and towers were not staffed/remained upon during applicable timeframes, a pro-rated portion of the grant is subject to claw back.
4. Annual Reports shall be submitted no later than November 30th following completion of the fiscal year in which grant funds were received.

c) If a question arises as to the sufficiency of the GRANTEE's documentation, the Parties agree that the County Manager shall make the final determination on whether or not the documentation is sufficient to support payment of the Grant.

d) Only those expenses and costs proposed in the GRANTEE's Attachment A and as agreed to by the GRANTOR are eligible for the cost share grant. The Parties agree the GRANTOR will reject submissions for payment for items not submitted in the grant application and agreed to by the GRANTOR or which are not eligible for funding as further stated herein or which are not authorized by the Florida Law and the Brevard County Code of Ordinances. Funds may not be used to pay debt obligations.

6. Miscellaneous Provisions.

a) Third Parties. This Agreement shall not obligate or make GRANTOR or the GRANTEE liable to any party other than the Parties to this Agreement. Oversight of any GRANTEE staff will be the responsibility of the GRANTEE.

b) Severability. If any provision of this Agreement is held invalid or unenforceable, the remaining provisions of this Agreement will remain in effect and, if needed in order to carry out

the original intention of the Agreement, the parties will negotiate in good faith a mutually acceptable amendment to this Agreement to affect such intention.

c) Disputes, Attorneys fees, Venue, **WAIVER of JURY TRIAL**. The Parties agree that, in the case of a dispute, the Parties will first work to resolve the dispute informally. In case of legal action, each Party agrees to the following terms: To bear its own attorney's fees and costs; that venue is in a court of competent jurisdiction in Brevard County; **TO WAIVE ANY RIGHT TO A JURY TRIAL AND SUCH TRIAL SHALL BE NON-JURY**; and that this Agreement is governed according to the laws of the State of Florida.

d) Compliance with Laws, Regulations, etc. GRANTEE agrees to comply with all federal, state and local laws, and is responsible for any and all permits, fees, and licenses necessary to perform the Grant. Nothing in this Agreement shall be construed as a waiver by GRANTOR of any requirements for local permits, fees, and licenses.

e) Independent Contractor. GRANTEE shall perform the services independently under this Agreement and nothing contained in this Agreement shall be construed to be inconsistent with this relationship or status. Nothing in this Agreement shall be interpreted or construed to make GRANTEE, or any of its agents, or employees to be the agent, employee or representative of the GRANTOR.

f) Employment of County Employees. GRANTEE shall not engage the services of any person or persons now employed by Brevard County, on a private basis, to provide services relating to this Agreement without written consent from GRANTOR.

g) Unauthorized Alien Workers. (GRANTEE agrees it shall not knowingly engage the services of any person who is an unauthorized alien worker, thus constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324e (Section 274A(e) of the Immigration and Nationality Act "INA"). GRANTOR shall consider GRANTEE's intentional employment of unauthorized aliens as grounds for immediate termination of this Agreement.

7. Indemnification and Hold Harmless. To the extent permitted by law, the GRANTEE shall indemnify, defend, and hold harmless GRANTOR, its officers and employees from liabilities, suits, proceedings, losses, liabilities, personal injuries (including death), damages, penalties, fines, fees and expenses (including reasonable attorney's fees and expenses) related to the services provided pursuant to this Agreement to the extent caused by the negligence,

recklessness or wrongful acts or omissions of the GRANTEE and/or person employed by or utilized by the GRANTEE in providing the services as outlined in paragraph 3..

In any and all claims against the GRANTOR, its officer and employees, the GRANTEE's indemnification obligation under this Agreement shall not be limited in any way by a limitation on the amount or type of damages, compensation, or benefit payable by or for the GRANTEE under workers compensation acts or other related policies of/or insurance. The GRANTEE expressly agrees that GRANTOR has no liability to the GRANTEE for GRANTEE's operation of the Project. The Parties acknowledge specific consideration has been exchanged for this provision. This indemnification shall survive the termination of this Agreement.

The hold harmless and indemnification provided above shall obligate the GRANTEE to defend the GRANTOR at the GRANTEE's own expense or to provide for such defense, at the option of the GRANTOR, as the case may be, of any and all claims of liability and all suits and actions of every name and description (as described above) that may be brought against the GRANTOR which may result under this Agreement. In any and all such claims, lawsuits, etc., the GRANTOR shall be permitted to choose legal counsel of its sole choice, the fees for which shall be subject to and included with this indemnification provided herein.

GRANTEE expressly agrees that GRANTOR has no liability to the GRANTEE for GRANTEE'S provision of services under this grant program. Nothing in this grant is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. Nothing herein shall constitute a waiver of either Party's sovereign immunity. The Parties acknowledge specific consideration has been exchanged for this provision.

8. Amendment, Assignment of Agreement. Amendments to this Agreement may be initiated by either Party. Amendments shall be formally ratified and approved by written amendment to this Agreement by both Parties. The GRANTEE shall not assign any portion of this Agreement without the written permission of GRANTOR. Any subcontracted services by GRANTEE shall be the sole responsibility of GRANTEE. The County Manager is authorized to sign amendments to this Agreement which do not increase the total dollar amount of the Grant.

9. Insurance. GRANTEE agrees to procure and maintain, at its own expense and without cost to the GRANTOR, the following types of insurance. In the sole discretion of the County Manager's Office, the GRANTOR may require additional amounts or types of insurance depending on the type of event or activity. Any additional requirements will be included in the notice of grant award. The insurance coverage enumerated below constitutes the minimum requirements and shall in no way lessen or limit the liability of the GRANTEE under the terms of the Grant.

- a. General Liability Insurance policy with a \$1,000,000 combined single limit for each occurrence to include personal injury, contractual liability, and errors and omissions coverage.
- b. Workers' Compensation and Employers Liability insurance policy covering all employees of the GRANTEE directly or indirectly engaged in work on this Grant with limits of coverage as required by State law.

GRANTOR shall be endorsed as Additional Insured. The following items are required of each Certificate of Insurance:

- Box labeled "Certificate Holder" – shall read "Brevard County"
- Box labeled "Description of Operations/locations/vehicles" – shall read "Brevard County is listed as an Additional insured"
- Provide the applicable Endorsements pages which provide that Grantee is endorsed as an Additional Insured

It is the responsibility of the GRANTEE to provide certificates of insurance to the GRANTOR prior to the commencement of work under this grant demonstrating that the insurance requirements have been met and to re-submit insurance annual renewal documents to the County Manager's staff demonstrating continuity in coverage for the duration of the Agreement.

10. Termination. If either Party fails or refuses to perform any of the provisions of this Agreement, or otherwise fails to timely satisfy the Grant provisions, either Party may notify the other Party in writing of the nonperformance and terminate this Agreement or such part of the Agreements as to which there has been a delay or a failure to properly perform. Such termination is effective upon the defaulting Party's receipt of the Notice of Termination. Upon Termination, GRANTOR has no further obligation to GRANTEE.

The waiver by the GRANTOR of any of GRANTEE's obligations or duties under this Agreement shall not constitute a waiver of any other obligation or duty of the other party under this Agreement, nor shall a waiver of any such obligation or duty constitute a continuing waiver of that obligation of duty.

In the event this agreement is terminated due to the GRANTEE not providing the Lifeguard Services in which a cost share grant was received, the GRANTOR shall be eligible to claw back funds on a pro-rata basis.

11. Right to Audit Records. In performance of this Agreement, GRANTEE shall keep books, records, and accounts of all activities related to this Agreement, in compliance with generally

accepted accounting procedures. All documents, papers, books, records and accounts made or received by GRANTEE in conjunction with this Agreement and the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the office and shall be retained by GRANTEE for a period of five (5) years after termination of this Agreement, unless returned to GRANTOR upon completion of the Agreement.

12. Public Records Disclosures. GRANTEE agrees that Florida has broad public disclosure laws, and that any written communications with the GRANTEE, to include emails, email addresses, a copy of this Agreement, and any supporting documentation related to this Agreement are subject to public disclosure upon request, unless otherwise exempt or confidential under Florida Statute.

Public records are defined as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. In this case, the portion of the GRANTEE's records relating to the acceptance and use of the Grant are public records that may be subject to production upon request. The GRANTEE agrees to keep and maintain these public records until completion of the Agreement. Upon completion of the Agreement, GRANTEE may continue to retain the public records for five years, or transfer, at no cost, to the GRANTOR, any public records in its possession in an electronic format readable by GRANTOR.

Upon a request for public records related to this Agreement, GRANTEE will forward any such request to the GRANTOR. GRANTOR will respond to any public records request. Upon request, as to records in the GRANTEE possession, GRANTEE will provide access or electronic copies of any pertinent public records related to this Agreement to GRANTOR within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes.

GRANTEE agrees that GRANTOR will consider all documentation the GRANTOR submits to Brevard County to support payment of this Grant to be subject to public records disclosure.

IF GRANTEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO GRANTEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE BREVARD COUNTY MANAGER' OFFICE, C/O JOY ROTH, ADMINISTRATIVE ASSISTANT TO COUNTY MANAGER,

**2725 JUDGE FRAN JAMIESON WAY, BUILDING C, SUITE 301. VIERA, FL 32940,
JOY.ROTH@BREVARDFL.GOV, PHONE (321) 633-2001.**

13. Notices. Any notices required or permitted by this Agreement shall be in writing and shall be deemed delivered upon hand delivery, or three (3) days following deposit in the United States postal system, postage prepaid, return receipt requested, addressed to the parties at the following addresses:

GRANTEE:	GRANTOR:
	Frank Abbate, County Manager
	Brevard County
	2725 Judge Fran Jamieson Way Bldg C - Ste 301
	Viera, FL 32940
	321-633-2001

14. Effective Date. This Agreement shall be effective on the last day the Parties sign this Grant Agreement (the "Effective Date").

15. Entirety, Construction of Agreement, and Counterparts. This Agreement represents the understanding between the Parties in its entirety and no other agreements, either oral or written, exist between the GRANTOR and the GRANTEE. The Attachments are incorporated into this Agreement by this reference. The Parties acknowledge that they fully reviewed this agreement and had the opportunity to consult with legal counsel of their choice, and that this Agreement shall not be construed against any party as if they were the drafter of this Agreement. This Agreement may be executed in counterparts all of which, taken together, shall constitute one and the same Agreement. GRANTEE warrants that it is possessed with all requisite lawful authority to enter into this Agreement.

16. Scrutinized Companies.

a.) The GRANTEE certifies that it and its Subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, Florida Statutes, the GRANTOR may immediately terminate this Agreement at its sole option if the GRANTEE or its Subcontractors are found to have submitted a false certification; or if the GRANTEE, or its Subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel during the term of this Agreement.

b.) If this Agreement is for more than one million dollars, the GRANTEE further certifies that it and its Subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or engaged with business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes.

c.) Pursuant to Section 287.135, Florida Statutes, the GRANTOR may immediately terminate this Agreement at its sole option if the GRANTEE, its affiliates, or its Subcontractors are found to have submitted a false certification; or if the GRANTEE, its affiliates, or its Subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

d.) The GRANTEE agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

e.) As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize these contracting prohibitions, this section shall become inoperative and unenforceable.

17. Employee Eligibility Verification (E-Verify).

a) The GRANTEE shall comply with the applicable provisions of section 448.095, Florida Statutes. Upon request, GRANTEE shall provide acceptable evidence of their enrollment in the U.S. Department of Homeland Security's E-Verify system. Acceptable evidence shall include, but not be limited to, a copy of the fully executed E-Verify Memorandum of Understanding for the business. If applicable, a GRANTEE may alternatively provide an affidavit as to compliance with section 448.095(3)(b)(2), Florida Statutes.

b) A GRANTEE meeting the definition of a contractor in section 448.095, Florida Statutes shall require its subcontractors to provide the affidavit specified at section 448.095 (2)(b), Florida Statutes.

c) As applicable, GRANTEE agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including, if applicable, participation by its subcontractors as required by section 448.095(2)(b), Florida Statutes, and to make such records available to the GRANTOR consistent with the terms of GRANTEE's enrollment in the program.

d) Compliance with the terms of this section is made an express condition of this Grant and the GRANTOR may treat a failure as grounds for immediate termination of this Grant.

e) A GRANTEE who registers with and participates in the E-Verify program may not be barred or penalized under this section if, as a result of receiving inaccurate verification information from the E-Verify program, the GRANTEE hires or employs a person who is not eligible for employment.

f) Nothing in this section may be construed to allow intentional discrimination of any class protected by law.

g) GRANTOR will not intentionally award a publicly-funded Grant to any GRANTEE who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 United States Code (USC) section 1324a(e)(section 274A(e) of the Immigration and Nationality Act (INA)). GRANTOR shall consider a GRANTEE's intentional employment of unauthorized aliens as grounds for immediate termination of this Grant.

Each Party represents that the person signing on its behalf has been fully authorized by all required action to sign on behalf of and to bind that Party to the obligations stated herein. All conditions and assurances required by this Agreement are binding on Parties and their authorized successors in interest.

IN WITNESS WHEREOF, the Parties have executed this Grant Agreement on the last date written below.

GRANTEE

GRANTOR

Name, Title

Frank Abbate, County Manager

Date

Date

Approved as to Legal Form & Content

Name, Title

Date

Notice of Award
Brevard County Lifeguard Services Grant Program
Fiscal Year 2024-25

On _____ the Board Of County Commissioners of Brevard County, Florida in regular session established the Brevard County Lifeguard Services Grant Program that provides for the cost-share for City-provided lifeguard services.

Upon receipt of application for the Lifeguard Services Grant Program for Fiscal Year 2024/2025, the County Manager's Office confirmed that the City/Town of _____ is eligible for \$_____ based upon _____ Full-Time Lifeguard Towers and _____ Seasonal Lifeguard Towers at the following location:

_____.

In accepting this Notice of Award, the Applicant agrees that they are authorized to accept this Grant and are bound by the Grant Guidelines, Applicant's Grant Application, including all attachments and submissions, and any limitations or requirements listed in the Clerk to the Board of County Commissioners Memorandum, attached, which are hereby incorporated into this Notice of Award.

In Witness Whereof, the Parties hereto have set their hands and seals as of the date of last signature below.

Brevard County Board of County Commissioners: Applicant/Grantee:

By: _____
Frank Abbate, County Manager

By: _____

Date: _____

Date: _____

Approved for legal form and content:

By: _____