

INTERLOCAL AGREEMENT

Between

CITY OF MIRAMAR

and

CITY OF PEMBROKE PINES

Relating to

PURCHASE OF BALLISTIC ENGINEERED  
ARMORED RESPONSE VEHICLE

THIS IS AN INTERLOCAL AGREEMENT (the "ILA") made and entered into by and between the City of Miramar, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as "Miramar", and the City of Pembroke Pines, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as "Pembroke Pines" (collectively, the "Cities").

WITNESSETH:

**WHEREAS**, across the nation, law enforcement agencies and the communities they are sworn to protect and serve are facing an ever increasing threat from high-powered assault weapons, bomb blast and chemical, biological, radiological, nuclear and explosive ("CBRNE") sources; and

**WHEREAS**, professional law enforcement agencies currently utilize highly trained, specialized units to deal with a multitude of such violent incidents, these teams having various names such as Special Weapons and Tactics Team ("SWAT") or Strategic Response Team ("SRT"), which teams are deployed to neutralize the most dangerous situations in urban law enforcement and, when necessary, to extract civilian and sworn personnel who have been placed in potentially deadly situations; and

**WHEREAS**, the successful completion of these missions often requires the necessity to advance on the active threat to deliver various types of firepower and personnel at the height of the incident; and

**WHEREAS**, specially designed, ballistic engineered armored response vehicles have become the standard for rapid delivery of manpower and weapons during critical events; and

**WHEREAS**, the industry leader in the design and delivery of ballistic vehicles is Lenco Industries, Inc. a/k/a Lenco Armored Vehicles ("LENCO"), which, among other products, produces the "BEARCAT", which can be classified as an Armored SWAT

Truck, Armored Command Post, CBRNE Incident Response Vehicle, Anti-terrorism Vehicle or Bomb Truck, and which can be used in a variety of special responses and hazardous materials ("HAZMAT") missions, including response to local violence, threats or acts of terrorism and school building or public-area high-powered weapon threats; and

**WHEREAS**, Miramar and Pembroke Pines desire to enter into this ILA to provide for the details of the purchase and joint use of one (1) BEARCAT vehicle, the total cost of which will approximate \$282,000.00, including all mutually desired options; and

**WHEREAS**, this Agreement is authorized pursuant to Section 163.01, Florida Statutes; and

**WHEREAS**, the Cities intend the purchase of the BEARCAT to be funded by 2009 Urban Area Security Initiative ("UASI") grant funds which are anticipated to be made available to each jurisdiction, pursuant to prices consistent with a federal General Services Administration ("GSA") Contract with LENCO (Contract GS-07F-0390M); and

**WHEREAS**, the City Commissions of the Cities of Miramar and Pembroke Pines have deemed it to be a legitimate municipal purpose and in the best interest of the citizens and residents of those Cities that a BEARCAT vehicle be purchased and that this purchase and the other terms of this ILA relating to the joint ownership and use of this vehicle be approved.

**NOW, THEREFORE**, in consideration of the mutual terms, conditions, promises and covenants hereinafter set forth, Miramar and Pembroke Pines agree as follows:

1. Upon approval of this ILA by the respective City Commissions of Miramar and Pembroke Pines, one (1) BEARCAT vehicle ("BEARCAT" or "Vehicle"), costing approximately \$282,000.00, including all mutually desired options, shall be purchased from LENCO by Miramar, utilizing the federal GSA contract with that company (GS-07F-0390M). Miramar will make the purchase consistent with the applicable provisions of its procurement code and using its 2009 UASI grant funding. After the purchase by Miramar, Pembroke Pines will reimburse Miramar for one half of the total purchase price using its 2009 UASI grant funding, and the Vehicle will then be titled and registered jointly. The cost of any additional options mutually desired in the future by both Cities shall be shared equally; additional options desired in the future by only one of the Cities shall be paid for by that City, and those options shall be removed when the Vehicle is not in use by that City.
2. Upon delivery, the BEARCAT will be housed within Pembroke Pines in an appropriate, protected facility under the control of the Pembroke Pines Police Department, at no cost to Miramar, and shall be regularly maintained and repaired by Pembroke Pines as required to maintain optimum operability and availability for use, with the cost of said regular maintenance and repair to be

jointly shared, unless the need for a repair can be specifically related to the use by one or the other City, in which case that City shall be responsible for that repair cost. In the case of repairs occasioned by natural disasters or other causes beyond the control of either City, the repair costs shall be shared equally. Pembroke Pines shall invoice Miramar for its share of maintenance and repair costs on a monthly basis. All maintenance and repair shall be performed through a local authorized dealership, certified, licensed and experienced with the maintenance and repair of this specific type and model of vehicle.

3. Use of the BEARCAT shall be shared by the Cities in a good faith and cooperative manner, and, prior to delivery, the Cities shall jointly develop a set of standard operating procedures ("SOP's") addressing the process whereby each City will use the Vehicle when needed, either during an actual critical event occurring in that City or for other purposes, which can include planned events, public relations events or other uses desired by either City's Chief of Police. There shall be no limitation as to the amount of either City's use other than the requirement that it be equally available to the other City when needed.
4. The Cities will also jointly develop, prior to delivery, a set of SOP's for inspection of the Vehicle both before and after each use. The inspection documentation created for this purpose shall be maintained by Pembroke Pines but shall remain with the Vehicle. A copy of this documentation shall be provided to Miramar at any time upon request.
5. Each City shall have the right during the term of this ILA to opt out of the ownership of the Vehicle at any time upon providing written notice of its intention to exercise this option at least 30 days in advance. If such an opt-out is desired by one of the parties, the other party shall pay to the opting-out party one half of the depreciated value of the Vehicle as determined at the time of the desired opt-out. In such case, the Cities will cooperate to title and register the Vehicle in the sole name of the remaining owner and to transfer possession of the Vehicle as necessary and appropriate.

If the party that will individually be owning the Vehicle after the opt-out is without available funding to immediately pay for the opting-out party's share of the current value of the Vehicle, the parties will in good faith negotiate an agreement for payment over a period of time not to exceed three years, at an interest rate not to exceed the interest rate determined by the CFO for the State of Florida relating to judgments, pursuant to Section 55.03, Florida Statutes, for the year in which the opt-out occurs.

Should the parties at any time both desire to cease use of the Vehicle and to sell the same, they shall negotiate an agreed method of sale and shall thereafter split equally the proceeds from that sale, subject to any agreed upon set-offs.

6. During the use of the Vehicle for any purpose, each City using the Vehicle will provide a driver who has been specially trained, certified and licensed, as may be required, to drive the BEARCAT.
7. The term of this ILA shall commence on the date execution of this ILA has been completed by both Cities, and shall end when the parties mutually agree, by written acknowledgement by each City, that the use of the Vehicle is no longer feasible or desired, or upon the opt-out from the ownership and use of the Vehicle by either City as referenced in Section 5 above. Should the Cities mutually agree, during joint ownership, to sell or otherwise dispose of the vehicle, the Cities shall share equally in the proceeds of such disposition unless otherwise mutually agreed.
8. The Cities are each municipalities of the State of Florida subject to the provisions and limitations of sovereign immunity contained in Section 768.28, Florida Statutes, and no terms of this ILA shall be construed to waive those provisions. Each City shall be solely responsible for any claims, damages, losses or causes of action (the "Liabilities"), relating to persons or property, resulting from its use of the BEARCAT and, to the extent permitted by law, shall indemnify, hold harmless and defend the other City, its officers, agents and employees, from any and all such liabilities related to property loss, bodily injury or death, including attorney fees through all appeals.
9. After execution of this Agreement, and prior to use of the Vehicle by either City, each City shall provide to the other adequate proof of insurance coverage, in the coverages and amounts indicated below, protecting each City from all Liabilities resulting from the use of the Vehicle by its authorized agents or employees or by unauthorized users. This insurance shall provide protection from Liabilities in addition to the protection provided by either City's self insurance deductibles or by sovereign immunity per Section 768.28, Florida Statutes.

No use of the Bearcat shall commence until after all of the minimum insurance coverages described herein are obtained and the certificates reflecting same have been approved by the Cities' Risk Managers, which approval shall be provided within five (5) business days of receipt.

In the event that any of the insurance certificates provided indicate that the insurance shall terminate and lapse during the term of this Agreement, then in that event, the City protected by that certificate of insurance shall furnish, at least thirty (30) calendar days prior to the expiration date of such insurance, a renewed certificate of insurance as proof that equal and like coverage and extension thereunder is in effect. All required insurance shall remain in full force and effect during the term of this ILA.

All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded shall not be canceled, materially changed or renewal refused until at least thirty (30) calendar days written notice has been given to each City by certified mail.

**Required coverages:**

Comprehensive Automobile Liability Insurance, with the following minimum limits of liability:

\$5,000,000.00 Combined Single Limit, Bodily Injury and Property Damage Liability, per occurrence

Property Coverage, with the following minimum limits of liability:

\$1,000,000.00, per occurrence

Windstorm Coverage, with the following minimum limits of liability:

\$1,000,000.00, per occurrence

Workers' Compensation Insurance, for statutory obligations imposed by Workers' Compensation or Occupational Disease Laws, including, where applicable, the United States Longshoremen's and Harbor Worker's Act, the Federal Employers' Liability Act and the Homes Act. Each City agrees to be responsible for the employment, conduct and control of its employees and for any injury sustained by such employees in the course of their employment.

Coverage must be offered in the insurance carrier's least restrictive available form and shall specifically include the following with minimum limits not less than those required for Bodily Injury Liability and Property Damage Liability:

Premises and Operations;  
Broad Form Property Damage;  
Broad Form Contractual Coverage applicable to this Agreement and confirming the indemnification and hold harmless covenants in this Agreement; and  
Personal Injury.

The required insurance coverage shall be issued by an insurance company or companies authorized and licensed to do business in the State of Florida, with

the following minimum rating of B+ to A+, in accordance with the latest edition of A.M. Best's Insurance Guide.

10. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
11. All notices provided by one party to the other shall be in writing and shall be effected by hand delivery, telecopy or U.S. Mail, certified and return receipt requested, and addressed as follows:

As to Miramar:

Robert A. Payton, City Manager  
2300 Civic Center Place  
Miramar, Florida 33025

With a copy to:

Jamie A. Cole, Esq.  
Weiss Serota Helfman Pastoriza  
Cole & Boniske, City Attorney  
200 E. Broward Boulevard, Suite 1900  
Fort Lauderdale, Florida 33301

As to Pembroke Pines:

Charles S. Dodge, City Manager  
10100 Pines Boulevard  
Pembroke Pines, Florida 33026

With a copy to:

Sam Goren, Esq.  
Goren, Cherof, Doody & Ezrol, P.A.  
3099 E. Commercial Boulevard, Ste. 200  
Fort Lauderdale, Florida 33308

12. **APPLICABLE LAW AND VENUE:** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Court of the 17th Judicial Circuit of Broward County, Florida, the venue site, and shall be governed by the laws of the State of Florida. To encourage prompt and equitable resolution of any litigation that may arise hereunder, each party hereby waives any rights it may have to trial by jury of any such litigation. The prevailing party in any such litigation shall be entitled to an award of its reasonable attorney's fees and costs, at all tribunal levels, subject to the limitations of sovereign immunity.

13. It is the intent of the parties that each City is an independent contractor under this ILA and that none of the parties are the employee of the others for any purposes. Further, no party intends to directly or substantially 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 claim against any party under this Agreement; thus, it is not the intent of the parties to create any rights or obligations in third parties.

14. If any provision of this ILA or the application thereof to any person or situation shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this ILA, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

15. The Cities represent that they have the power and authority to enter into this ILA and to perform their obligations hereunder and that this ILA has been approved by all required action of their respective City Commissions.

16. This ILA constitutes the entire agreement between the parties hereto with respect to the matters covered herein. All prior negotiations, representations and agreements, whether oral or written, with respect thereto not incorporated herein are superseded by this ILA.

17. Pursuant to the requirements of Section 163.01(11), Florida Statutes, subsequent to execution by the parties, this Agreement shall be filed with the Clerk of the Circuit Court in and for Broward County, Florida.

IN WITNESS WHEREOF, the parties hereto have executed this Interlocal Agreement on the dates hereinafter subscribed.

**CITY OF MIRAMAR**

Attest:

Yvette M. McLeary  
Yvette M. McLeary, City Clerk

Robert A. Payton  
Robert A. Payton, City Manager  
Date: 8/25/10

Approved as to form and legal sufficiency for the use of and reliance by the City of Miramar only:

8/17/10 *del JCS*  
City Attorney  
Weiss Serota Helfman Pastoriza  
Cole & Boniski, P.L.

**CITY OF PEMBROKE PINES**

Attest:

Judith A. Neugent *6/23/10*  
Judith A. Neugent, City Clerk

Charles F. Dodge  
Charles F. Dodge, City Manager  
Date: 6/22/10

Approved as to form and correctness:

City Attorney

