

AGREEMENT BETWEEN THE UNITED STATES  
DEPARTMENT OF JUSTICE AND THE CITY OF  
MIAMI REGARDING THE CITY OF MIAMI POLICE  
DEPARTMENT

I. Introduction

A. Background

1. The United States, the City of Miami (“City”), and the City of Miami Police Department (“MPD”) (collectively “the Parties”) enter into this Agreement with the goal of ensuring that police services continue to be delivered to the people of the City of Miami in a manner that fully complies with the Constitution and laws of the United States, effectively ensures public and officer safety, and promotes public confidence in MPD and its officers. The United States recognizes that MPD is committed to these goals and has already taken significant steps to better effectuate them. The Parties also recognize that the City of Miami’s law enforcement officers often work under difficult circumstances, risking their physical safety and well-being for the public good.
2. This Agreement is the product of a continued cooperative effort built on the Parties’ mutual commitment to constitutional policing. The Agreement is also the product of input from the many varied communities of Miami, including the Fraternal Order of Police and community advocacy organizations, whose solicited input has been indispensable to the Parties’ resolution of this matter.
3. The Parties acknowledge that by entering into this Agreement, the City does not admit to the truth or validity of any claim made against it by the United States. DOJ agrees to forego the filing of any claim relating to MPD’s use of deadly force under Section 14141 so long as the City makes its best efforts toward compliance throughout the pendency of this Agreement and achieves compliance within the timeframes contemplated by this Agreement. The Parties acknowledge that nothing in this Agreement shall preclude DOJ from filing any other claims, including claims under Section 14141.

4. This Agreement shall not be construed as an admission or evidence of liability under any federal, State, or municipal law including 42 U.S.C. § 1983. Nor is the City's entry into this Agreement an admission by the City, MPD, or its officers and employees that they have engaged in any unconstitutional, illegal, or otherwise improper activities or conduct.
5. The United States acknowledges that, by already taking proactive steps to help effectuate the intent of this Agreement, the City and MPD have demonstrated their commitment to improving MPD's delivery of police services. The Parties intend that MPD will continue to implement improved policies, provide increased training, and modify practices, in order to further improve its delivery of police services. The Parties recognize the benefit of working with the DOJ, community-based organizations, and other stakeholders to develop and implement the improvements described in this Agreement; and of evaluating the effect of MPD's efforts described in this Agreement.
6. The Parties intend the Agreement to provide clear, measurable obligations, while at the same time leaving the City with appropriate flexibility to find solutions suitable for this community. The requirements of this Agreement identify the goals that must be achieved, the mechanism to achieve them, and specific elements that must be addressed. However, within the requirements of this Agreement, the City will have the ability to develop local and cost effective solutions.
7. The DOJ affirmatively acknowledges that the findings letter dated on or about July 9, 2013, was not meant to satisfy the requirements of Sec 803(8) of either the Federal Rules of Evidence or the Florida Evidence Code for admission by non-parties to this Agreement in a State or Federal court.

#### B. General Provisions

8. The Parties enter into this Agreement jointly to continue to support vigorous and constitutional law enforcement. This Agreement serves the public interest because the measures set forth herein protect public safety, promote constitutional policing practices, and strengthen community trust.
9. This Agreement shall not and is not intended to compromise the lawful authority of MPD officers to use reasonable and necessary force, including

deadly force, when necessary to fulfill their law enforcement obligations in a manner consistent with the requirements of the Constitution and laws of the United States and the State of Florida.

10. This Agreement is binding on all Parties hereto, by and through their officials, agents, employees, and successors.
11. This Agreement is enforceable only by the Parties. This does not expand the right of any person or entity to seek relief against the City of Miami or the City of Miami Police Department, or any officer or employee thereof, for their conduct or the conduct of MPD officers. No person or entity is intended to be a third-party beneficiary of the provisions of this Agreement for purposes of any civil, criminal, or administrative action, and accordingly, no person or entity may assert any claim or right as a beneficiary or protected class under this Agreement or otherwise.
12. Nothing in this Agreement: (a) alters the existing collective bargaining Agreements between MPD and labor organizations representing members of MPD; or (b) impairs the collective bargaining rights of employees under State and local law. Nothing in this Agreement amends or supersedes any provision of State or local law.
13. In the event that the City believes there is a conflict between the terms of this Agreement and of the collective bargaining agreement, the City will notify the United States and confer about how such a conflict might be avoided. If a conflict cannot be avoided, the terms of the collective bargaining Agreement shall control, but the City and the United States will draft alternative Agreement language to address the underlying goal of the conflicting Agreement provision if necessary.

#### C. Definitions

14. “City” means the City of Miami, including its agents, officers and employees.
15. The inclusion of the language “continue(s) to” does not remove any provisions from monitoring until compliance is confirmed.
16. “Critical firearm discharge” means an intentional discharge of a firearm by an MPD officer towards a person.

17. “Deadly force,” for purposes of this Agreement, means any critical firearm discharge.
18. “Develop” when referring to a policy, means to draft, promulgate and implement.
19. “DOJ” means the United States Department of Justice and its agents and employees.
20. “Effective date” means the date this Agreement is executed by all Parties.
21. “Firearm” means a pistol, revolver, shotgun, carbine, or machine gun, as well as any instrument capable of discharging a bullet or shot, but does not include any non-lethal or less-lethal weapon, TASER, breaching device or interrupter device.
22. “Implement” or “implementation” means the development and putting into place of a policy or procedure, including the appropriate training of all relevant personnel, and the consistent and verified performance of that policy or procedure in actual practice.
23. “MPD” means the City of Miami Police Department, its agents and its employees (both sworn and unsworn).
24. “Parties” means the United States, the City of Miami.
25. “TOS” means Tactical Operations Section, an organization of officers within MPD whose operational objectives are focused on a specific law enforcement purpose beyond general patrol or criminal investigations and that require enhanced training on police tactics, strategies, or techniques. TOS units currently include the Tactical Robbery Unit, Felony Apprehension Team, SWAT Team.
26. “Supervisor” means a sworn MPD employee at the rank of sergeant or above (or anyone acting in those capacities).

## II. Policy Review and Implementation

27. MPD will continue to develop and implement policies on constitutional policing principles and best practices. In addition, MPD agrees to

maintain (and develop if necessary) comprehensive, agency-wide policies and procedures that reflect full implementation of every requirement of this Agreement. This requirement includes maintenance of policies governing the Policy Review Committee, the Professional Compliance Section (“PCS”), the High Liability Review Board, the Major Case Team for shootings investigations, the Tactical Operations Section, the Community Relations Section, and any other initiatives MPD has taken or intends to take to ensure compliance with this Agreement.

28. Within one month of the entry of this Agreement, MPD will submit an action plan to DOJ for the implementation of this entire Agreement, including designation of staff responsible for implementing the provisions.
29. Within three months of the entry of this Agreement, MPD agrees to submit any new and revised policies, procedures and manuals, if any, created or revised to achieve compliance with this Agreement to DOJ for review and comment prior to publication and implementation. DOJ shall complete its review within one month. If MPD and DOJ disagree on an aspect of a policy that is relevant to this Agreement, the Independent Reviewer shall resolve the dispute.
30. All staff responsible for implementing the policies referred to in the preceding paragraph shall be trained on the new or revised policies and procedures as soon as practicable, but not later than twelve months. MPD shall maintain documentation sufficient to demonstrate (a) the status and completion of staff training requirements and (b) that staff are aware of the requirements of all policies and procedures. In addition, MPD will continue to disseminate any new or revised policies related to this Agreement through roll call briefings and official bulletins.

### III. Officer-Involved Shooting Investigations

31. The DOJ recognizes that the Florida Department of Law Enforcement (FDLE) is responsible for the criminal investigation of all Critical Firearm Discharges in accordance to an MOU between the City and FDLE for such purposes.
32. MPD will continue to insure that each Critical Firearm Discharge will be reviewed for accountability, legality, training, tactics and equipment issues.

33. MPD policy shall continue to require officers to cooperate with administrative investigations, including appearing for an interview when ordered by a MPD investigator and providing all requested documents and evidence, subject to the provisions of the § 112.531-112.535 Florida Statutes (the “Law Enforcement Officers’ Bill of Rights”) and the protections of *Garrity v New Jersey* and its progeny and any other applicable law.
34. MPD shall continue to provide shooting officers the opportunity to give voluntary statements as soon as practicable after each shooting, but in any case within no more than 72 hours, absent exigent circumstances, and will document same.
35. Where there is a potential criminal investigation or prosecution of the officer, MPD will continue its efforts to complete the administrative investigation except that it is not required to conduct an interview of the involved officer(s) until completion of the criminal investigation unless, after consultation with the Office of the State Attorney and FDLE, such interviews are deemed appropriate because they will not interfere with any pending criminal investigation. MPD will continue to make documented efforts to work with the Office of the State Attorney to facilitate prompt determinations.
36. In no event shall MPD permit full resolution of an administrative investigation to extend beyond 180 days after conclusion of the criminal investigation, absent exigent circumstances and agreed to by DOJ and the City.
37. MPD shall continue to ensure that any MPD officer involved in a shooting not be returned to active duty status until: a) the agency’s contracted psychologist clears the officer for duty; b) a post shooting briefing is held with FDLE; c) the Chief expressly approves the officer’s return to work in writing; d) review of the available evidence supports the officer’s return to active duty; and e) the officer completes any refresher training that Chief deems appropriate.
38. MPD will continue to maintain its incident tracking system for officer-involved shootings. The Incident Tracking System is designed to identify and monitor opportunities for officers to engage in misconduct and bring

about corrective action through structured supervisory review, with the officer involved, of his/her course of conduct. The DOJ may review and make recommendations regarding the efficacy of the system to the MPD.

39. MPD will continue to maintain the Professional Compliance Section, which reports directly to the Chief of Police, and the High Liability Review Board to continue reviewing high liability incidents, including serious uses of force and pursuits.
40. MPD shall continue its practice of having a commander from the training section participate in the Firearms Review Board and post-incident review meeting. MPD shall develop an effective mechanism to ensure that lessons learned from officer-involved shooting reviews are incorporated into policy and officer training, and that such incorporation is verified.

#### IV. Supervision

MPD and the City shall ensure that all supervisors, in patrol as well as specialized units, provide the close and effective supervision necessary for officers to improve as police officers; to police actively and effectively; and to identify, correct, and avoid unnecessary Critical Firearm Discharges. To achieve these outcomes, MPD shall implement the requirements below.

41. MPD first-line supervisors shall provide, and shall be held accountable for providing, the close and effective supervision necessary to direct and guide officers, as described in Departmental Order 11 (Patrol), Departmental Order 6 (Use of Force) and other relevant Departmental Orders, standard operating procedures and established guidelines.
42. MPD will continue the practice of assigning all patrol officers and officers in the Tactical Operations Section units to a single, consistent, clearly identified first-line supervisor. First-line supervisors will continue to be assigned to and actually work the same days and hours as the officers they are assigned to supervise, absent extenuating circumstances.
43. First-line supervisors of patrol officers and officers assigned to Tactical Operations Section units shall be assigned to supervise no more than five to eight officers (“span of control”). The span of control will be based on the nature of the duties that any officer or group of officers performs. On-duty first-line supervisors will be available throughout their shift to respond to the field to provide supervision to officers under their direct command and, as needed, to provide supervisory assistance to other units.

44. The City and MPD shall continue to assess the current span of control within three months of the Effective Date and re-assess every four months after implementation, and shall retain the number of supervisors necessary to achieve the required span of control subject to the limitations set forth in the collective bargaining Agreements and civil service rules.
45. MPD shall continue to ensure consistent supervision by first-line supervisors for supervisors who are on extended leave, and shall reassign officers to a first-line supervisor when the currently assigned first-line supervisor has been or is expected to be absent for longer than six weeks.
46. Captains and lieutenants will continue to closely and effectively supervise the first-line supervisors and officers under their command. MPD captains and lieutenants will continue to ensure that all first-line supervisors and officers under their command comply with MPD policy, state and federal law, and the requirements of this Agreement.
47. MPD will continue to ensure that captains and lieutenants at any level are held accountable for the quality and effectiveness of their supervision, including whether captains and lieutenants identify and effectively respond to uses of force or misconduct, as part of their performance evaluations and through non-disciplinary corrective action, or through the initiation of formal investigation and the disciplinary process. Supervisors shall be subject to discipline for failure to report and remedy misconduct they knew or reasonably should have known occurred. MPD shall continue to develop and implement metrics to assess supervisors' performance.

## **V. Specialized Units**

MPD and the City will continue to ensure that the activities of its specialized units be conducted with the care and restraint necessary to ensure constitutional policing, and that supervisor and management decisions be strictly followed during deployment.

48. Within two months of the entry of this Agreement, MPD shall provide to DOJ for review and approval its criteria for recruitment and admission to the MPD's specialized units, including Tactical Operations Section ("TOS") units. MPD shall maintain eligibility criteria and selection devices for assignment to TOS units that emphasize demonstrated capacity to carry out the mission of a TOS unit in a constitutional manner. Officers



assigned to TOS units who are unable to maintain eligibility shall be removed from the TOS units. The MPD shall monitor the list of names of all officers and supervisors assigned to TOS units on a quarterly basis to assess and adjust its ongoing personnel and staffing needs.

49. MPD shall continue to ensure that operating protocols for TOS units are consistent with the agency-wide use of force policies implemented to comply with this Agreement.
50. MPD shall continue to prohibit SWAT units from conducting general patrol and policing functions while they are on a specialized assignment absent exigent circumstances. Both officer member actions and supervisory decisions must adhere strictly to the SWAT unit's operational protocols during deployment.
51. MPD will continue to require officers assigned to TOS units, while on a specialized assignment, to document in writing all law enforcement activities, including operational plans and after-action reports in consistent formats for all call-outs and deployments. Supervisors shall conduct documented regular reviews of the TOS' law enforcement activities to ensure their compliance with applicable laws and MPD policies and procedures.
52. MPD shall continue to track, analyze and take appropriate action if necessary to address tactical deficiencies or policy violations by TOS unit members, including recommendations for changes to training or policy; transferring individuals; and/or initiating disciplinary action as necessary. MPD will document this process and report on its successes and challenges.

## **VI. Training**

All aspects of MPD training should reflect and instill agency expectations that officers are committed to the constitutional rights of the individuals they encounter, and employ strategies to build community partnerships to effectively increase public trust and safety.

53. Any new training expressly required by the terms of this Agreement shall be delivered within one year of the Effective Date, and annually thereafter. Within four months of the Effective Date, the MPD shall set out a schedule for delivering all training required by this Agreement within one year of the Effective Date.

54. MPD shall continue to provide a firearm training program that:
- a. requires officers to complete and satisfactorily pass firearm training and qualify on each firearm the officer is required or authorized to carry on an annual basis;
  - b. immediately complies with and reinforces judicial developments in state and federal law that impact use of force policies,
  - c. incorporates training on when to display and/or point firearms, night training, stress training (i.e., training in using a firearm after undergoing physical exertion), and proper use of force decision-making training (i.e., shoot-don't shoot training), including continuous threat assessment techniques, in the annual in-service training program;
  - d. ensures that firearm instructors critically observe students and provide corrective instruction regarding deficient firearm techniques and failure to utilize safe gun handling procedures at all times;
  - e. requires comprehensive testing that shows complete understanding of rules, regulations, and skills regarding firearm use;
  - f. employs reality-based incident scenarios with both live-action and computer-simulated components to improve defensive tactics training, to limit the incidents of deadly force to those that are necessary and appropriate, and to improve management of incidents involving multiple officers; and
  - g. incorporates and emphasizes de-escalation training and techniques.
55. MPD will continue to provide mandatory supervisory training for all new first-line supervisors, which shall be completed prior to assuming supervisory responsibilities. In addition to this initial supervisory training, MPD shall require each first-line supervisor to complete supervisor-specific training annually thereafter.
56. MPD shall continue to review, develop and maintain mandatory supervisory training for all new second-line supervisors (lieutenants and captains), which shall be completed prior to assuming secondary supervisory responsibilities. Annual training for lieutenants and captains shall provide necessary updates, as well as training in the new skills and training their subordinate officers have received in the past year.
57. MPD shall continue to provide all first-line supervisors with 40 hours of annual in-service training based on developments in applicable law and

MPD policy. The training curriculum shall include the following topics related to Critical Firearms Discharges:

- a. MPD's use of deadly force policy and use of force reporting requirements;
- b. conducting use of force investigations, including the supervisory investigatory responsibilities;
- c. processing and preservation of crime scenes and forensic evidence;
- d. care and custody of video recordings;
- e. evaluation of written reports for thoroughness, accuracy, and completeness;
- f. burdens of proof; interview techniques; and the factors to consider when evaluating officer, complainant, or witness credibility, to ensure that investigative findings, conclusions, and recommendations are unbiased, uniform, and legally sound;
- g. strategies for effectively directing officers to minimize uses of force and to intervene effectively to prevent or stop unreasonable force;
- h. responding to and investigating allegations of officer misconduct;
- i. supporting officers who report unreasonable or unreported force, or who are retaliated against for using only reasonable force or attempting to prevent unreasonable force;
- j. techniques for effectively guiding and directing officers, and promoting effective and ethical police practices;
- k. techniques for de-escalating conflict, including peer intervention when necessary;
- l. evaluating officer performance as part of MPD's annual performance evaluation system; and
- m. fostering positive career development and imposing appropriate disciplinary sanctions and non-disciplinary corrective action.

58. MPD shall continue to provide all MPD lieutenants and captains with in-service training on an annual basis based on developments in applicable law and MPD policy. The training curriculum shall include the following topics related to Critical Firearms Discharges:

- a. Incident Management
  - i. evaluation of written reports;

- ii. strategies for effectively directing officers to avoid unnecessary Critical Firearms Discharges;
- iii. responding to Critical Firearms Discharges; and
- iv. de-escalating conflict.

b. Community Engagement

- i. how to engage the community and develop positive relationships with diverse community groups; and
- ii. how to ensure that community relationships are positive.

All training materials, curricula, schedules, and training records will be made available to DOJ for the purposes of assessing compliance with this Agreement.

## **VII. COMMUNITY OVERSIGHT**

59. The City and MPD will have a community advisory board of civilian City residents to provide oversight and feedback to MPD and the Independent Reviewer. The board will leverage the insights and expertise of the community to address policing concerns and promote greater transparency and public understanding of MPD. The community board shall be authorized to:
- a. advise the Chief, majors and commanders on strategies and training to improve community relations and MPD responsiveness to community concerns;
  - b. work with the Chief, majors and commanders to establish and carry out community public safety priorities;
  - c. provide the community with information on the Agreement and its implementation; and
  - d. receive and convey to MPD and DOJ public comments and concerns, in addition to MPD's civilian complaint system.
60. The community advisory board will be in effect within three months of the Effective Date. The City will establish the number of members and a mechanism to ensure that membership is representative of a cross section of communities in the City of Miami, including districts, faith communities, minority, ethnic, and other community organizations, and student or youth organizations. The City shall set a date by which board members will be selected.

61. MPD will facilitate regular public meetings of the community advisory board to discuss DOJ's reports, if any and to receive community feedback about MPD's progress or compliance with the Agreement.
62. The community board's reports and recommendations will be posted on MPD's website. MPD will consider and respond to the community board's recommendations in a timely manner.
63. The City will provide the community board with reasonable administrative support, including meeting space.
64. The civilian community board will not review or report on specific cases of alleged misconduct, review or comment on discipline, and will not seek to influence the course or outcome of a specific complaint investigation or the discipline of specific officers. The community board will not have access to any non-public information regarding an individual officer or allegation of misconduct or disciplinary action.
65. The City may use the Community Relations Board to fulfill the requirements of this Section of the Agreement if they are able to meet the requirements herein.

## **VIII. Compliance Assessment**

### **A. Compliance Coordinator**

66. Within 45 days of the Effective Date, MPD will identify a compliance coordinator who is a member of MPD to serve as the single point of contact with DOJ and the Independent Reviewer. The compliance coordinator will: coordinate compliance and implementation activities; facilitate access to MPD personnel and provide data, documents, and materials to DOJ as needed; ensure that all data, documents and records are maintained as provided in this Agreement; and assist in assigning implementation and compliance-related tasks to MPD personnel, as directed by the Chief of Police or his designee.

### **B. Compliance Reporting**

67. Within four months from the Effective Date, and every six months thereafter until this Agreement is terminated, the City will provide to DOJ and the Monitor a self-assessment Compliance Report indicating whether the City has reached one of three levels of compliance with this

Agreement: Substantial Compliance, Partial Compliance, or Non-Compliance.

- a. "Substantial Compliance" indicates that the City has achieved compliance with most or all components of the relevant provision of the Agreement.
- b. "Partial Compliance" indicates that the City has achieved compliance on some of the components of the relevant provision of the Agreement, but significant work remains.
- c. "Non-Compliance" indicates that the City has not met most or all of the components of the Agreement or the relevant provision has not been audited yet.

68. In addition to the above, the self-assessment Compliance Report will include:

- a. the steps MPD and the City have taken during the reporting period to implement this Agreement;
- b. plans to correct any problems or lack of compliance;
- c. a response to any concerns raised by the United States regarding the City's previous Compliance Report;
- d. a projection of the work to be completed during the upcoming reporting period;
- e. any anticipated challenges or concerns related to implementation of the Agreement; and
- f. a summary of documents relied on for statistical purposes or general data as the basis for self-assessment, if applicable.

69. The Compliance Report shall exclude assessments of the sections of the Agreement for which the Independent Reviewer has already determined MPD and the City to be in Substantial Compliance.

70. The DOJ will collaborate with MPD in revising any policies, procedures, or practices relating to the use of force that DOJ deems to be deficient.

## **IX. Monitoring**

### **A. Selection, Role, and Compensation of the Independent Reviewer**

71. The Parties have jointly selected Jane Castor as the Independent Reviewer who will advise and oversee the implementation of this Agreement. The duties and responsibilities of the Independent Reviewer are set forth in this Agreement. As described in greater detail below, the Independent Reviewer will assess the City's compliance with the Agreement, report on the status of compliance to the Parties, work with the Parties to address any barriers to compliance, and assist the Parties to informally resolve disputes or differences should they emerge. The Independent Reviewer may also recommend to the Parties changes to the Agreement to better meet the goals of the Agreement. The Parties will meet and confer regarding any such recommendations, and may make changes only with the agreement of both Parties.
72. The Independent Reviewer will have only the duties, responsibilities, and authority conferred by this Agreement. The Independent Reviewer will not, and is not intended to, replace or assume the role and duties of any City or MPD staff or officials, including the Chief.
73. The Independent Reviewer shall conduct compliance reviews or audits as necessary to determine whether the City has implemented and continue to comply with the material requirements of this Agreement. Compliance with a material requirement of this Agreement requires that the City has: (a) incorporated the requirement into policy; (b) trained all relevant personnel as necessary to fulfill their responsibilities pursuant to the requirement; and (c) verified that the requirement is being carried out in actual practice. Compliance reviews and audits shall contain both qualitative and quantitative elements as necessary for reliability and comprehensiveness.
74. The City will be responsible for compensating the Independent Reviewer pursuant to a contract with the City.
75. The Parties may remove the Independent Reviewer by joint stipulation. If for any reason the Independent Reviewer otherwise becomes unable to perform his or her duties, the Parties will meet and confer regarding a replacement within two weeks of being advised of the Independent

Reviewer's departure. The Parties will make a joint selection within 30 days of the meet and confer.

## **B. Monitoring Plan and Review Methodology**

76. Within 30 days of the execution of the Agreement, the Independent Reviewer shall develop individual plans and a methodology for conducting the compliance reviews and audits, and shall submit them to the Parties for review and approval. The plans and methodology shall:
- a. clearly delineate the requirements of this Agreement to be assessed for compliance, indicating which requirements will be assessed together; and
  - b. set out a schedule for conducting a compliance review or audit of each requirement of this Agreement within the first 90 days of this Agreement, and a compliance review or audit of each requirement at least every six months thereafter.
  - c. include the estimated time, manner and documentation required, for the assessment, review, or audit to the Parties.
77. The Parties shall submit any comments or concerns regarding the proposed methodology to the Independent Reviewer within 30 days of receipt. The Independent Reviewer shall modify the plans and methodology as necessary to address any concerns.
78. The Independent Reviewer may make recommendations to the Parties regarding measures necessary to ensure timely, full, and effective implementation of this Agreement and its underlying objectives. Such recommendations may include a recommendation to change, modify, or amend a provision of this Agreement, a recommendation for additional training in any area related to this Agreement, or a recommendation to seek technical assistance. Additionally, the Independent Reviewer may, at the request of DOJ or the City, and based on the Independent Reviewer's reviews, provide technical assistance consistent with the Independent Reviewer's responsibilities under this Agreement.



### **C. Independent Reviewer Reports**

79. Every four months, the Independent Reviewer shall issue written, public reports covering the reporting period that shall include:
- a. a description of the work conducted by the Independent Reviewer during the reporting period;
  - b. a listing of each Agreement requirement indicating which requirements have reached Substantial, Partial and Non-Compliance;
  - c. the methodology and specific findings for each audit or review conducted. The underlying data for each audit or review shall be retained by the Independent Reviewer and provided to either or both Parties upon request;
  - d. the Independent Reviewer's recommendations regarding necessary steps to achieve compliance for any requirements that were reviewed or audited and found to be in Partial Compliance or Non-Compliance;
  - e. the methodology and specific findings for each outcome assessment conducted; and
  - f. a projection of the work to be completed during the upcoming reporting period and any anticipated challenges or concerns related to implementation of this Agreement.
80. The Independent Reviewer shall provide a copy of the reports to the Parties in draft form at least ten business days prior to public release of the reports to allow the Parties to informally comment on the reports. The Independent Reviewer shall consider the Parties' responses and make appropriate changes, if any, before issuing the report.
81. The Independent Reviewer's reports shall be posted to MPD's public website within five days of completion. The City shall establish an electronic mechanism for receiving public feedback to the Independent Reviewer's reports.

#### **D. Communication with the Independent Reviewer**

82. The Independent Reviewer shall maintain sufficient contact with the Parties in order to ensure effective and timely communication regarding the status of the City's implementation of and compliance with this Agreement.
83. The Independent Reviewer shall confer periodically with interested community stakeholders to discuss their reports, and to receive community feedback about MPD's progress and/or compliance with this Agreement.

#### **E. Access and Confidentiality**

84. To facilitate his or her work, the Independent Reviewer may conduct on-site visits and assessments. The Independent Reviewer shall have access to all necessary individuals, facilities, and documents, which shall include access to Agreement-related trainings, meetings, and reviews such as High Liability Review Board and Professional Compliance Section reviews. MPD shall notify the Independent Reviewer and DOJ as soon as practicable, and in any case within 8 hours of any critical firearm discharge, arrest of any officer, or any other potentially high-profile serious incident.
85. The City shall ensure that the Independent Reviewer, and DOJ and its agents, have reasonable access to all City staff, employees, critical incident crime scenes, and facilities that the Independent Reviewer, and DOJ and its agents, reasonably deems necessary to carry out the duties assigned to the Independent Reviewer by this Agreement. The Independent Reviewer, and DOJ and its agents, shall cooperate with the City to access people and facilities in a reasonable manner that, consistent with the Independent Reviewer's responsibilities, minimizes interference with daily operations and shall not compromise the integrity of any ongoing criminal investigation.
86. The City shall ensure that the Independent Reviewer shall have reasonable access to all City staff, employees, facilities, documents, and data that the Independent Reviewer deems necessary to carry out the duties assigned to the Independent Reviewer by this Agreement, except any documents or data protected by the attorney-client privilege or other applicable law. The attorney-client privilege may not be used to prevent the Independent Reviewer from observing reviews, meetings, and

trainings such as use of force review boards, disciplinary hearings, or discussions of misconduct complaint investigations. Should the City decline to provide the Independent Reviewer access to specific documents or data based on attorney-client privilege, the City shall inform the Independent Reviewer and DOJ that it is withholding documents or data on this basis and shall provide the Independent Reviewer and DOJ with a log describing the documents or data. The City shall work to ensure that the Independent Reviewer receives all requested documents to the maximum extent allowable by law.

87. The Independent Reviewer and DOJ shall provide the City with reasonable notice of a request for copies of documents. Upon such request, the City shall provide, in a timely manner, not to exceed 30 days, copies (electronic, where readily available) of the requested documents to the Independent Reviewer and DOJ. If the requested documents are voluminous, DOJ will work with the City regarding the timing of the production.
88. The Independent Reviewer and DOJ shall maintain all non-public information provided by the City in a confidential manner. Other than as expressly provided in this Agreement, this Agreement shall not be deemed a waiver of any privilege or right the City may assert, including those recognized at common law or created by statute, rule, or regulation against any other person or entity with respect to the disclosure of any document.
89. The Independent Reviewer will not issue statements or make findings with regard to any act or omission of any Party, or their agents or representatives, except as required by the terms of this Agreement.

## **X. Enforcement**

90. DOJ reserves its right to seek enforcement of the provisions of this Agreement, through specific performance in the United States District Court for the Southern District of Florida, if it determines that the City has failed to fully comply with any portion of this Agreement. Prior to initiating any court proceeding, DOJ agrees to provide written notice of the failure to the City. The City shall have 60 days from receipt of such notice to cure the failure. During the 60 day period, the Parties shall meet and confer to resolve any disputes regarding the failure or to otherwise explore a joint resolution. The Independent Reviewer shall assist the Parties in reaching a mutually agreeable resolution to the compliance

failure or dispute, including by facilitating discussions and providing relevant factual assessments. If the Parties are not able to reach a mutually agreeable resolution to the compliance failure or dispute within the 60-day period, DOJ may, without further notice to the City, file an action in the United States District Court for the Southern District of Florida against the other party for breach of contract and may seek specific performance and any other appropriate form of relief.

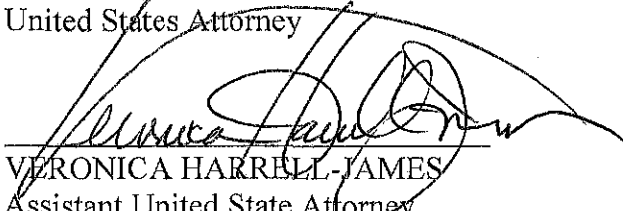
## **XI. Termination**

91. The Parties anticipate that the City and MPD will have complied with all provisions of the Agreement on or before March 15, 2020.
92. The Agreement shall remain in effect until March 15, 2020, unless any of the following occur:
  - a. The Parties jointly agree, in writing, to terminate the Agreement before March 15, 2020, on the grounds that the City has reached Substantial Compliance with this Agreement and maintained compliance for one year; or
  - b. The United States disputes that the City is in Substantial Compliance with the Agreement on March 15, 2020, and has maintained compliance for one year. Such a dispute will be addressed through negotiation between the Parties or, if the Parties are unable to reach a mutually agreeable resolution, through civil enforcement proceedings, as described in paragraph 90 above. Notwithstanding the above, this Agreement will terminate if the United States does not file an action at the conclusion of the 60 day period as described in paragraph 90 above.

IN WITNESS WHEREOF, the parties hereto have hereunder set their hands and seals as of this 10<sup>th</sup> day of MARCH, 2016.

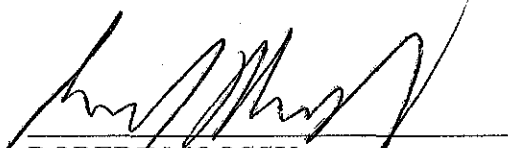
For the UNITED STATES OF AMERICA:

WIFREDO A. FERRER  
United States Attorney




VERONICA HARRELL-JAMES  
Assistant United State Attorney  
Southern District of Florida

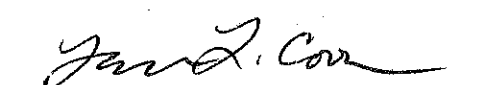
VANITA GUPTA  
Principal Deputy Assistant Attorney General  
Civil Rights Division



ROBERT MOOSSY  
Deputy Assistant Attorney  
Civil Rights Division




STEVEN H. ROSENBAUM  
Section Chief  
Special Litigation Section



LAURA L. COON  
Special Counsel  
Special Litigation Section



CHARLES HART  
Senior Trial Attorney  
Special Litigation Section

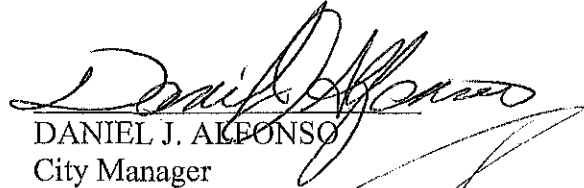


CATHLEEN S. TRAINOR  
Senior Trial Attorney  
United States Department of Justice  
Civil Rights Division  
Special Litigation Section  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

ATTEST: CITY OF MIAMI FLORIDA, a municipal corporation,

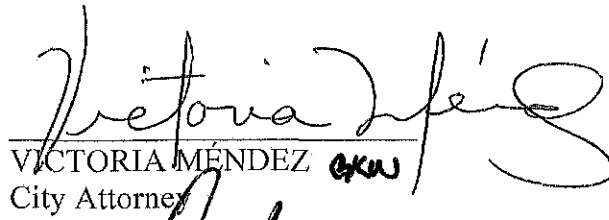


TODD B. HANNON  
City Clerk



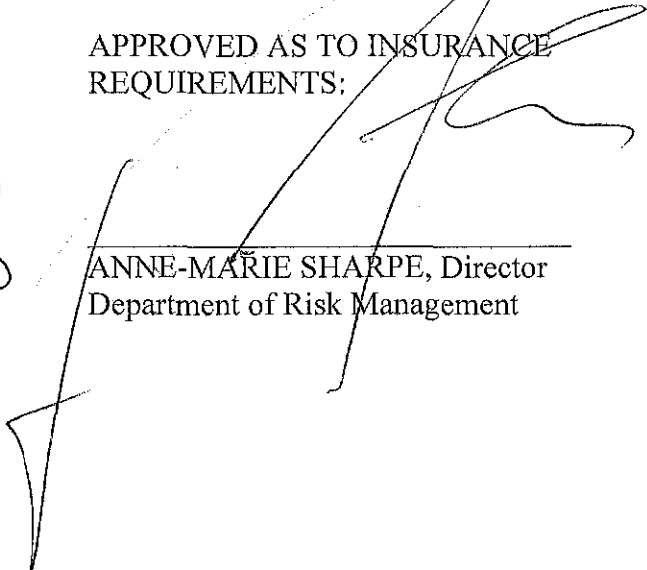
DANIEL J. ALFONSO  
City Manager

APPROVED AS TO FORM AND  
CORRECTNESS:

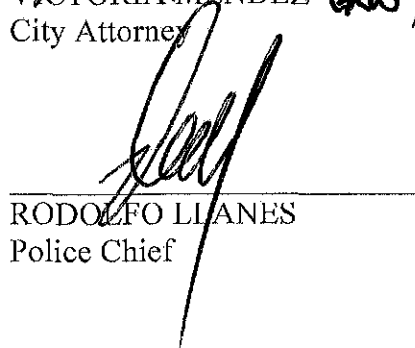


VICTORIA MÉNDEZ *ekw*  
City Attorney

APPROVED AS TO INSURANCE  
REQUIREMENTS:



ANNE-MARIE SHARPE, Director  
Department of Risk Management



RODOLFO LLANES  
Police Chief