

**GMS Application Number: 2019-H3693-NC-DJ**

**STATE OF NORTH CAROLINA  
COUNTY OF WAKE**

**MEMORANDUM OF UNDERSTANDING BETWEEN  
THE COUNTY OF WAKE, NORTH CAROLINA**

**AND**

**THE CITY OF RALEIGH, NORTH CAROLINA**

**RE: 2019 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM**

This Memorandum of Understanding is made and entered into this the 15<sup>th</sup> day of October, 2019, by and between the CITY OF RALEIGH, NORTH CAROLINA, (hereinafter referred to collectively as the "Fiscal Agent"), by and through its governing body, City Council and the COUNTY OF WAKE, NORTH CAROLINA (hereinafter referred to as the "Agency") acting by and through its governing body, the Board of Commissioners.

**WITNESSETH**

WHEREAS, it has been determined that the parties to this Memorandum of Understanding are jointly eligible to receive grant funding in the amount of \$138,339.00 from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Justice Assistance Grant (JAG) Program (hereinafter, the "Program") to assist state, local, and tribal efforts to prevent or reduce crime and violence; and,

WHEREAS, the governing body of each party to this Memorandum of Understanding finds that the performance of this Agreement is in the best interests of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement; and,

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, the AGENCY and FISCAL AGENT believe it to be in their best interests to reallocate the JAG funds; and,

NOW, THEREFORE, THE AGENCY AND FISCAL AGENT AGREE AS FOLLOWS:

**1. SCOPE.**

The JAG Award of \$138,339.00 is be allocated jointly to the AGENCY and the FISCAL AGENT and that the total amount of the grant will be deposited with the FISCAL AGENT and that the allocation and disbursement of funds shall be conducted as set forth herein.

## **2. TERM.**

The term of this Memorandum of Understanding is from the later of the issuance of Funds or execution by all parties to until such time as all available Funds are expended.

## **3. USE OF FUNDS.**

- 3.1. The FISCAL AGENT agrees to pay the AGENCY \$55,336 of JAG funds.
- 3.2. AGENCY agrees to use JAG funds (\$55,336) to purchase radar units, drones, and ballistic shields by September 30, 2022.
- 3.3. FISCAL AGENT agrees to use JAG funds (\$83,003) for contractual services costs related to training sessions on wellness and resiliency topics by September 30, 2022.

## **4. NOTICE.**

All notices or other communications arising hereunder shall be sent to the following:

City of Raleigh	Wake County
Attn: Chief Cassandra Deck-Brown Post Office Box 590 Raleigh, NC 27602 Phone: (919) 996-3335 E-mail: Cassandra.Deck-Brown@raleighnc.gov	Attn: Sheriff Gerald Baker 330 S. Salisbury Street Raleigh, NC 27602 Phone: (919) 856-7540 E-mail: Gerald.Baker@wakegov.com

## **5. ASSIGNMENT.**

This Agreement may not be assigned without the express written consent of both parties.

## **6. AMENDMENT.**

Any amendment to this Agreement to be effective must be in writing, signed by both parties, and executed with the same formality and approvals as the foregoing Agreement.

## **7. LIMITATION OF LIABILITY.**

Each party to this Agreement will be responsible for its own actions in providing services under this Agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

## **8. NO THIRD PARTY RIGHTS.**

- 8.1. This Memorandum of Understanding is intended for the benefit of the AGENCY and FISCAL AGENT and not any third party. The rights and obligations contained herein belong exclusively to the Parties hereto, and shall not confer any rights or remedies upon any person or entity other than the Parties hereto.
- 8.2. The parties to this Memorandum of Understanding do not intend for any third party to obtain a right by virtue of this Agreement.

8.3. By entering into this Memorandum of Understanding, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

#### **9. NON-APPROPRIATION.**

The parties to this Memorandum of Understanding acknowledge and agree that any and all performances and obligations set forth herein shall be contingent upon and conditioned upon approval of this Memorandum of Understanding by the governing bodies of all parties and award of funding by the Program in the amounts contemplated herein. In the event that funds are not available and not appropriated to the program specified in this Agreement, then this Agreement shall automatically expire without penalty to either party. In the event of a legal change in either party's statutory authority, mandate, and mandated functions which adversely affects the authority to continue performing obligations under this Agreement, then this Agreement shall automatically expire without penalty to either party.

#### **10. NON-DISCRIMINATION.**

To the extent permitted by North Carolina law, the parties hereto for themselves, their agents, officials, employees and servants agree not to discriminate in any manner on the basis of race, color, creed, national origin, sex, age, handicap, or sexual orientation with reference to the subject matter of this Agreement. The parties further agree, to the extent permitted by law, to conform with the provisions and intent of City of Raleigh Ordinance 1969-889, as amended. This provision is hereby incorporated into this Agreement for the benefit of the City of Raleigh and its residents, and may be enforced by action for specific performance, injunctive relief, or other remedy as provided by law. This provision shall be binding on the successors and assigns of the parties with reference to the subject matter of this Agreement.

#### **11. RELATIONSHIP OF PARTIES.**

AGENCY and FISCAL AGENT are, and shall remain, independent entities with respect to any service or function performed under this Agreement. Except as provided for in this Agreement, each party shall select the means, method, and manner of performing their respective services herein. Each party is an independent of the other and shall not represent itself or be deemed as an officer, agent or employee of the other party for any purpose. Nothing under this Agreement is intended or should be construed in any manner to create a joint venture, body or organization between the Parties. Each party agrees to be individually responsible to comply with all relevant State and Federal statutes, rules and regulations which are applicable to any responsibility or duty outlined herein.

#### **12. GOVERNING LAW AND FORUM.**

This Memorandum of Understanding shall be deemed made in Wake County, North Carolina. This Memorandum of Understanding shall be governed by and construed in accordance with the law of North Carolina. The exclusive forum and venue for all actions arising out of this Agreement shall be Wake County Civil Superior Court or the United States District Court for the Eastern District of North Carolina, Western Division.

#### **13. NO WAIVER OF IMMUNITY.**

Nothing herein shall be construed to mandate purchase of insurance any party, or to in any other way waive the defense of sovereign or governmental immunity from any cause of action alleged or brought against either party for any reason if otherwise available as a matter of law.

#### **14. E-VERIFY CERTIFICATION.**

Both parties shall comply with E-Verify, the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law and as in accordance with N.C.G.S. § 64-25 *et seq.* In addition, to the best of the parties' knowledge, any subcontractor employed by either party as part of this Agreement shall be in compliance with the requirements of E-Verify and N.C.G.S. § 64-25 *et seq.*

#### **15. IRAN DIVESTMENT ACT CERTIFICATION.**

Both parties certify that, as of the date listed below, they are not on the Final Divestment List as created by the State Treasurer pursuant to N.C.G.S. § 147-86.55, *et seq.* In compliance with the requirements of the Iran Divestment Act and N.C.G.S. § 147-86.59, FISCAL AGENT and AGENCY shall not utilize in the performance of the Agreement any subcontractor that is identified on the Final Divestment List.

#### **16. COMPANIES BOYCOTTING ISRAEL DIVESTMENT ACT CERTIFICATION.**

Both parties certify that they have not been designated by the North Carolina State Treasurer as a company engaged in the boycott of Israel pursuant to N.C.G.S. 147-86.81.

#### **17. APPLICABILITY OF NORTH CAROLINA PUBLIC RECORDS LAW.**

Notwithstanding any other provisions herein, and subject to North Carolina and Federal Law, this Memorandum of Understanding and materials submitted to the parties are subject to the public records laws of the State of North Carolina and it is the responsibility of each party to properly designate materials that may be protected from disclosure under North Carolina law as such and in the form required by law prior to the submission of such materials. The parties understand and agree that each party may take any and all actions necessary to comply with federal, state, and local laws and/or judicial orders and such actions will not constitute a breach of the terms of this Agreement. To the extent that any other provisions of this Memorandum of Understanding conflict with this paragraph, the provisions of this section shall control.

#### **18. FORCE MAJEURE.**

Except as otherwise provided in any environmental laws, rules, regulations or ordinances applicable to the parties and the services performed under this Agreement, neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by an act of war, hostile foreign actions, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God. Either party to the Agreement must take reasonable measures and implement reasonable protections when a weather event otherwise defined as a force majeure event is forecast to be eligible to be excused from the performance otherwise required under this Agreement by this provision.

#### **19. WAIVER.**

No action or failure to act by either Party shall constitute a waiver of any of its rights or remedies that arise out of this Memorandum of Understanding, nor shall such action or failure to act

constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing.

**20. SEVERABILITY.**

If any provision of this Memorandum of Understanding shall be unenforceable, the remainder of this Agreement shall be enforceable to the extent permitted by law.

**21. ENTIRE AGREEMENT.**

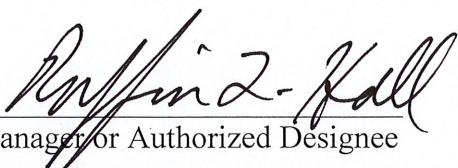
By entering into this Agreement, the Parties do not intend to create any obligations express or implied other than those set out herein. Further, this Agreement shall not create any rights in any party not a signatory hereto. This Agreement may be amended only by written agreement of the parties executed by their authorized representatives. This Memorandum of Understanding contains the entire agreement between the parties pertaining to the subject matter herein. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced herein.

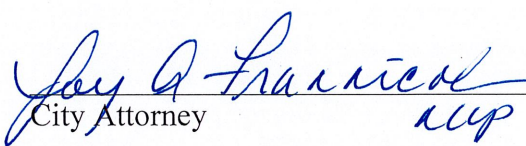
THIS AGREEMENT is entered into this 15 day of Oct, 2019

IN WITNESS WHEREOF, intending to be legally bound hereby, and with the authority vested in them by resolution of their respective governing boards, the parties have caused this Memorandum of Understanding to be executed and delivered as of the date first above written.

**CITY OF RALEIGH, NORTH CAROLINA**

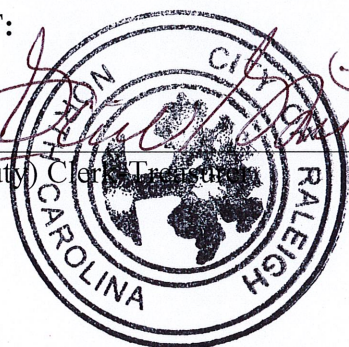
This instrument is approved as to form and legal sufficiency.

By:   
City Manager or Authorized Designee

By:   
City Attorney

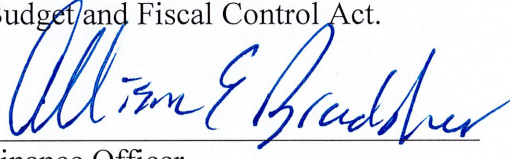
**ATTEST:**

By:   
(Deputy) Clerk



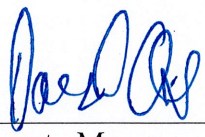
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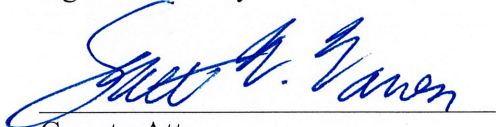
This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act.

  
Finance Officer  
City of Raleigh, North Carolina

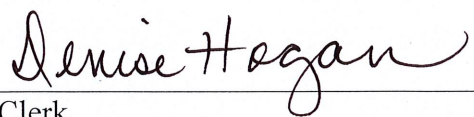
**WAKE COUNTY, NORTH CAROLINA**

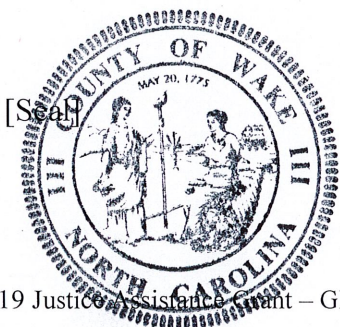
This instrument is approved as to form and legal sufficiency.

By:   
County Manager or Authorized Designee

By:   
County Attorney

**ATTEST:**

By:   
Clerk



# ***ENCUMBERED***

PROVISIONS FOR THE PAYMENT OF THE MONEYS  
TO FALL DUE UNDER THIS AGREEMENT HAVE BEEN  
MADE BY AN APPROPRIATION DULY MADE OR BY  
BONDS OR NOTES DULY AUTHORIZED AS RE  
QUIRED BY THE LOCAL GOVERNMENT ACT

Le'Teya Robinson

**CITY ACCOUNTANT**

10/14/2019

**DATE**

**CODE** 810-4010-726000-93320-GRT08-72086003

**\$** 55,336