

**FIRST AMENDMENT TO AGREEMENT BETWEEN
BROWARD COUNTY AND JEFF ELLIS AND ASSOCIATES, INC.
FOR AQUATIC RISK MANAGEMENT SERVICES (RFP # GEN2115874P1)**

This First Amendment ("Amendment") is entered into between Broward County, a political subdivision of the State of Florida ("County"), and Jeff Ellis and Associates, Inc., a Texas corporation ("Contractor") (each a "Party" and collectively referred to as the "Parties").

RECITALS

A. The Parties entered into the Agreement between Broward County and Jeff Ellis and Associates, Inc. for Aquatic Risk Management Services (RFP # GEN2115874P1), dated March 1, 2019 (the "Agreement"), for Contractor to provide comprehensive risk management services, along with aquatic safety operation audits, lifeguard and lifeguard instructor training, and operational audits at County's aquatic facilities.

B. The Initial Term of the Agreement began on March 6, 2019, and expired on March 5, 2022. The Agreement was subsequently renewed for two, one-year Extension Terms and one, six-month Additional Extension (as those terms are defined in the Agreement) through September 4, 2024.

C. The Parties now desire to reinstate the Agreement, to create a new renewal term, and to provide a Scope of Services and Payment Schedule for the new term.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The above Recitals are true and correct and are incorporated herein by reference. All capitalized terms not expressly defined within this Amendment shall retain the meaning ascribed to such terms in the Agreement.

2. Unless otherwise expressly stated herein, amendments to the Agreement made pursuant to this Amendment are indicated herein by use of strikethroughs to indicate deletions and bold/underlining to indicate additions. Except as modified herein, all remaining terms and conditions of the Agreement shall remain in full force and effect.

3. Article 1 of the Agreement is amended as follows:

1.7 **Services** means all work required by Contractor under this Agreement including, without limitation, all deliverables, consulting, training, project management, or other services specified in Exhibit A and Exhibit F.

...

1.9 **Term** means the combined period of the Initial Term, ~~and any the~~ Extension Term(s), the Additional Extension, the Renewal Term, and any Renewal Extension

Term(s), as **each is** more specifically defined in ~~Sections 4.1 and 4.2~~ **Article 4** of this Agreement.

4. Section 3.1 of the Agreement is amended as follows:

3.1 Scope of Services. Contractor shall perform all work identified in this Agreement including, without limitation, the work specified in Exhibit A **during the Initial Term, Extension Terms, and the Additional Extension, and the work specified in Exhibit F during the Renewal Term and any Renewal Extension Term (Exhibit A and F together,** the “Scope of Services”). The Scope of Services is a description of Contractor’s obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks that are such an inseparable part of the work described that exclusion would render performance by Contractor impractical, illogical, or unconscionable.

5. Article 4 of the Agreement is amended as follows:

4.3 Additional Extension. In the event unusual or exceptional circumstances, as determined in the sole discretion of the Purchasing Director, render the exercise of an Extension Term not practicable, or if no extension is available and expiration of this Agreement would, as determined by the Purchasing Director, result in a gap in the provision of services necessary for the ongoing operations of County, then the Purchasing Director may extend this Agreement on the same terms and conditions for period(s) not to exceed six (6) months in the aggregate **(the “Additional Extension”)**, provided that any such extension is within the authority of the Purchasing Director or otherwise authorized by the Board. The Purchasing Director may exercise this option by written notice stating the duration of the extended period, which notice shall be provided to Contractor at least thirty (30) days prior to the end of the then-current term

...

4.7 Renewal Term. This Agreement has been renewed by the Parties for a three (3) year term, beginning on January 1, 2025, and continuing through December 31, 2027 (the “Renewal Term”). County shall have the option to further renew this Agreement for up to two (2) additional one (1) year terms (each a “Renewal Extension Term”) by providing notice of renewal to Contractor at least thirty (30) days prior to the expiration of the then-current term. The Purchasing Director is authorized to exercise the Renewal Extension Terms, and notice by electronic means alone is deemed sufficient.

6. Section 5.1 of the Agreement is amended as follows:

5.1 Maximum Amounts. For the Services, County will pay Contractor up to a maximum amount as follows:

| Services | Not-To-Exceed Amount |
|---|---------------------------------------|
| Annual Not-to-Exceed <u>(Initial Term and Extension Terms)</u> | \$40,000/ <u>annually</u> |
| <u>Annual Not-to-Exceed (Renewal Term and Renewal Extension Terms)</u> | <u>\$50,000/annually</u> |
| Aggregate Not-to-Exceed for initial <u>entire</u> Term and all Extension Terms | \$200,000 <u>\$450,000</u> |

7. Article 7, Indemnification, of the Agreement is deleted in its entirety.
8. New Sections 11.28 through 11.33 are added to the Agreement as follows (bold/underlining omitted):

11.28 Discriminatory Vendor and Scrutinized Companies List; Countries of Concern. Contractor represents that it has not been placed on the “discriminatory vendor list” as provided in Section 287.134, Florida Statutes, and that it is not a “scrutinized company” pursuant to Sections 215.473 or 215.4725, Florida Statutes. Contractor represents and certifies that it is not, and for the duration of the Term will not be, ineligible to contract with County on any of the grounds stated in Section 287.135, Florida Statutes. Contractor represents that it is, and for the duration of the Term will remain, in compliance with Section 286.101, Florida Statutes.

11.29 Verification of Employment Eligibility. Contractor represents that Contractor and each Subcontractor have registered with and use the E-Verify system maintained by the United States Department of Homeland Security to verify the work authorization status of all newly hired employees in compliance with the requirements of Section 448.095, Florida Statutes, and that entry into this Agreement will not violate that statute. If Contractor violates this section, County may immediately terminate this Agreement for cause and Contractor shall be liable for all costs incurred by County due to the termination.

11.30 Prohibited Telecommunications Equipment. Contractor represents and certifies that Contractor and all Subcontractors do not use, and for the Term will not provide or use, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR §§ 52.204-24 through 52.204-26.

11.31 Criminal History Screening Practices. If this Agreement is subject to the requirements of Section 26-125(d) of the Code, Contractor represents and certifies that Contractor will comply with Section 26-125(d) of the Code for the duration of the Term.

11.32 Polystyrene Food Service Articles. Contractor shall not sell or provide for use on County property expanded polystyrene products or food service articles (e.g., Styrofoam), unencapsulated expanded polystyrene products, or single-use plastic straws or stirrers, as set forth in more detail in Section 27.173, Broward County Administrative Code.

11.33 Ownership Disclosure Requirement. By January 1 of each year, Contractor must submit, and cause each of its Subcontractors to submit, an Ownership Disclosure Form (or such other form or information designated by County), available at <https://www.broward.org/econdev/Pages/forms.aspx>, identifying the ownership of the entity and indicating whether the entity is majority-owned by persons fitting specified classifications.

9. Exhibit B is amended to include a new Schedule 1, as attached to this Amendment.
10. The Agreement is amended to include a new Exhibit F, as attached to this Amendment.
11. Anti-Human Trafficking. By execution of this Amendment by an authorized representative of Contractor, Contractor hereby attests under penalty of perjury that Contractor does not use coercion for labor or services, as such terms are defined in Section 787.06, Florida Statutes. Under penalties of perjury, the undersigned authorized representative of Contractor declares that they have read the foregoing statement and that the facts stated in it are true.
12. In the event of any conflict or ambiguity between this Amendment and the Agreement, the Parties agree that this Amendment shall control. The Agreement, as amended herein by this Amendment, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter hereof that are not contained in the Agreement as amended in this Amendment. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.
13. Preparation of this Amendment has been a joint effort of the Parties, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than any other.
14. Contractor acknowledges that through the date this Amendment is executed by Contractor, Contractor has no claims or disputes against County with respect to any of the matters covered by the Agreement.
15. The effective date of this Amendment shall be the date of complete execution by the Parties (the "First Amendment Effective Date").
16. This Amendment may be executed in multiple originals or in counterparts, whether signed physically or electronically; each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Amendment: Broward County through its Board of County Commissioners, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ____ day of _____, 20__; and Jeff Ellis and Associates, Inc., signing by and through its duly authorized representative.

COUNTY

ATTEST:

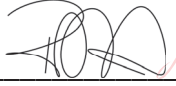
BROWARD COUNTY, by and through
its Board of County Commissioners

By: _____
Broward County Administrator, as
ex officio Clerk of the Broward County
Board of County Commissioners

By: _____
Mayor
____ day of _____, 20__

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

AMANDA M.
By TOLBERT Digitally signed by AMANDA M. TOLBERT
Date: 2025.03.18 16:57:54
-04'00'
Amanda Tolbert (Date)
Assistant County Attorney

By  Digitally signed by RENE D. HARROD
Date: 2025.03.19 10:49:20
-04'00'
René D. Harrod (Date)
Chief Deputy County Attorney

AMT
First Amendment to Agreement with Jeff Ellis and Associates, Inc.
3/17/2025
#1131394v8

FIRST AMENDMENT TO AGREEMENT BETWEEN
BROWARD COUNTY AND JEFF ELLIS AND ASSOCIATES, INC.
FOR AQUATIC RISK MANAGEMENT SERVICES (RFP # GEN2115874P1)

CONTRACTOR

Jeff Ellis and Associates, Inc.

By: 
Authorized Signer

Richard A. Green COO
Print Name and Title

18 day of MARCH, 2025

SCHEDULE 1 TO EXHIBIT B**Payment Schedule for Renewal Term and Renewal Extension Terms**

The rates specified below shall be in effect for the Renewal Term and all Renewal Extension Terms, unless otherwise expressly stated below. Any goods or services required under this Agreement for which no specific fee or cost is expressly stated in this Payment Schedule shall be deemed to be included, at no extra cost.

Table A: Lump Sum Fees

| Description | Each Instance |
|---|-----------------------------------|
| Annual Retainer to Contractor during Renewal Term | \$1,000.00/year |
| Annual Retainer to Contractor during Renewal Extension Term(s) | \$1,250.00/year |
| Safety Audits during Renewal Term | \$1,250.00/per audit/per facility |
| Safety Audits during Renewal Extension Term(s) | \$1,500.00/per audit/per facility |
| Facility Inspection Fee, as requested by County | \$2,500.00/per inspection |
| Hourly Consulting Fees for accident and drowning investigation, as requested by the Contract Administrator. | \$400/per hour |

Table B: Course/Certification Fees

Contractor may charge to County the following fees for all training, materials, and issuances stated below.

| Course Type | Fee Per Participant/Certification |
|--|--|
| International Lifeguard Training Program Shallow Water Lifeguard Certification Course | \$105.00 |
| International Lifeguard Training Program Pool Lifeguard Certification Course | \$105.00 |
| International Lifeguard Training Program Special Facilities Lifeguard Certification Course | \$105.00 |
| International Lifeguard Training Program Renewal Lifeguard Certification Course | \$75.00 |
| International Lifeguard Training Program Lifeguard Textbook* or Online Program | \$0.00 |
| Certification Transfer Fee | \$0.00 |
| International Lifeguard Training Program Instructor Certification Course | \$425.00 Original, \$325 Renewal |

| Course Type | Fee Per Participant/Certification |
|---|---|
| Swim Program Coordinator Certification | \$300.00 for first five (5) individuals + \$60 for each additional individual |
| Renewal Swim Program Coordinator Certification | \$300.00 for first five (5) individuals + \$60 for each additional individual |
| Course Completion Card upgrade to Certification | \$45.00 |

*The textbook fee is subject to an increase in costs by the book's publisher, effective July 1 of each year. Any increase shall be passed through to County without markup. Contractor shall provide notice to the Contract Administrator thirty (30) days prior to the effective date of any textbook fee increase.

Table C: Training Fees

Contractor may charge the following fees for all training, materials, and issuance of the following certificates:

| Certificate | Fee per Certificate |
|--|---------------------|
| Swim Instructor Certificate | \$35.00 |
| Renewal Swim Instructor Certificate | \$35.00 |
| VanGuard Aquatics Leadership Instructor Training | \$50.00 |

EXHIBIT F**Scope of Services for Renewal Term and Renewal Extension Terms**

Contractor shall provide ongoing consultant services to County for a comprehensive aquatic risk management program (the "Program") at County's aquatic facilities listed below (together, the "Aquatic Facilities") in accordance with this Agreement. County, in its discretion, may add or remove Aquatic Facilities by providing notice to Contractor at least thirty (30) days in advance. Contractor shall incorporate any new Aquatic Facilities into the Program under the same terms, conditions, and fees provided for herein. The current Aquatic Facilities are:

- C.B. Smith Park, Paradise Cove, 900 N. Flamingo Road, Pembroke Pines, Florida.
- Central Broward Park and Broward County Stadium, Tropical Splash, 3700 NW 11th Place, Lauderhill, Florida.
- Quiet Waters Park, Splash Adventure, 401 S. Powerline Road, Deerfield Beach, Florida.
- Topeekeegee Yugnee (T.Y.) Park, Castaway Island, 3300N. Park Road, Hollywood, Florida.

A. On the First Amendment Effective Date, Contractor shall provide County with its then-current Risk Management Resource Guide ("Guide"), and shall ensure the Guide is up to date. Contractor shall also provide to County updated versions of the Guide throughout the Term.

B. Contractor shall respond within two (2) hours to County regarding any aquatic risk management injuries. Contractor must maintain and provide phone and electronic mail communications when risk management injuries are reported to Contractor. This service is included in Contractor's annual retainer fee as provided in Exhibit B, Schedule 1.

C. **International Lifeguard Training Program (ILTP)**

1) International Lifeguard Training. Contractor shall provide an International Lifeguard Training Program (ILTP) on an as-needed basis, as requested by the Contract Administrator or their written designee, including, but not limited to, the following:

- a) State-of-the-art aquatic rescue technology.
- b) Professional lifeguard techniques.
- c) Scanning and victim identification.
- d) Spinal cord injury management.
- e) Lifeguard first-aid skills.
- f) CPR/Basic Life Support ("BLS") for adult, children, and infants.
- g) Oxygen support administration.
- h) Automated External Defibrillator (AED).

The fees stated in Exhibit B, Schedule 1, for each ILTP training course are inclusive of all costs of training, the course materials, and all applicable certification fees.

2) Lifeguard Instructor Training. Contractor shall provide a program for training County lifeguard instructors (“Lifeguard Instructor Training”) on an as-needed basis, as requested by the Contract Administrator or their written designee, including, but not limited to, the following:

- a) Teaching methodology, including communication presentation techniques.
- b) Skills enhancement training to develop teacher-level quality for course demonstrations.
- c) Course management procedures.
- d) Testing and evaluation procedures.

The training shall include issuing certifications to instructors and providing any training materials needed to support the future instruction of ILTPs.

County acknowledges that a minimum of five (5) individuals must register for each Lifeguard Instructor Training course for Contractor to be required to perform the training course. The fees for each individual participating in any Lifeguard Instructor Training course, including training materials, shall be provided in Exhibit B, Schedule 1.

3) Other Training. Contractor shall provide additional training to County, on an as-needed basis, as requested by the Contract Administrator or their written designee, for a swimming program to train swim instructors and junior lifeguards. The training shall include any training materials needed to support the swimming program.

D. Certifications

Contractor shall properly certify individuals upon completion of the training programs referenced in Section C, above. Certifications issued pursuant to Section C shall be valid at all Aquatic Facilities regardless of whether the certification identifies a specific facility, and the certification fees shall be as provided in Exhibit B, Schedule 1. A certification issued by Contractor for a program in Section C may be transferred by Contractor to another facility outside of the Aquatic Facilities, subject to a certification transfer fee, as provided in Exhibit B, Schedule 1.

E. Aquatic Safety Operational Audits

Contractor shall conduct independent and random aquatic safety operational audits (“Safety Audits”) at each Aquatic Facility. Safety Audits shall be performed three (3) times per year at each Aquatic Facility at the rate stated in Exhibit B, Schedule 1 (which includes all travel-related expenses for the Safety Audit). Safety Audits must be at least thirty (30) days apart at any individual Aquatic Facility. Safety Audits shall be conducted at any time during the Aquatic Facilities’ standard hours of operation. Contractor must submit an electronic copy of each audit to County within seventy-two (72) hours after completion of the Safety Audit. County shall be

provided written and video-recorded copies of all Safety Audits, along with recommendations made by Contractor for each Aquatic Facility.

Each Safety Audit shall consist of unannounced visits to County's Aquatic Facilities and independent evaluation of randomly selected lifeguards to determine the following:

- Aquatic professionalism and attentiveness;
- Aquatic rescue competency; and
- CPR/BLS competency.

The Safety Audits shall also include a review of each Aquatic Facility's administrative areas, including, but not limited to, a basic facility safety inspection, a supervisory evaluation, and an administrative evaluation to determine whether the Aquatic Facility's staff are properly documenting their protective zones, in-service training sessions, and other administrative actions.

F. Annual Safety Inspections

Contractor shall perform annual safety inspections at each Aquatic Facility, upon the request of the Contract Administrator or their written designee, for the Facility Inspection Fee provided in Exhibit B, Schedule 1. Contractor shall provide the Contract Administrator in writing with any recommended changes within thirty (30) days after each inspection.

G. Annual Review of Emergency Plans

Contractor shall perform annual reviews of the County's aquatic manual, at the request of the Contract Administrator or their written designee, for the hourly consulting fee provided in Exhibit B, Schedule 1. Contractor shall provide the Contract Administrator in writing with any recommended changes to the aquatic manual within thirty (30) days after review.

H. Accident and Drowning Investigation

1) Contractor shall provide catastrophic aquatic accident and/or drowning incident investigation Services and be named lead investigator of any aquatic incident, when required or requested by County, for the hourly consulting fee of Four Hundred Dollars (\$400.00) provided in Exhibit B, Schedule 1, plus travel related expenses provided for in Section 5.4 of the Agreement, for a total amount not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) or eight (8) hours of initial consulting fees per incident. Contractor shall work in conjunction with the County's Risk Management Division for any aquatic incident, on an as-needed basis, as requested by the Contract Administrator. If investigative Services are reasonably expected to exceed the maximum not-to-exceed amounts provided in Section 5.1 of this Agreement, Contractor may decline County's request for such services unless and until the Parties

execute an amendment to increase the maximum not-to-exceed amounts, in accordance with Section 11.19 of this Agreement.

2) Contractor may, at its option after reviewing the facts on a case-by-case basis, provide litigation support Services to County, if requested by the Contract Administrator, at the hourly consulting fee of Four Hundred Dollars (\$400.00) provided in Exhibit B, Schedule 1, plus travel related expenses provided for in Section 5.4 of the Agreement, for a total amount not to exceed Five Thousand Dollars (\$5,000.00) or sixteen (16) hours per initial consulting fees per incident. If litigation support Services are reasonably expected to exceed the maximum not-to-exceed amounts provided in Section 5.1 of this Agreement, Contractor may decline County's request for such Services unless and until the Parties execute an amendment to increase the maximum not-to-exceed amounts, in accordance with Section 11.19 of this Agreement.

I. Additional Consultant Services

Contractor shall perform additional professional aquatic consulting services for County when required or requested by County, at the hourly consulting fee provided in Exhibit B, Schedule 1.

J. County's Responsibilities

- 1) County shall assist Contractor by providing to Contractor all information pertinent to the Program that County has available, including previous reports and any other data relative to the Program.
- 2) County shall arrange for Contractor to have access to Aquatic Facilities as required for Contractor to perform the Services.
- 3) County shall make available all emergency action plans, staff certifications, and training records to Contractor's auditors upon request of same.
- 4) County shall notify Contractor of any catastrophic aquatic accident and/or drowning incident at any Aquatic Facility within one (1) hour after the incident.