



CITY of NOVI CITY COUNCIL

**Agenda Item C
April 4, 2016**

SUBJECT: Approval of Resolution for the City of Novi to enter into an agreement with the Oakland County Sheriff's Office for the purpose of providing marine patrol services on the portion of Walled Lake in the City of Novi for an estimated annual cost of \$7,200.

SUBMITTING DEPARTMENT: Public Safety – Police *DEM*

CITY MANAGER APPROVAL: *[Signature]*

EXPENDITURE REQUIRED	\$7,200
AMOUNT BUDGETED	\$7,200
APPROPRIATION REQUIRED	N/A
LINE ITEM NUMBER	101-301.00-816.000

BACKGROUND INFORMATION:

In 2010 the Oakland County Sheriff's Office changed the manner in which marine patrols were conducted due to budgetary constraints. In place of the normal marine patrol activity, Municipalities were offered the opportunity to contract for dedicated marine patrol services for a fee.

The majority of the 670 acre Walled Lake rests within the City of Novi's jurisdiction. In 2013, the City of Novi entered into such an agreement by signing a three year contract with the Oakland County Sheriff's Office. Over the past three years the marine patrol has represented an effective and efficient use of City's resources and provides an additional layer of safety and accountability to our boating community. The annual cost of this service is approximately \$7,200 plus any related travel, court appearances, meetings and other services under the Agreement not involving actual lake patrols and has been included in the Police Department's annual budget.

As with other agreements, the City of Novi will need a resolution authorizing the City Manager to enter into an agreement with Oakland County for marine patrol. Legal counsel has reviewed this matter and opines there is no legal impediment which precludes the City of Novi from executing this agreement.

RECOMMENDED ACTION: Approval of Resolution for the City of Novi to enter into an agreement with the Oakland County Sheriff's Office for the purpose of providing marine patrol services on the portion of Walled Lake in the City of Novi for an estimated annual cost of \$7,200.

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Burke				
Council Member Casey				

	1	2	Y	N
Council Member Markham				
Council Member Mutch				
Council Member Wrobel				



JOHNSON ROSATI SCHULTZ JOPPICH PC

27555 Executive Drive Suite 250 ~ Farmington Hills, Michigan 48331
Phone: 248.489.4100 | Fax: 248.489.1726

Thomas R. Schultz
tschultz@jrsjlaw.com

www.jrsjlaw.com

March 30, 2016

Jerrod Hart, Assistant Police Chief
City of Novi
45175 Ten Mile Road
Novi, MI 48375-3024

RE: Marine Patrol Agreement

Dear Assistant Chief Hart:

You asked our office to review the proposed 2016-2018 Marine Patrol Agreement with the Oakland County Sheriff's Department. The Agreement is identical to the 2013-2015 Agreement that the City approved in May, 2013, with the sole exception of the cost of service, which is set forth in Schedule A to the Agreement. Enclosed is Gary Dovre's letter from April 24, 2013, which describes the general terms and operation of the Agreement.

Also enclosed is a Resolution for adoption by City Council should you choose to proceed with the Agreement this year. If you have any questions, please do not hesitate to call.

Sincerely yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.

Thomas R. Schultz

TRS:jah
Enclosures

cc: David Molloy, Director of Public Safety
Peter Auger, City Manager
Victor Cardenas, Assistant City Manager



JOHNSON ROSATI SCHULTZ JOPPICH PC

34405 W. Twelve Mile Road, Suite 200 ~ Farmington Hills, Michigan 48331-5627
Phone: 248.489.4100 | Fax: 248.489.1726

Gary L. Dove
gdovre@jrsjlaw.com

www.jrsjlaw.com

Via Email Only

April 24, 2013

Jerrod S. Hart, Assistant Chief of Police
City of Novi
45175 West 10 Mile Road
Novi, Michigan 48375

**RE: Proposed Oakland County Sheriff's Office
2013 – 2015 Marine Patrol Services Agreement**

Dear Assistant Chief Hart:

As Tom indicated in response to the request for attorney review of the enclosed Agreement, I am familiar with it from reviews for another community (West Bloomfield Township) in prior years. As correctly noted in your March 14, 2013, Memorandum to Chief Molloy, this contract approach is the only way the County Sheriff's Office has been willing to provide dedicated marine patrol services on County lakes since 2010.

In addition to reviewing the proposed Agreement and your proposed schedule for marine patrol services on Walled Lake this summer, I have spoken with Bradley Benn at the County Corporation Counsel's office. He confirmed, as has been the consistent practice in the past, that the form of this Agreement has already been approved by the Oakland County Board of Commissioners. The significance of that is the lack of realistic opportunity to request revisions to the Agreement on behalf of the City. Therefore, this review letter will focus on particular provisions the City should be aware of in approving and administering the Agreement.

From my review, the Agreement is substantively identical to the County's 2012 Agreement, with the only difference being the expansion of the term in Paragraph 20 to three years (prior agreements have been for one year terms). However, appreciating that this would be the City's first Marine Patrol Services Agreement with the County, that three-year term is tempered by the ability of either party to terminate the Agreement without cause by 30 days' written notice.

From the legal perspective our only major concern is the rather draconian remedies the County has for nonpayment under Paragraph 8 of the Agreement. Nevertheless, from past experience, we understand those provisions to be nonnegotiable. Additionally, we are not aware of the County ever resorting to those remedies, all of which can be avoided by paying County invoices

Jerrod S. Hart, Assistant Chief of Police
City of Novi
April 24, 2013
Page 2

when due. In that regard, please note the last sentence in Paragraph 7 that invoices are due within 30 days of the invoice date, regardless of the date of receipt.

From a financial perspective, while the 208 hours of services desired at the base hourly rate of \$31.50 for 2013 would be \$6,552.00, the County's billings for 2013 could exceed that amount based on the following paragraphs of the Agreement:

- 5.a Allows billings for travel time, court appearances, meetings, and other services under the Agreement but not involving actual lake patrols.
- 7. Confirms the City obligation to reimburse for additional hours of work incurred by the Sheriff in providing marine patrol services.
- Schedule A. While this Schedule indicates that deputies assigned will be part-time and not eligible for benefits, the rate table includes overtime rates, which seems contrary to the understanding outlined in Paragraph 2 of your March 14, 2013, Memo to Chief Molloy.

Based on these provisions, the City may want to budget, or be prepared to budget some additional amounts beyond the \$6,552.00 referenced above.


The final provision we would bring to your attention is the definition of Municipality Liaison in Paragraph 1.g, suggesting that that person would be the Mayor unless the City designates someone else in writing. Since that position is the primary contact person with the Sheriff's Department, having the Municipality Liaison being someone from the Police Department, such as you, would make sense.

Paragraph 21 and the signature page of the Agreement call for it to be approved by a City Council Resolution. Such a Resolution approving the Agreement, authorizing Mr. Pearson to sign it, designating you as the Municipality Liaison and referencing the requested schedule is being provided with this letter.

Please call if there are any questions or issues that have not been adequately addressed in this summary review letter.

Very truly yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.



Gary L. Dovre

GLD/sls
Enclosure

C: Clay Pearson, City Manager (w/Enclosure)
Maryanne Cornelius, City Clerk (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

RESOLUTION NO. _____

At a meeting of the City Council of the City of Novi, Oakland County, Michigan, held on April 4, 2016, at the City Hall, 45175 West Ten Mile Road, Novi, Michigan 48375-3024.

The following Resolution was offered by Councilmember _____ and supported by Councilmember _____.

WHEREAS, the Oakland County Sheriff's Office 2016-2018 Marine Patrol Services Agreement with attached Schedule A, to which this Resolution is attached, between the City of Novi, the County of Oakland and/or the Oakland County Sheriff, was presented to the City Council of the City of Novi for approval on April 4, 2016; and

WHEREAS, the provisions in Schedule A of the Agreement that allow for the City to identify and request a schedule and not to exceed billing amount for individual lakes on which Marine Patrol Services are to be provided is an acceptable approach to defining the Marine Patrol Services covered by the Agreement.

NOW THEREFORE, IT IS THEREFORE RESOLVED::

1. To approve the Oakland County Sheriff's Office 2016-2018 Marine Patrol Services Agreement with the City of Novi, to which this Resolution is attached, and authorize the City Manager to sign and submit it to the County on behalf of the City of Novi.
2. That Jerrod S. Hart, Assistant Chief of Police, is hereby designated to serve as the City's Municipality Liaison for purposes of the Agreement hereby approved, and is authorized and directed to identify the waters of Walled Lake within the City of Novi for Marine Patrol Services under the Agreement and request a patrol schedule and not to exceed billing amount for 2016 based on 208 hours from and including May 1, 2016, through September 30, 2016.

AYES:

NAYS:

RESOLUTION DECLARED ADOPTED.

Maryanne Cornelius, City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi, County of Oakland, and State of Michigan, at a regular meeting held this 4th day of April, 2016, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting have been kept and made available to the public as required by said Act.

Maryanne Cornelius, City Clerk

MEMORANDUM



TO: DAVID E. MOLLOY
DIRECTOR OF PUBLIC SAFETY / CHIEF OF POLICE

FROM: JERROD S. HART ^{JRH}
ASSISTANT CHIEF OF POLICE

SUBJECT: OAKLAND COUNTY SHERIFF MARINE PATROL CONTRACT

DATE: MARCH 10, 2016

In 2010, the Oakland County Sheriff's Office changed the manner in which marine patrols were conducted due to budget cuts. In place of the normal marine patrol activity, Municipalities were offered the opportunity to contract for dedicated marine patrol services for a fee.

In 2013, the City of Novi entered into such an agreement by signing a three year contract with the Oakland County Sheriff's Office. The contract capped the total number of patrol hours at 208 for our portion of Walled Lake.

As shown in Table 1, marine patrol deputies worked a total of 540 hours over the three year contract for a total of \$16,856 making nearly 2,000 boater contacts and conducting 351 boat inspections. The deputies are scheduled to work major holidays, fireworks, weekends and boat races to ensure our boating public is safe.

I received the proposed contract for 2016-2018 and noted a slight increase for all marine services. For purposes of our needs, we utilize a marine deputy with a boat as identified in Schedule A of the contract. I recommend we continue to contract a maximum of 208 hours of marine patrol per year at a potential cost to the City of Novi of \$6,911 (2016), \$6,995 (2017) and \$7,036 (2018). With your approval, I will forward the contract to Johnson, Rosati, Schultz and Joppich PC for review and prepare a resolution for council action.

Year	2013	2014	2015	Total
Patrol Hours Billed	152.5	188.5	199	540
Number of Contacts	695	683	581	1,959
Number of Tickets	20	18	10	48
Number of Warnings	233	162	166	561
Number of Complaints	2	1	0	3
Number of Safety Inspections	90	173	88	351
Accidents - Boat	0	0	0	0
Accidents - Non-Boat	0	0	0	0
OUIL Arrests	0	0	0	0
Calls for Service	1	8	0	9
Citizen Assists	3	8	12	23
Invoiced	\$4,804	\$5,829	\$6,223	\$16,856

Table 1

**OAKLAND COUNTY SHERIFF'S OFFICE
2016-2018 MARINE PATROL SERVICES AGREEMENT WITH
THE CITY OF NOVI**

This Agreement is made and entered into between the CITY OF NOVI, a Michigan Constitutional and Municipal Corporation and political subdivision of the State of Michigan, located within Oakland County, whose address is 45175 West Ten Mile Road, Novi, MI, 48375 (hereafter the "MUNICIPALITY"), and the COUNTY OF OAKLAND, a Michigan Constitutional and Municipal Corporation and political subdivision of the State of Michigan, whose address is 1200 North Telegraph Road, Pontiac, Michigan 48341 (hereafter the "COUNTY"), and/or the OAKLAND COUNTY SHERIFF, in the capacity of a Michigan Constitutional Officer, whose address is County Service Center, Building. #38 East, 1200 N. Telegraph Road, Pontiac, Michigan 48341-1044 (hereafter the "SHERIFF"). In this Agreement, whenever the COUNTY and SHERIFF are intended as joint or co-obligors they will be referred to collectively as the "OAKLAND COUNTY SHERIFF'S OFFICE" or, as abbreviated, the "O.C.S.O.", otherwise, "COUNTY" and "SHERIFF" shall refer only to individual described herein.

INTRODUCTORY STATEMENTS

Whereas, the O.C.S.O. is authorized to enforce MARINE LAW but, absent an agreement such as this, has only limited responsibility to do so within the MUNICIPALITY; and

Whereas, the O.C.S.O. and the MUNICIPALITY may enter into an agreement where the O.C.S.O. would enforce MARINE LAW in the MUNICIPALITY; and

Whereas, the MUNICIPALITY desires to contract with the O.C.S.O. for the enforcement of MARINE LAW in the MUNICIPALITY; and

Whereas, the O.C.S.O. is agreeable to enforcing MARINE LAW within in the MUNICIPALITY with the additional personnel provided under the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of these premises and the mutual promises, representations, and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the COUNTY, the SHERIFF, and the MUNICIPALITY mutually agree:

1. Besides the terms "COUNTY", "MUNICIPALITY", "SHERIFF", "OAKLAND COUNTY SHERIFF'S OFFICE", and "O.C.S.O." as defined above, the parties agree that for all purposes, and as used throughout this Agreement, the following terms and expressions whether used in the singular or plural, possessive or nonpossessive, and/or either within or without quotation marks, shall be defined and interpreted as provided herein. The parties further agree that as defined herein the terms "MUNICIPALITY OFFICIAL", "MUNICIPALITY AGENT", "COUNTY OFFICIAL", "SHERIFF'S DEPUTY" and "SHERIFF'S DEPUTIES" shall include any person who, at the time relevant to any issue, claim, or interpretation of this Agreement, was either a "MUNICIPALITY OFFICIAL", "MUNICIPALITY AGENT", "COUNTY OFFICIAL", or "SHERIFF'S DEPUTY" but, for any reason, is no longer employed in that capacity.

a. "CLAIM" shall be defined to include any and all losses, complaints, demands for relief, damages, lawsuits, causes of action, proceedings, judgments, deficiencies, penalties, costs and expenses, including, but not limited to, reimbursement for reasonable attorney fees, witness fees, court costs, investigation, litigation expenses, amounts paid in settlement, and/or any other amount for which either party becomes legally and/or contractually obligated to pay, whether direct, indirect or consequential,

whether based upon any alleged violation of the constitution (federal or state), any statute, rule, regulation, or the common law, whether in law or equity, tort, contract, or otherwise, and/or whether commenced or threatened.

b. "COUNTY OFFICIAL" shall be defined to include any and all COUNTY representatives elected by popular vote to a COUNTY office or such persons appointed, pursuant to state law, to fill a vacant elected office pending an election.

c. "MARINE LAW" means Subchapter 5 ("Watercraft and Marine Safety") of the Natural Resources and Environmental Protection Act (Public Act 451 of 1994), rules promulgated thereunder by the Michigan Department of Natural Resources, and local ordinances adopted in conformity with this Act.

d. "MARINE PATROL SERVICES" shall be defined and interpreted as the prevention and detection of MARINE LAW violations and the enforcement of MARINE LAWS upon all lakes or waterways designated by the MUNICIPALITY. The MARINE PATROL SERVICES contemplated and to be provided under this Agreement are strictly limited to those governmental MARINE PATROL SERVICES authorized by law to be performed by the O.C.S.O.

e. "MUNICIPALITY OFFICIAL" shall be defined to include any and all MUNICIPALITY representatives elected by popular vote to a MUNICIPALITY office or such persons appointed, pursuant to state law, to fill a vacant elected office pending an election, and those individual MUNICIPALITY employees or agents whose specific job responsibilities mandate the enforcement of state statutes or local ordinances such as the Fire Marshall, Engineering or Housing Inspector, Ordinance Officer, or Weighmaster.

f. "MUNICIPALITY AGENT" shall be defined to include any and all MUNICIPALITY employees, managers, departments, divisions, volunteers, agents, representatives, predecessors, successors, attorneys, or auditors, other than MUNICIPALITY OFFICIALS as defined above (whether such persons act, or acted, in their personal, representative, or official capacities), and/or any and all persons acting by, through, under, or in concert with any of them.

g. "MUNICIPALITY LIAISON" shall be defined as the chief elected official of the MUNICIPALITY (i.e., City Mayor or Township Supervisor) or such other individual as designated in writing by the MUNICIPALITY LIAISON to act in this capacity for all purposes under this Agreement.

h. "O.C.S.O. LIAISON" shall be defined as a SHERIFF'S DEPUTY contracted for and assigned to provide LAW ENFORCEMENT SERVICES to the MUNICIPALITY under this Agreement, who is designated by the SHERIFF to maintain all lines of communications with the MUNICIPALITY LIAISON, as defined herein. The O.C.S.O. LIAISON will generally be the commanding officer, if one, or a SHERIFF'S DEPUTY designated, in writing, by the SHERIFF to perform this function.

i. "SHERIFF'S DEPUTY" or "SHERIFF'S DEPUTIES" shall be defined to include any Captain, Lieutenant, Sergeant, Deputy II, Deputy I, Special Deputy, Patrol Investigator, Detective Sergeant, or any other person or persons of any rank, classification, or title who, pursuant to state law, is a sworn Deputy of the SHERIFF.

2. The SHERIFF shall assign SHERIFF'S DEPUTIES, in such Number(s) and Rank(s) as shown in SCHEDULE A - SHERIFF'S DEPUTIES CONTRACTED FOR AND TO BE

ASSIGNED TO MUNICIPALITY (hereafter "SCHEDULE A"), which is attached to, incorporated in and made part of this Agreement, to perform any and all O.C.S.O. MARINE PATROL SERVICES contemplated in this Agreement within the corporate limits of the MUNICIPALITY. MARINE PATROL SERVICES, as defined above, shall not include O.C.S.O. police-related "Support Services," such as Arson Investigation, Detective and Crime Lab services, which the O.C.S.O. now provides on a County-wide basis, unless expressly stated to the contrary herein. Nevertheless, such additional "Support Services" shall continue to be made available, at no additional cost to the MUNICIPALITY, to the same extent that the O.C.S.O. continues to make such law enforcement "Support Services" available, at no additional charge, to all other communities within Oakland County.

a. The MUNICIPALITY acknowledges that, except as provided for under the terms of this Agreement, the SHERIFF has only limited responsibility for MARINE PATROL SERVICES in the MUNICIPALITY and is not otherwise required, except as provided herein, to assign any specific Number(s) or Rank(s) of SHERIFF'S DEPUTIES to provide MARINE PATROL SERVICES to the MUNICIPALITY.

b. The SHERIFF will make every reasonable effort to provide professional MARINE PATROL SERVICES to the MUNICIPALITY, following generally accepted standards for police protection, with the levels of staff provided for in SCHEDULE A.

c. Notwithstanding any other provision in this Agreement, this Agreement shall not be interpreted to include any warranty, promise or guaranty, either express or implied, or of any kind or nature whatsoever, in favor of the MUNICIPALITY and/or any other person or MUNICIPALITY resident that the O.C.S.O.'S provision of MARINE PATROL SERVICES under this Agreement will result in any specific reduction or prevention of criminal activity within the MUNICIPALITY or any other performance-based outcome.

3. The O.C.S.O. and the MUNICIPALITY agree that the sole and exclusive purpose of this Agreement is to provide governmental MARINE PATROL SERVICES in and for the MUNICIPALITY. Except as otherwise expressly provided for in this Agreement, the MUNICIPALITY agrees that this Agreement does not, and is not intended to, create, by implication or otherwise, any specific, direct or indirect obligation, duty, promise, benefit, and/or special right to O.C.S.O.'s MARINE PATROL SERVICES in favor of or to the benefit of any particular person(s) beyond the O.C.S.O.'S and/or any SHERIFF'S DEPUTY'S law enforcement officer duty, as established under existing law, to the general public.

4. Except as otherwise expressly provided for in this Agreement, any SHERIFF'S DEPUTY contracted for and assigned to provide MARINE PATROL SERVICES to the MUNICIPALITY, as provided for in SCHEDULE A, shall work, during those hours for which the MUNICIPALITY is being charged, only on MUNICIPALITY-related police matters. It is understood and agreed, however, that "Mutual Aid" between communities may be provided to surrounding communities. "Mutual Aid," as used in the previous sentence, means that any SHERIFF'S DEPUTY contracted for and assigned to the MUNICIPALITY may be absent from the MUNICIPALITY, at MUNICIPALITY expense, when temporarily called to the aid of another community due to an emergency or other exceptional circumstance or because a SHERIFF'S DEPUTY possesses some special skill or qualification temporarily needed in that other community.

5. Under the terms of this Agreement, the O.C.S.O. shall assign to the MUNICIPALITY the Number(s) and Rank(s) of SHERIFF'S DEPUTIES shown in SCHEDULE A to perform all of the MARINE PATROL SERVICES contemplated under this Agreement.

- a. Except as may otherwise be expressly provided in this subparagraph or in SCHEDULE A, whenever any SHERIFF'S DEPUTY contracted for and assigned to provide MARINE PATROL SERVICES to the MUNICIPALITY is not present in the MUNICIPALITY'S geographical area, due to any of the reasons described in subparagraphs 1 - 3 below, such periods of time shall be included in and counted toward the hours allotted for MARINE PATROL SERVICES set forth in SCHEDULE A:
 1. Travel time, on a daily basis, to or from the O.C.S.O. in Pontiac, Michigan, at the beginning of or end of any shift by any SHERIFF'S DEPUTY if that SHERIFF DEPUTY'S shift starts or ends in Pontiac;
 2. Appearance in any Court or at any meeting with any other law enforcement agency in connection with any prosecution or Court appearance related to MUNICIPALITY marine patrol activities;
 3. Performance of any MARINE PATROL SERVICES for the MUNICIPALITY that takes any SHERIFF'S DEPUTY outside the MUNICIPALITY'S geographical area; and
 - b. Subject to the SHERIFF'S right to consolidate the assigned shifts of SHERIFF'S DEPUTIES in order to concentrate marine patrol efforts to meet particular marine law enforcement priorities and needs, the SHERIFF shall assign SHERIFF DEPUTIES contracted for under this Agreement so as to provide the broadest possible coverage of MARINE PATROL SERVICES to the MUNICIPALITY.
 - c. All O.C.S.O. policies, procedures, employment contracts, etc., which may be applicable to this Agreement shall be made available by the SHERIFF for inspection by the MUNICIPALITY LIAISON at the O.C.S.O., by appointment, during normal business hours.
6. The MUNICIPALITY shall not have the right under this Agreement to assign, delegate, or otherwise, transfer, promise, commit, or lend any O.C.S.O.'S or SHERIFF DEPUTY'S services, duties, or obligations under this Agreement to any other public or private person, corporation, entity, or organization of any kind. In the event that the MUNICIPALITY perceives the need for any SHERIFF'S DEPUTY'S MARINE PATROL SERVICES beyond those SHERIFF'S DEPUTIES' services contracted for in SCHEDULE A, due to some unusual MUNICIPALITY circumstances that, in the MUNICIPALITY'S judgment, may require additional MARINE PATROL SERVICES, the MUNICIPALITY shall address such concerns for additional MARINE PATROL SERVICES to the SHERIFF as provided for in this Agreement (i.e., preceding Paragraph).
7. The MUNICIPALITY will pay the O.C.S.O. for all SHERIFF'S DEPUTIES' MARINE PATROL SERVICES rendered pursuant to this Agreement at the hourly rates shown in SCHEDULE A. The MUNICIPALITY further agrees to reimburse the O.C.S.O. for any and all additional hours of work, overtime, and/or holiday pay costs incurred by the O.C.S.O. in providing MARINE PATROL SERVICES to the MUNICIPALITY under the terms of this Agreement. For every bi-weekly period (corresponding to established O.C.S.O. payroll periods) during which any SHERIFF'S DEPUTY renders any MARINE PATROL SERVICES to the MUNICIPALITY under the terms of this Agreement, the O.C.S.O. shall prepare and send to the MUNICIPALITY an invoice that sets forth the bi-weekly amount due for each SHERIFF'S DEPUTY'S MARINE PATROL SERVICES rendered during that bi-weekly period, plus any

charges for any additional hours of work, overtime, and/or holiday pay, as provided for herein, during that bi-weekly billing period. All overtime charges are to be itemized and designated for the reason incurred. The MUNICIPALITY agrees to pay to the COUNTY the full amounts due on any such invoice within 30 days of the invoice date.

8. If the MUNICIPALITY fails, for any reason, to pay the COUNTY any monies when and as due under this Agreement, the MUNICIPALITY agrees that unless expressly prohibited by law, the COUNTY or the County Treasurer, at their sole option, shall be entitled to set-off from any other MUNICIPALITY funds that are in the COUNTY'S possession for any reason. Funds include but are not limited to the Delinquent Tax Revolving Fund ("DTRF"). Any set-off or retention of funds by the COUNTY shall be deemed a voluntary assignment of the amount by the MUNICIPALITY to the COUNTY. The MUNICIPALITY waives any CLAIMS against the County or its Officials for any acts related specifically to the COUNTY'S off-setting or retaining such amounts. This paragraph shall not limit the MUNICIPALITY'S legal right to dispute whether the underlying amount retained by the COUNTY was actually due and owing under this Agreement. If the County chooses not to exercise its right to set-off or if any setoff is insufficient to fully pay the COUNTY any amounts due and owing the COUNTY under this Agreement, the COUNTY shall have the right to charge up to the then-maximum legal interest on any unpaid amount. Interest charges shall be in addition to any other amounts due to the COUNTY under this Agreement. Interest charges shall be calculated using the daily unpaid balance method and accumulate until all outstanding amounts and accumulated interest are fully paid. Nothing in this section shall operate to limit the COUNTY's right to pursue or exercise any other legal rights or remedies under this Agreement against the MUNICIPALITY to secure reimbursement of amounts due the County under this Agreement. The remedies in this Section shall be available to the COUNTY on an ongoing and successive basis if the MUNICIPALITY at any time becomes delinquent in its payment. Notwithstanding any other term and condition in this Agreement, if the COUNTY pursues any legal action in any court to secure its payment under this Agreement, the MUNICIPALITY agrees to pay all costs and expenses, including attorney's fees and court costs, incurred by the COUNTY in the collection of any amount owed by the MUNICIPALITY.

9. The MUNICIPALITY and the O.C.S.O. agree and warrant that neither the O.C.S.O. nor any SHERIFF'S DEPUTY, by virtue of this Agreement or otherwise, shall be considered or claimed to be an employee of the MUNICIPALITY and further agree that, at all times and for all purposes under the terms of this Agreement, the O.C.S.O.'S legal status and relationship to the MUNICIPALITY shall be that of an INDEPENDENT CONTRACTOR. The MUNICIPALITY also agrees that in any writing or any other communication prepared by, for, or at the direction of the MUNICIPALITY, the MUNICIPALITY shall neither state, suggest, nor imply that any employment status and/or employment relationship exists between any SHERIFF'S DEPUTY and the MUNICIPALITY.

10. The MUNICIPALITY and the O.C.S.O. agree and warrant that, at all times and for all purposes relevant to this Agreement, the O.C.S.O. shall remain the sole and exclusive employer of all SHERIFF'S DEPUTIES and that the O.C.S.O. shall remain solely and exclusively responsible for the payment of all SHERIFF'S DEPUTIES' wages, compensation, overtime wages, expenses, fringe benefits, pension or retirement benefits, travel expenses, mileage allowances, training expenses, transportation costs, and/or other allowances or reimbursements of any kind, including, but not limited to, workers' disability compensation, unemployment compensation, Social Security Act protection(s) and benefits, any employment taxes, and/or any other statutory or contractual right or benefit based, in any way, upon any SHERIFF'S DEPUTY'S status as an employee of the O.C.S.O. Except as expressly provided otherwise in this Agreement, the MUNICIPALITY shall not grant, give, allow, pay, reimburse, compensate, or otherwise provide any wages, fringe benefits, privileges, gifts, equipment, automobiles, personal

property, supplies, benefits, entitlement, consideration (monetary or otherwise) or any other thing of value, either directly or indirectly, to, for the use by, or on behalf of, any individual SHERIFF'S DEPUTY. Any consideration, monetary or otherwise, paid directly to the COUNTY and/or any personal property, automobiles, or any portable equipment (e.g., portable telephones, portable computers, beepers, etc.) supplied, provided, and/or leased directly to the COUNTY shall not, for any purpose of this Agreement, be interpreted as being provided by the MUNICIPALITY, either directly or indirectly, to, for the use by, or on behalf of, any individual SHERIFF'S DEPUTY.

11. Except as expressly provided for in this Agreement, the parties agree that this Agreement does not, and is not intended to, transfer, delegate, or assign to the other Party any civil or legal responsibility, duty, obligation, duty of care, cost, legal obligation, or liability associated with any governmental function delegated and/or entrusted to either party under any existing law or regulation.

12. Except as expressly provided for under the terms of this Agreement, no SHERIFF'S DEPUTY while acting under the terms of this Agreement shall perform any services directly or otherwise be available to perform any other work or assignments, and no SHERIFF'S DEPUTY shall be otherwise employed or utilized, in any manner or capacity, by the MUNICIPALITY.

13. The MUNICIPALITY shall not provide, furnish or assign any SHERIFF'S DEPUTY with any job instructions, job descriptions, job specifications, or job duties, or in any manner attempt to control, supervise, train, or direct any SHERIFF'S DEPUTY in the performance of any O.C.S.O.'S duty or obligation under the terms of this Agreement.

14. The MUNICIPALITY agrees to promptly notify and/or provide the SHERIFF with any information that may come to its knowledge or possession regarding any act contrary to the terms and conditions of this Agreement, or any other questionable act(s) or omission(s), or any allegation of same, by any SHERIFF'S DEPUTY. The MUNICIPALITY also agrees that it shall promptly deliver to the SHERIFF written notice and copies of any complaint(s), charge(s), or any other accusation(s) or allegation(s) of wrongdoing, whether civil or criminal in nature, which the MUNICIPALITY becomes aware of regarding any SHERIFF'S DEPUTY. The MUNICIPALITY agrees to cooperate with the O.C.S.O. in any investigation conducted by the SHERIFF into the character and/or fitness of any SHERIFF'S DEPUTY.

15. The O.C.S.O. shall be solely and exclusively responsible for providing SHERIFF'S DEPUTIES with all necessary tools, boats, automobiles, radios, communications equipment, firearms, and any and all other equipment that the O.C.S.O., in its sole judgment, deems required or beneficial for the completion of any O.C.S.O.'S duty under the terms of this Agreement. The O.C.S.O. shall also be solely and exclusively responsible for any and all SHERIFF'S DEPUTIES' business expenses, licenses, taxes, uniform or equipment costs, insurance(s), supplies, etc., except that any stationery, notices, forms, MUNICIPALITY ordinance appearance tickets, etc., which are required to bear the name of the MUNICIPALITY, shall be supplied to the O.C.S.O. by the MUNICIPALITY at the MUNICIPALITY'S sole cost and expense. In the event that the MUNICIPALITY wants any special or additional personal property or equipment (i.e., cellular telephones, beepers, personal items or equipment, portable computers, automobiles, motorcycles, etc.) to be provided, at MUNICIPALITY expense or otherwise, to any SHERIFF'S DEPUTY assigned to the MUNICIPALITY, the MUNICIPALITY shall direct such requests to the O.C.S.O. which shall solely decide whether such personal property or special equipment shall be provided. Any and all such additional personal property, portable or individual use equipment or property, and/or any special equipment to be provided by the MUNICIPALITY shall be provided directly and exclusively to the O.C.S.O., and then ONLY pursuant to a separate written lease agreement between the MUNICIPALITY and the

COUNTY. As intended by this Paragraph and elsewhere in this Agreement, no personal property, supplies, or other equipment, nor the use thereof, shall be provided or made available by the MUNICIPALITY directly to any SHERIFF'S DEPUTY, except through a written lease as provided for in this paragraph.

16. Each party shall be responsible for any CLAIMS made against that Party and for the acts of its Employees or Agents.

17. In any CLAIMS that may arise from the performance of this Agreement, each party shall seek its own legal representation and bear the costs associated with such representation, including any attorney fees.

18. Except as otherwise provided in this Agreement, neither Party shall have any right under this Agreement or under any other legal principle to be indemnified by the other Party or any of its agents or employees in connection with any CLAIM.

19. This Agreement does not, and is not intended to, impair, divest, delegate or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation duty, or immunity of the Parties. Nothing in this Agreement shall be construed as a waiver of governmental immunity for either Party.

20. Subject to the following Paragraph, this Agreement shall become effective at 12:01 A.M., May 1, 2016, and shall remain in effect continuously until it expires, without any further act or notice being required by either party, at 11:59 P.M. on September 30, 2018. In addition, any party may terminate this Agreement, prior to its September 30, 2018 expiration, upon written notification to all others at least thirty (30) days prior to the proposed termination date, which date shall be clearly stated in the written notice. Upon the expiration or termination of this Agreement, all further O.C.S.O.'S obligations to provide MARINE PATROL SERVICES to the MUNICIPALITY under this Agreement shall end.

21. This Agreement, and any subsequent amendments, shall not become effective prior to the approval by concurrent resolutions of the COUNTY Board of Commissioners and the MUNICIPALITY Governing Body. The approval and terms of this Agreement shall be entered in the official minutes and proceedings of the COUNTY Board of Commissioners and MUNICIPALITY Governing Body and shall also be filed with the office of the Clerk for the COUNTY and the MUNICIPALITY. In addition, this Agreement and any subsequent amendments shall be filed with the Secretary of State for the State of Michigan by the O.C.S.O. and shall not become effective or implemented prior to its filing with the Secretary of State.

22. The parties shall send, by first class mail, all correspondence and written notices required or permitted by this Agreement to each signatory to this Agreement, or any signatory successor in office, to the addresses shown in this Agreement. Except as otherwise provided for herein, all correspondence or written notices shall be considered delivered to a party as of the date that such notice is deposited with sufficient postage with the U.S. Postal Service.

23. This Agreement is neither intended, nor shall it be interpreted, to create, change, modify, supplement, supersede, or otherwise affect or control, in any manner or at any time, the terms or conditions of employment of any SHERIFF'S DEPUTY with the O.C.S.O., any applicable O.C.S.O. employment and/or union contract, and/or any O.C.S.O. rule(s), regulation(s), hours of work, shift assignment, order(s), policy(ies), procedure(s), directive(s), ethical guideline(s), etc., which shall, solely and exclusively, govern and control the employment relationship between the O.C.S.O. and any SHERIFF'S DEPUTY and/or the conduct and actions of any SHERIFF'S

DEPUTY. To illustrate, but not otherwise limit, this Agreement does not and shall not be interpreted to limit, modify, control, or otherwise affect, in any manner:

- a. The complete and unilateral discretion of the SHERIFF to either continue or revoke the deputization of any SHERIFF'S DEPUTY, or any other person who, in the SHERIFF'S sole judgment, he does not believe is qualified or otherwise fit to be a SHERIFF'S DEPUTY.
- b. The O.C.S.O.'S sole and exclusive right, obligation, responsibility, and discretion to employ, compensate, assign, reassign, transfer, promote, reclassify, discipline, demote, layoff, furlough, discharge any SHERIFF'S DEPUTY and/or pay any and all SHERIFF'S DEPUTY'S wages, salaries, allowances, reimbursements, compensation, fringe benefits, or otherwise decide any and all such terms and conditions of employment and make any and all employment decisions that affect, in any way, the employment of any SHERIFF'S DEPUTY with the O.C.S.D, subject only to its collective bargaining Agreements.
- c. The SHERIFF'S sole and exclusive right, obligation, and responsibility to determine, establish, modify, or implement any and all operational policies, procedures, orders, rules, regulations, ethical guidelines, and/or any other judgment, policy or directive which, in any way, governs or controls any activity of any SHERIFF'S DEPUTY, any necessary SHERIFF'S DEPUTY'S training standards or proficiency(ies), any level or amount of required supervision, any and all standards of performance, any sequence or manner of performance, and any level(s) of experience, training, or education required for any SHERIFF'S DEPUTY performing any O.C.S.O. duty or obligation under the terms of this Agreement.

24. This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced and governed under the laws of the State of Michigan. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not construed strictly for or against any party. As used in this Agreement, the singular or plural number, the possessive or nonpossessive, shall be deemed to include the other whenever the context so indicates or requires.

25. Absent an expressly written waiver, the failure of any party to pursue any right granted under this Agreement shall not be deemed a waiver of that right with regard to any existing or subsequent breach or default under this Agreement. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise of any right, power or privilege preclude any other or further exercise of any other right, power or privilege.

26. This Agreement shall be binding upon the COUNTY, the SHERIFF, and the MUNICIPALITY to the extent permitted by law, upon their successors and assigns, and all persons acting by, through, under, or in concert with any of them.

27. This Agreement, consisting of eleven (11) pages, including SCHEDULE A, (incorporated herein), sets forth the entire Agreement between the O.C.S.O. and the MUNICIPALITY with regard to the O.C.S.O.'S provision of MARINE PATROL SERVICES and/or any SHERIFF'S DEPUTY'S services to the MUNICIPALITY, and fully supersedes any and all prior agreements or understandings between them in any way related to the subject matter hereof. It is further understood and agreed that the terms of this Agreement are contractual and are not mere recitals and that there are no other agreements, understandings, or representations between the O.C.S.O. and the MUNICIPALITY in any way related to the subject matter hereof, except as

expressly stated herein. This Agreement shall not be changed or supplemented orally. This Agreement may be amended only by concurrent resolutions of the COUNTY Board of Commissioners and the MUNICIPALITY Governing Body according to the procedures set forth in this Agreement.

IN WITNESS WHEREOF, Peter E. Auger, Manager for the MUNICIPALITY, hereby acknowledges that he or she has been authorized by a resolution of the MUNICIPALITY Governing Body (a certified copy of which is attached) to execute this Agreement on behalf of MUNICIPALITY and hereby accepts and binds the MUNICIPALITY to the terms and conditions of this Agreement on this _____ day of _____, 2016.

WITNESSES:

CITY OF NOVI,
a Michigan Municipal Corporation

BY: _____
Peter E. Auger
City Manager

BY: _____
Maryanne Cornelius
Clerk

IN WITNESS WHEREOF, MICHAEL J. GINGELL, Chairperson, Oakland County Board of Commissioners, hereby acknowledges that he has been authorized by a resolution of the Oakland County Board of Commissioners (a certified copy of which is attached) to execute this Agreement on behalf of the COUNTY OF OAKLAND and hereby accepts and binds the COUNTY OF OAKLAND to the terms and conditions of the Agreement on this _____ day of _____, 2016.

WITNESS:

COUNTY OF OAKLAND, a Michigan
Municipal Corporation

BY: _____
MICHAEL J. GINGELL
Chairperson, Oakland County Board
of Commissioners

IN WITNESS WHEREOF, MICHAEL J. BOUCHARD, in his official capacity as the Oakland County Sheriff, a Michigan Constitutional Officer, hereby accepts and binds the COUNTY OF OAKLAND to the terms and conditions of the Agreement on this _____ day of _____, 2016.

WITNESS:

OAKLAND COUNTY SHERIFF, a Michigan
Constitutional Officer

BY: _____
MICHAEL J. BOUCHARD,
Oakland County Sheriff

**SCHEDULE A
MARINE PATROL AGREEMENT
2016-2018**

Ranks: The Sheriff's Deputies to be assigned to Municipality under the Agreement to which this Schedule is attached will be Marine Deputies with a rank or classification of "PTNE", Part Time, Non-Eligible (for Benefits.)

Rates: The Hourly Rates upon which Municipality's payment obligation shall be determined are as follows:

	2016	2017	2018
Marine Deputy with Boat	\$33.23	\$33.63	\$33.83
Marine Deputy with Boat Overtime Rate	\$43.24	\$43.84	\$44.14
Marine Deputy without Boat	\$21.74	\$22.14	\$22.34
Marine Deputy without Boat Overtime Rate	\$31.75	\$32.35	\$32.65

Lakes: The designated lakes and waterways upon which Marine Patrol Services as defined in Section 1.d. of the Agreement to which this Schedule is attached are to be provided shall be identified in writing by the municipality. Within this writing, the MUNICIPALITY may include any requested schedule and a "NOT TO EXCEED" amount of billings for lake or waterway.

Invoices: The invoices submitted by the O.C.S.O. to Municipality for Marine Patrol Services shall identify the designated lake or waterway to which they relate.