INTEROFFICE MEMORANDUM



May 16, 2017

TO: Mayor Teresa Jacobs

-AND-

Board of County Commissioners

THROUGH: George A. Ralls, M.D.

Deputy County Administrator

FROM: Otto Drozd III, Fire Chief

Fire Rescue Department

CONTACT: Anthony Rios, Division Chief

Fire Rescue Department

SUBJECT: Approval of Valencia College Donation Agreement

Consent Agenda Item - May 23, 2017

Orange County Fire Rescue remains committed to strengthening its collaborative partnership with Valencia College, School of Public Safety. Currently, Orange County Fire Rescue and Valencia College operate in a mutually beneficial supportive relationship. Fire Rescue realizes benefits from this relationship, including the use of Valencia classrooms, facilities and Valencia's ongoing commitment to house the department's Command School Simulator.

As such, on December 13, 2016, the Board of County Commissioners approved the donation of decommissioned Units #7298 and 6522 to Valencia College. Both parties have created an agreement between Orange County, Florida and Valencia College.

ACTION REQUESTED: Approval and execution of Donation Agreement by

and between Orange County, Florida and The District Board of Trustees of Valencia College, Florida for the donation of two decommissioned vehicles to the Valencia College School of Public Safety for the ongoing training initiative of Orange County Fire Rescue's workforce and regional fire rescue

professionals.

BCC Mtg. Date: May 23, 2017

4/24/17

DONATION AGREEMENT

by and between

ORANGE COUNTY, FLORIDA

and

THE DISTRICT BOARD OF TRUSTEES OF VALENCIA COLLEGE, FLORIDA

This DONATION AGREEMENT ("Agreement") is made by and between Orange County, Florida, a charter county and political subdivision of the State of Florida ("County") and The District Board of Trustees of Valencia College, Florida, a political subdivision of the State of Florida, ("Valencia").

RECITALS

- WHEREAS, County has designated certain emergency type vehicles and associated equipment, formally used by the County's Fire Rescue Division, and as more specifically identified in Exhibit "A", attached hereto and incorporated by reference (collectively referred to as "Vehicles"), as surplus property; and
- WHEREAS, Valencia provides a variety of educational functions including, but not limited to, a workforce and technical education function; and
- WHEREAS, as part of its workforce and technical educational function, Valencia has created its School of Public Safety through which it provides training to three (3) major program areas, one of which includes fire rescue and safety training ("Fire Program"); and
- WHEREAS, County, through its Board of County Commissioners ("Board") formally approved the donation of the Vehicles to Valencia under its INVEST in Our Home for Life Initiative during its December 13, 2016, Board meeting; and
- WHEREAS, as a condition of the County's donation of the Vehicles, the parties have agreed to enter into this Donation Agreement to establish the terms and conditions under which the donation shall occur.
- **NOW, THEREFORE**, in consideration of the mutual covenants, the receipt and sufficiency of which is hereby acknowledged by both parties, the parties agree as follows:

- Section 1. **Recitals.** The above recitals are true and correct and are hereby incorporated herein as a material part of this Agreement by reference.
- Section 2. **Donation and Acceptance.** County agrees to donate and convey the Vehicles to Valencia free and clear of all liens and encumbrances. The Vehicles shall be donated by the County to and accepted by Valencia in "AS IS" condition and shall be solely responsible for any and all future Vehicle maintenance. County makes no representation that the Vehicles shall adequately serve the purpose intended by Valencia for its Fire Program.
- Section 3. <u>Use of Vehicles.</u> The parties agree that, as a condition of the donation contemplated under this Agreement, Valencia shall limit its use of the Vehicles solely to training purposes, generally as provided on the Valencia campus ("Campus"). For the purpose of this Agreement, "training" shall refer to any educational or other advancement instruction used for the fire-fighting community.
- Section 4. <u>Orange County Logo or Identifiers</u>. It is acknowledged that Orange County Fire and Rescue wants to retain the logo on the vehicle in order to raise awareness of their organization. As such, when the vehicle is on school grounds, the Orange County Fire Rescue logo will remain on the truck. However, during those times when Valencia has to leave the school premises and be driven on public access roads, Valencia will ensure that logos are sufficiently covered so that the truck is not identifiable to the county.
- Section 5. <u>Disposal of Vehicles.</u> Valencia shall ensure that any future disposal of the Vehicles shall be in accordance with applicable Florida law. Valencia shall ensure that all logos or other identifiers associated with Orange County or Orange County Fire and Rescue are removed prior to disposal of the Vehicles.
- Section 6. Registration and Delivery of Vehicles. The parties agree to cooperate in executing the required documents for proper transfer of ownership of the Vehicles (collectively "Ownership Transfer Documents"). Valencia agrees to immediately register the Vehicles with the State of Florida Department of Motor Vehicles immediately upon execution of the Ownership Transfer Documents. County shall deliver the Vehicles to Valencia Campus; however, ownership of the Vehicles shall not take place until evidence of registration by Valencia has been provided to County. Valencia shall be solely responsible for any and all costs associated with the required transfer of ownership and registration.
- Valencia is a governmental entity in the State of Florida. Without waiving its sovereign immunity, and if and **to** the limits authorized by Section 768.28, Florida Statutes, Valencia agrees to be liable for, and indemnify and defend the County, the Orange County Board of County Commissioners ("Board"), the Board members, and the County's officers, employees, contractors (collectively, "Indemnified Parties"), against any and all claims, suits, judgments, demands, liabilities, damages,

costs, and expenses (including, but not limited to, attorneys' fees, paralegals' fees, consultants' fees, and costs at all administrative, pretrial, trial, and appellate levels) for bodily injury (including death) and property damage attributable solely to Valencia's negligent acts or omissions, or solely to those of its employees acting within the scope of their employment, and arising out of or related in any way to the County's donation of the Vehicles. Under no circumstances shall Valencia be liable to or for the negligent acts of the Indemnified Parties or any person employed by the Indemnified Parties or under the direction of the Indemnified Parties. Valencia shall not have tort liability for any amounts in excess of those limits per claim and per occurrence set for tort liability in Section 768.28 of the Florida Statutes. The foregoing shall not constitute an agreement by Valencia to assume any liability for the acts, omissions and/or negligence of any third party. Nothing contained in this Agreement shall be construed or interpreted as: (i) denying to Valencia any remedy or defense available to such party under the laws of the State of Florida; (ii) the consent of Valencia to be sued; or (iii) a waiver of sovereign immunity of Valencia beyond the waiver provided in law.

Section 8. <u>Entire Agreement.</u> This written agreement, together with the attached exhibit, shall constitute the entire agreement between the County and Valencia, and shall supersede and replace all prior agreements or understandings, written or oral, relating to the matters set forth herein. Any changes or amendments to this Agreement shall be in writing and signed by the legally authorized persons for both parties.

Section 9. <u>No Partnership or Agency.</u> Nothing in this Agreement is intended to or shall be construed in any manner as creating or establishing the relationship of principal/agent, employer/employee, or joint venture partnership between the County and Valencia.

Section 10. <u>Notices.</u> Any notice required or permitted hereunder shall be delivered by hand delivery, express courier, or certified mail, return receipt requested, and shall be effective upon receipt of the same. Notices shall be delivered to each of the parties at the following addresses or at such other address as specified by written notice in compliance with the terms of this paragraph.

As to COUNTY: Orange County

Office of the County Administrator 201 South Rosalind Avenue, 5th Floor

Orlando, Florida 32801 Attn: County Administrator

Copy to: Orange County

Attn: Director, Fire Rescue Service Division

P.O. Box 5879

Winter Park, Florida 32793

As to VALENCIA:

Valencia College

Office of Business Operations and Finance

P.O. Box 3028

Orlando, Florida 32808 Attn: Vice President

Section 11. <u>Severability.</u> The provisions of this Agreement are declared by the parties to be severable. However, the material provisions of this Agreement are dependent upon one another, and such interdependence is a material inducement for the parties to enter into this Agreement. Therefore, should any material term, provision, covenant or condition of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, the party protected or benefited by such term, provision, covenant, or condition may demand that the parties negotiate such reasonable alternate contract language or provisions as may be necessary either to restore the protected or benefited party to its previous position or otherwise mitigate the loss of protection or benefit resulting from the holding.

Section 12. Applicable Law and Venue. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida. Before initiating a lawsuit against the other relating to a dispute or claim herein, the Parties agree to work in good faith to resolve between them all disputes and claims arising out of or in relation to this Agreement. Any and all claims, controversies, or disputes arising out of this Agreement not so resolved may be settled by law exclusively in the Ninth Judicial Circuit Court, Orlando, Florida.

Section 13. <u>Captions.</u> Titles used throughout this Agreement are intended for ease of reference only and are not intended to be dispositive.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below.



ORANGE COUNTY, FLORIDA

By: Orange County Board of County Commissioners

By: Salellandar
Teresa Jacobs
Corange County Mayor

Date: 5. 23.17

ATTEST: Phil Diamond, CPA, County Comptroller As Clerk of the Board of County Commissioners

By:	Craio	a.	storyra
fol	Deputy Clerk		//

Date: MAY 2 3 2017

VALENCIA COLLEGE

By: / / / Signature

Printed Name: Loren J. Bender

Title: Vice President, Business Operations and Finance

Date: 5/1/17

EXHIBIT "A"

D	Description of Vehicles and associated equipment donated.			
S:kcundiff/attorneys adm	min/Galloway Wanzo/fire rescue/donation agree	ment revised draft with CAO comments CLEAN 4 24	17	