



FIRE RESCUE DEPARTMENT

OTTO DROZD, III

Fire Chief, EFO, CFO

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October 11, 2018

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

THROUGH: Linda Weinberg, Interim Deputy County Administrator

FROM: Otto Drozd III, Fire Chief

CONTACT: David A. Rathbun, Division Chief
Planning & Technical Services
407 836-9019

SUBJECT: October 30, 2018 – Consent Agenda
Interlocal Agreement between Orange County, Florida and Town of
Oakland, Florida regarding Orange County's provision of Fire
Prevention and Rescue Services for the Town of Oakland, Florida

The Interlocal Agreement between Orange County, Florida and the Town of Oakland, Florida regarding Orange County's provision of fire prevention and rescue services for the Town of Oakland, Florida allows for these services to be provided to the residents and properties residing within the Town's territorial limits.

Action Requested: Approval and execution of Interlocal Agreement between Orange County, Florida and Town of Oakland, Florida regarding Orange County's provision of Fire Prevention and Rescue Services for the Town of Oakland, Florida

attachment(s)

c: Ajit Lalchandani, County Administrator

INTERLOCAL AGREEMENT

between

ORANGE COUNTY, FLORIDA

and

TOWN OF OAKLAND, FLORIDA

regarding

**ORANGE COUNTY'S PROVISION OF FIRE PREVENTION AND RESCUE SERVICES
FOR THE TOWN OF OAKLAND, FLORIDA**

THIS INTERLOCAL AGREEMENT ("Agreement"), is by and between **ORANGE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida located at 201 South Rosalind Avenue, Orlando, Florida 32801 (the "County"), and the **TOWN OF OAKLAND, FLORIDA**, a municipal corporation created and existing under the laws of the State of Florida located at 220 North Tubb Street, Oakland, Florida 34760 (the "Town"). The County and the Town may be referred to individually as "party" or collectively as "parties."

RECITALS

WHEREAS, this Agreement is entered into pursuant to the home-rule powers granted to the County and the Town under the Constitution and laws of the State of Florida, including expressly, but not limited to, the powers granted under the Florida Interlocal Cooperation Act contained in Section 163.01, Florida Statutes; and

WHEREAS, the boundaries of the County and the Town are adjacent; and

WHEREAS, on November 19, 2002, the parties entered into an agreement (the "2002 Agreement") where they agreed to: (1) continue the County's provision of fire prevention and rescue services to the Town that was contemplated in an earlier 1993 agreement; and (2) construct a jointly owned and utilized public safety facility; and

WHEREAS, the parties have agreed to separate the 2002 Agreement into two agreements: (1) an Interlocal Agreement between Orange County, Florida and Town of Oakland, Florida Regarding Joint Ownership of the Public Safety Facility in Oakland, Florida (the "Public Safety Facility Agreement"); and (2) this Agreement; and

WHEREAS, the parties recognize the public benefit of the County's continued provision of fire prevention and rescue services to the residents and properties residing within the Town's territorial limits and acknowledge the benefit to the County there being consistency among its agreements for the provision of such services with the municipalities that it serves.

NOW, THEREFORE, in consideration of the mutual promises, terms, and conditions contained in this Agreement, and good and valuable consideration that by execution of this Agreement the parties affirm receipt thereof, it is agreed by and between the County and the Town as follows:

Section 1. Recitals Incorporated. The foregoing recitals are true and correct and are incorporated as part of this Agreement.

Section 2. Documents.

A. The documents that are incorporated by either reference or attachment and thereby form this Agreement are:

1. This Agreement;
2. The 2002 Agreement; and
3. **Exhibit A:** Public Safety Facility Agreement (to be added upon execution thereof).

Section 3. Effect of Agreement. Upon execution of this Agreement, the 2002 Agreement shall be considered terminated as to the County's provision of fire prevention and rescue services to the Town. This Agreement is a companion agreement to the Public Safety Facility Agreement which shall be executed by the County and the Town at the same time as this Agreement and then shall be attached to this Agreement as **Exhibit "A."** Once this Agreement and the Public Safety Facility Agreement are executed by both parties, the 2002 Agreement shall be considered terminated in full.

Section 4. Contract Area. The "Contract Area" shall be defined as the area within the territorial limits of the Town.

Section 5. Adoption of the County's Fire Prevention Code.

A. By executing this Agreement, the Town agrees that it shall, by ordinance:

1. Adopt the same edition of the Florida Fire Prevention Code as the County, the County's amendments thereto, and any additional fire protection and prevention codes that are adopted by the County (collectively, the "County Fire Prevention Code"); and
2. Designate the County Fire Marshal as the "authority having jurisdiction" in regards to the County Fire Prevention Code for the Contract Area.

- B. The County shall provide notice to the Town's Mayor no later than thirty (30) days following any amendments that the County has made to the County Fire Prevention Code.
- C. The County shall have no obligation to enforce or administer any codes that the Town adopts that are additional or different than those found within the County Fire Prevention Code.
- D. Failure by the Town to amend its municipal code so that it is in compliance with this Section, or to keep its municipal code in compliance with this Section, shall be cause for the County to terminate this Agreement.

Section 6. Code Enforcement Officer Designation.

- A. By executing this Agreement, the Town agrees that it shall, by ordinance:
 - 1. Appoint and designate the County's fire inspectors as Town Code Enforcement Officers who are authorized agents of the Town for the purposes of enforcement and compliance with the County's Fire Prevention Code. This authority shall specifically include, but shall not be limited to:
 - a. Inspection of buildings, lands, and premises, except for single-family dwellings and the usual appurtenances thereto;
 - b. Issuance of notices of violations and other appropriate warnings to those who are in violation of the County's Fire Prevention Code; and
 - c. Review and approval of building and subdivision plans related to applicable requirements of the County Fire Prevention Code.
- B. Failure by the Town to amend its municipal code so that it is in compliance with this Section, or to keep its municipal code in compliance with this Section, shall be cause for the County to terminate this Agreement.

Section 7. The Obligations of the Parties.

- A. The County shall:
 - 1. Provide fire prevention and rescue services to all persons and property within the areas of the Town that lie within the Contract Area that include, but are not limited to:
 - a. Fire Suppression;
 - b. EMS First Response;
 - c. EMS Transport;
 - d. Fire plans review, permitting, and fire inspection services; and
 - e. Any other non-law enforcement emergency services that the County provides to properties and persons located within the County's jurisdictional limits.

2. Provide such services at the same level of quality and timeliness as is provided in other parts of the County, without differentiation or discrimination toward any areas in the Contract Area.

B. The Town shall:

1. Assume no liability for the payment of salary, wages, or other compensation or entitlements to officers, agents, or employees of the County performing services hereunder provided in the Agreement.
2. Abide by the established permitting procedures, inspection requirements, and administrative policies of the County.

Section 8. Payment.

A. Commencing immediately upon execution of this Agreement and continuing on an annual basis thereafter:

1. The Town shall pay to the County for the services provided hereunder a sum determined by applying the millage levied in the Urban Fire Protection and Emergency Medical Services municipal service taxing unit, existing in Orange County, to the ad valorem tax assessment roll covering real property within the municipal limits of the Town multiplied by ninety-two and one half percent (92.5%) of said sum. Said sums shall be remitted in two (2) installments, each representing one half of the sum owed by Town to County for a given service (Fiscal) year, on or before December 15th and March 15th of each year this Agreement is in effect.
2. The County shall invoice Town for the amount payable under the formula found in this Section for the then-current fiscal year.

Section 9. Permitting Procedures.

A. By executing this Agreement, the Town agrees that it shall, by ordinance:

1. Adopt the County's permitting process for matters regarding the County Fire Prevention Code; and
2. Grant exclusive jurisdiction to the County regarding inspection, permit review, and permit approval regarding the County Fire Prevention Code for all Town construction and subdivision projects.

B. The County shall, upon receipt of the materials described in this Section, complete the following actions in so far as they are applicable to the administration and enforcement of the County Fire Prevention Code:

1. Review plans;
2. Collect permit fees;
3. Issue permits; and
4. Perform inspections.

C. To accomplish the aims of this Section, the following procedures shall be followed:

1. The County shall collect all County Fire Prevention Code permitting fees from permit applicants for the Contract Area at the same rates as charged for such services in the unincorporated areas of the County.
2. All fees related to fire permitting shall be retained by the County and used to defray the costs incurred in performing the administrative and enforcement services described in this Agreement.
3. The Town shall follow its normal review and approval process for permit applications and site plan review regarding compliance with its zoning ordinances, land development codes, and other applicable local and state requirements, including, but not limited to, landscaping, parking, storm water management, utilities, driveways, and sidewalks.
4. **Submittal of Plans for Review by the County.**
 - a. The following shall be submitted to the County, and approved by the County, prior to the commencement of work: (i) construction-related permit applications and associated construction-related site plans that require review for compliance with the County Fire Prevention Code; and (ii) all subdivision plans.
 - b. Developers shall be directed to submit the above-stated plans and other relevant documents electronically to: https://www.mobile-eyes.com/PA_Index.asp?Submit=Logon. Once the plans are uploaded, the County will be notified of the submittal and accept them for review.
 - c. If the plans cannot be submitted electronically, they can be hand-delivered to: 7079 University Boulevard, Winter Park, Florida 32792.
5. **County Review Timeline.** The County shall review all plans submitted that are from the Contract Area within the same timeline as is required by the County for unincorporated areas. As of the execution of this contract, and with the caveat that these times are subject to change should the County change its own requirements, those time lines are:
 - a. **New Construction Plans:** 21 days.
 - b. **Corrected Plans:** 14 days.

- c. **Interior Alterations:** 7 days.
 - d. **Fire Protection Systems:** 10 days.
- 6. Once the County issues the permits and provides the review required by the County Fire Protection Code, or provides its requisite approval for subdivision plans, the Town shall follow its normal process for the issuance of building permits to applicants.
 - 7. The County shall maintain construction and subdivision records and shall notify the Town when an inspection indicating adequate completion of the work relating to the County's Fire Prevention Code has been completed.

D. The Town's Option to Contract. The terms of this Section ("Permitting Procedures") and the County's obligation to provide fire plans review, permitting, and fire inspection services to the Town as contemplated in this Agreement, shall be in force upon the Effective Date of this Agreement. Notwithstanding that, the Town reserves the right to contract with another agency for the provision of fire plans review, permitting, and fire inspection services should it feel that so-doing is in the Town's best interests. Additionally, the Town acknowledges that contracting with another agency for the provision of fire plans review, permitting, and fire inspection services will not, in any manner, alter the payment that the Town owes to the County under this Agreement. For the Town to exercise its option to hire another agency, the following conditions shall be met:

- 1. The Town provides the County with a sixty (60) calendar day written notice that the Town no longer intends to utilize the County's permitting, inspection, and subdivision review services; and
- 2. The Town provides the County with a written release of its obligations under this Agreement to provide permitting, inspection, and subdivision review services to the Town.

E. Provided that the Town does not exercise its option detailed in Section 7.D. above, failure by the Town to amend its municipal code so that it is in compliance with this Section, or to keep its municipal code in compliance with this Section, shall be cause for the County to terminate this Agreement.

Section 10. Jurisdiction of County Code Enforcement and Quasi-Judicial Processes.

- A.** By executing this Agreement, the Town agrees that it shall, by ordinance, grant exclusive jurisdiction to:
- 1. The County regarding the enforcement of violations of the County's Fire Prevention Code;

2. The County's Code Enforcement Special Magistrate to hear matters regarding alleged violations of the County's Fire Prevention Code, and to issue binding orders and impose liens against properties within the territorial limits of the for such violations; and
3. The County's Fire and Life Safety Code of Board of Adjustment and Appeals to hear and decide appeals arising from the Fire Marshal's interpretation or application of the provisions of the County Fire Prevention Code.

B. Failure by the Town to amend its municipal code so that it is in compliance with this Section, or to keep its municipal code in compliance with this Section, shall be cause for the County to terminate this Agreement.

Section 11. Duties.

A. No officer or department of the County shall perform for the Town any function not within the scope of the duties of such officer or department in performing the same kind of services for the County.

B. Rendition of service, standards of performance, discipline of officers and employees, and other matters incident to performance of services and control of personnel shall remain in the County. In the event of dispute between the parties regarding the extent of the duties to be rendered under this Agreement, the parties shall attempt to settle such disputes through consultation and negotiation in good faith and spirit of mutual cooperation.

Section 12. The Town's Enforcement Right. The Town shall be entitled to enforce this duty against the County through equitable actions for specific performance or injunctive relief but not through any claim for damages.

Section 13. Term. The term of this Agreement shall commence on November 1, 2018 (the "Effective Date") and shall terminate on September 30, 2019 which is the conclusion of the County's 2018-19 Fiscal Year. This Agreement shall automatically renew thereafter for ten (10) subsequent Fiscal Years.

Section 14. Termination.

A. **Termination for Convenience.** Either party may terminate this Agreement at will by delivering written notice to the other party by January 31 of any term. Termination will take effect at the end of the term in which termination notice is delivered.

B. **Termination for Cause.** Should either party move to terminate this Agreement for cause pursuant to this Agreement, that party shall provide the other party with a reasonable opportunity to cure and ninety (90) days written notice of termination thereafter. Should the Agreement be terminated, the County shall remit to the Town any payment advanced prorated as of the date of termination.

C. **Effect of Termination.** Many of the services provided by the County under this Agreement are provided from the Public Safety Facility that is further described in the Public Safety Facility Agreement. Should the Town choose to terminate this Agreement, the County reserves its right to terminate the Public Safety Facility Agreement with stated termination effective on the same date as the Town's effective date of termination.

Section 15. Notices. Notices to either party provided for herein shall be sufficient if sent by certified or registered mail, return receipt requested, postage prepaid, addressed to the following addressees or to such other addressees as the parties may designate to each other in writing from time to time:

To the County: Orange County Fire Rescue Division
Attn: Fire Chief
P.O. Box 5879
Winter Park, Florida 32793

AND

Orange County Administrator
Administration Building, 5th Floor
201 South Rosalind Avenue
Orlando, Florida 32801

To the Town: Town Manager's Office
220 North Tubb Street
Oakland, Florida 34760

Section 16. Indemnification. Each party agrees to defend, indemnify, and hold harmless the other party, its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorneys' fees) attributable to its negligent acts or omissions, or those of its officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying party's negligent performance under this Agreement. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions, and/or negligence of the other party.

Section 17. General Provisions.

A. **No Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to, or shall confer, upon any person, other than the parties and their respective successors and permitted assigns, any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement.

B. **Written Modification.** None of the provisions, terms, and conditions contained in this Agreement may be added to, deleted, modified, superseded, or otherwise altered, except by

written amendment executed by the parties hereto. Such amendment(s) shall not be valid, binding, and enforceable against the County unless executed by an authorized County representative and expressly approved by the County's Board of County Commissioners.

C. **No Waiver of Sovereign Immunity.** Nothing contained herein shall constitute, or be in any way construed to be, a waiver of either the County's or Town's sovereign immunity or the protections and provisions of Section 768.28, Florida Statutes.

D. **Liability.** Neither party shall be liable to the other for any special, consequential, incidental, punitive, or indirect damages arising from or relating to any breach of this Agreement, regardless of any notice of the possibility of such damages.

E. **Assignments and Successors.** Each party binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement. Neither party shall assign, sublet, convey, or transfer its interest in this Agreement without the written consent of the other, which consent shall be in the sole determination of the party with the right to consent.

F. **Waiver.** No delay or failure on the part of any party hereto to exercise any right or remedy accruing to such party upon the occurrence of an event of violation shall affect any such right or remedy, be held to be an abandonment thereof, or preclude such party from the exercise thereof at any time during the continuance of any event of violation. No waiver of a single event of violation shall be deemed to be a waiver of any subsequent event of violation.

G. **Severability.** 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 holding.

H. **Governing Law.** This Agreement, and any and all actions directly or indirectly associated herewith, will be governed by and construed in accordance with the internal laws of the State of Florida, without reference to any conflicts of law provisions.

I. **Venue.** For any legal proceeding arising out of or relating to this Agreement, each party hereby submits to the exclusive jurisdiction of, and waives any venue or other objection against, the Ninth Circuit Court in and for Orange County, Florida. Should any federal claims arise for which the courts of the State of Florida lack jurisdiction, venue for those actions will be in the Orlando Division of the U.S. Middle District of Florida.

J. **Jury Waiver.** Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any legal proceeding directly or indirectly arising out of or relating to this Agreement.

K. **Construction of Agreement.** The parties hereby agree that they have reviewed this Agreement, have consulted with legal counsel of their choice, have participated in the drafting of this Agreement, and that this Agreement is not to be construed against any party as if it were the drafter of this Agreement.

L. **Authority of Signatory.** Each signatory below represents and warrants that he or she has full power and is duly authorized by their respective party to enter into and perform this Agreement. Such signatory also represents that he or she has fully reviewed and understands the above conditions and intends to fully abide by the conditions and terms of this Agreement as stated.

Section 18. Entire Agreement; Effect. This Agreement, and any documents incorporated in – or attached to – this Agreement, sets forth and constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement. This Agreement supersedes any and all prior agreements, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, regarding any part of this Agreement and involving any party to this Agreement.

[SIGNATURES ON THE FOLLOWING PAGE]

Orange County, Florida and Town of Oakland, Florida

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials, as of the day and year set forth below.

ORANGE COUNTY, FLORIDA

By: Orange County Board of County Commissioners

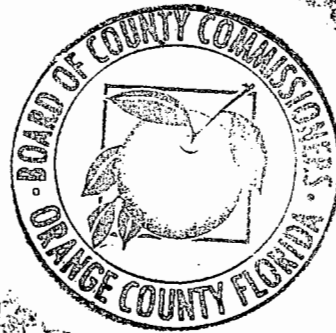
By: *Bijal Dalchanda*
Teresa Jacobs
Orange County Mayor

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

By: *Katie Smith*
Deputy Clerk

OCT 30 2018

Date: _____



TOWN OF OAKLAND, FLORIDA

By: Town of Oakland Town Council

By: *Kathy Stark*
Kathy Stark, Mayor

ATTEST:

By: *Kimberly M. Gay*
Kimberly M. Gay, Town Clerk

Date: *10-9-18*

