

**INTERLOCAL AGREEMENT BETWEEN BREVARD COUNTY BOARD OF
COUNTY COMMISSIONERS AND THE TOWN OF MALABAR FOR USE OF SPACE**

THIS INTERLOCAL AGREEMENT, (hereinafter referred to as the "Agreement") is entered into this ____ day of _____, 202____, by and between the **Brevard County Board of County Commissioners**, a political subdivision of the State of Florida (hereinafter referred to as the "**County**", and the **Town of Malabar**, a Florida municipality (hereinafter referred to as the Town.)

RECITALS:

WHEREAS, the Parties desire to enter into this Agreement for the purpose of allowing the County and the Town to provide the County operational use space at one (1) of the Town's fire station to better protect the lives and property of their citizens; and

WHEREAS, the Parties find that it is in their respective best interests, and that it is in the best interest of the public health, safety and welfare of their citizens, for the County and the Town to share emergency response resources; and

WHEREAS, this Agreement is authorized pursuant to §§125.01(1)(p) and 163.01, Florida Statutes, as an interlocal agreement; and

NOW, THEREFORE, in consideration of the premises and mutual promises contained herein, the parties hereto agree as follows:

SECTION 1. TERM:

This Agreement will commence and be effective upon its approval and execution by the elected bodies of both the County and the Town and filing with the Clerk of the Circuit Court in and for Brevard County, Florida. This Agreement shall be effective for an initial one (1) year period. All terms and conditions hereof shall remain in full force and effect during the initial term and any renewal periods unless this Agreement is amended as provided in Section 2. Termination/Revision of Agreement.

SECTION 2. TERMINATION/REVISION OF AGREEMENT:

- 2.1 This Agreement may be terminated by either party with or without cause, upon written notice of termination to the other party at least forty-five (45) days prior to the date of such termination.
- 2.2 Either party may request that this Agreement be revised. Such requests must be placed in writing and address the reason for the amendment as well as provide proposed amended language. In order to be deemed effective, the amendment must be approved by the respective governing bodies and filed with the Clerk of the Circuit Court in and for Brevard County, Florida.

SECTION 3. SERVICES PROVIDED:

Except to the extent provided herein, the County and the Town agree that their respective fire rescue departments will provide primary emergency services within their own jurisdictions.

- 3.1 **Statement of Reciprocity** – The County and the Town agree to share both unique and common emergency response resources for the purpose of expeditious and effective emergency service delivery to County and Town citizens alike.
- 3.2 **Fire Station Facility Usage** – The Town hereby agrees to provide the County operational use space at one (1) of the Town's fire stations located at:

Town of Malabar's Station 99, 1840 Malabar Road, Malabar, Florida 32950

The County shall utilize the identified Town fire station facility to support the operations of two County staffed emergency response apparatus.

- (a) **Apparatus Space** – The Town hereby agrees to provide apparatus stall space for two (2) County Rescue's Med Unit's in the Town fire station identified herein above.
- (b) **Living Quarters** - The Town hereby agrees to provide a bunkroom for County employees with a minimum of three (3) beds provided by the Town and two (2) beds provided by the County for sleeping, office space, use of kitchen facilities, use of restrooms and use of day/training room at the Town fire station identified above.
- (c) **Maintenance** – The County agrees to assist the Town with any maintenance (including preventive) in equitable proportion to those areas utilized a majority of the time by the County in the Town's fire station identified herein above.
- (d) **Insurance, Costs, Independent Contractors, Liability** – Sections 11, 12, and 13 of the Interlocal Agreement between the County and the Town shall govern insurance, costs, the relationship and status of the Town and the County and their employees, and their liability for the actions of their respective employees and agents.
- (e) **Damage** – The Town agrees to repair, replace and/or reimburse the County for any and all damages caused to property and equipment owned by the County and resulting from the actions of Town employees. The Town shall cause such repair, replace and/or reimbursement to occur within a reasonable amount of time thereby affording no undue hardship to the County. The County agrees to repair, replace and/or reimburse the Town for any and all damages caused to property and equipment owned by the Town and resulting from the actions of County employees. The County shall cause such repair, replace and/or reimbursement to occur within a reasonable amount of time thereby affording no undue hardship to the Town.

- (f) Supplies – The Town and County shall be responsible for their own medical supplies and station supplies.

SECTION 4. PAYMENT:

There shall be no payment to either the County or the Town for services identified in this Agreement. Both parties agree it is in their mutual best interest, and the interest of the citizens they protect to co-locate for this period of time. This period of time will allow both parties to train together as per their automatic aid agreement. This training will likewise be beneficial to the Town as new EMS Lifepack 15 equipment is implemented. The Counties current use of the Lifepak 15 will enable them to assist in the training and implementation of the Town's new Lifepak 15.

SECTION 5. ADDITIONAL EQUIPMENT:

There may be circumstances in which the County and the Town mutually agree to locate assets belonging to one party in a station or stations belonging to the other party for coverage purposes on a temporary basis. Subject to mutual agreement, these units may be staffed by either agency to provide expeditious or efficient first responder and fire-rescue protection for the citizens of both parties.

SECTION 6. NOTIFICATION:

Any required notice to be provided by either party to this Agreement, other than an emergency call and dispatch, shall be delivered to the other party's representative at the following locations:

Joseph Hooker, Interim Fire Chief
Malabar Fire Department
1840 Malabar Road
Malabar, FL 32950

Patrick Voltaire, Fire Chief/Director
Brevard County Fire Rescue
1040 South Florida Avenue
Rockledge, FL 32955

With a copy to:
Mathew Stinnett, Town Manager
Town of Malabar
2725 Malabar Road
Malabar, FL 32950

With a copy to:
Frank Abbate, County Manager
Brevard County Manager's Office
2725 Judge Fran Jamieson Way
Viera, Florida 32940

Any notice to be sent to the County or the Town under the provisions of this Agreement shall be deemed to have been properly sent when personally delivered or mailed, postage prepaid, first class U.S. mail, or by nationally recognized overnight courier to the last known address of the said County or the Town, as the case may be, with appropriate copies as set forth above. A mailing is deemed received at the time of hand delivery or five (5) days after mailing. Either party hereto may unilaterally change the person to whom a mailing is to be sent or the address of said person by giving notice to the other party as provided for herein.

SECTION 7. AUDITING, RECORDS AND INSPECTION:

- 7.1 In the performance of this Agreement, the County and the Town shall keep books, records, and accounts of all activities, related to the Agreement, in compliance with generally accepted accounting procedures, as adopted by the Department of Financial Services, as set forth in Rule 69I-61.0012, Florida Administrative Code, as amended or superseded from time to time, or the

Auditor General. Books, records, and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the office and shall be retained by the County and the Town for a period of three (3) years after termination of this Agreement for accounting related records and for other public records, five (5) years after termination of this Agreement, unless otherwise required by law to be held for a longer period. All books, records, and accounts related to the performance of this Agreement shall be subject to the applicable provisions of Chapter 119, Florida Statutes and Section 401.30, Florida Statutes.

- 7.2 No reports, data, programs, or other materials produced, in whole or in part for the benefit and use of the County or the Town, pursuant to this Agreement shall be subject to copyright protection in the United States or any other Country.
- 7.3 The County and the Town agree to comply promptly with any request for public records or documents made in accordance with Section 119.07, Florida Statutes.
- 7.4 Upon a request for public records related to this Agreement, the County or the Town, as the case may be, will inform promptly the other party of the request and, upon request of the other party, provide electronic copies of the responsive public records provided, at no additional cost to the County or the Town, as the case may be.

SECTION 8. JURISDICTION, VENUE, WAIVER OF JURY TRIAL AND CHOICE OF LAW:

All questions pertaining to the validity and interpretations of this Agreement shall be determined in accordance with the laws of the State of Florida. Any legal action by either party against the other concerning this Agreement shall be filed in Brevard County, Florida, which shall be deemed proper jurisdiction and venue for the action, and any trial shall be nonjury.

SECTION 9. ATTORNEY'S FEES AND COSTS:

In the event of any litigation between the parties arising out of this Agreement, each party will bear its own attorney's fees and costs.

SECTION 10. SEVERABILITY:

If any section, paragraph, sentence, clause, phrase, or word of this Agreement, is for any reason held by a court to be unconstitutional, inoperative, or void such holding will not affect the remainder of this Agreement. The remainder of this Agreement shall be effective and shall remain in full force and effect, unless amended or modified by mutual consent of the parties.

SECTION 11. INDEMNIFICATION/HOLD HARMLESS:

The parties agree to defend, hold harmless, and indemnify each other subject to the provisions of this section and within the limitations of Section 768.28, Florida Statutes, as amended from time to time. To the extent allowed by Section 768.28, Florida Statutes, all employees and agents of each Party acting within the scope of this Agreement shall be entitled to sovereign immunity. Each Party agrees to be liable for the activities of its respective trustees, officers, employees, and agents (collectively referred to as "personnel"). TOWN agrees to defend, hold harmless, and indemnify COUNTY and its personnel from all claims, suits, judgements or damages, arising out of the acts or omissions of TOWN,

or TOWN's employees or agents, subject to the sovereign immunity protections afforded to it under Florida law. COUNTY agrees to defend, hold harmless, and indemnify TOWN and its personnel from all claims, suits, judgments or damages, arising out of the acts or omissions of COUNTY, or COUNTY employees or agents, subject to sovereign immunity protections afforded to it under Florida law. This indemnification shall not apply to loss, injury, death or damages arising by reason of the other Party's negligence, either in whole or in part, and/or its personnel. Nothing in this section shall be construed to require either Party to indemnify or insure the other Party for the other Party's negligence or to assume any liability for the other Party or the negligence of its personnel.

This section applies to any act or omission done in accordance with the terms of this Agreement regardless of which party's jurisdiction said act or omission occurs.

Nothing in this Agreement is intended to insure to the benefit of any third party for the purpose of allowing any claims which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. Nothing herein shall constitute a waiver of either Party's sovereign immunity. The Parties acknowledge specific consideration has been exchanged for this provision. This indemnification section shall survive the termination of the Contract.

SECTION 12. INDEPENDENT CONTRACTORS:

The County and the Town are each Independent Contractors of one another. It is specifically understood and agreed to by and between the parties hereto that a material provision in this Agreement is that the relationship between the County and the Town is one in which each party and its employees are independent contractors of the other party, and not as agents, employees, joint venturers, or other partners and neither are entitled to any benefits of the other party. Nothing contained herein shall be construed to be inconsistent with this relationship or status.

SECTION 13. LIABILITY FOR EMPLOYEES/AGENTS:

Each jurisdiction shall bear responsibility for any injury or loss caused by its agents, representatives, officials, employees or volunteers (hereinafter "agents") while such agents are acting outside their jurisdiction. In no event shall either party's liability for damages exceed the monetary limits, or the type of damages recoverable, under Section 768.28, Florida Statutes, as that section may be amended from time to time.

SECTION 14. ASSIGNMENTS:

Neither the County nor the Town, their assigns or representatives, shall enter into any agreement with third parties to delegate any or all of the rights and responsibilities herein set forth without the prior written approval of the other party.

SECTION 15. ENTIRE AGREEMENT:

This Agreement, including exhibits, appendices, riders, and/or addenda, if any, attached hereto, sets forth the entire Agreement between the parties. This Agreement shall not be modified except in writing and executed by all parties, except that the fire chiefs of the County and the Town are authorized to mutually agree in writing to predefined unit response assignments and location of assets as established or agreed upon.

SECTION 16. INTERPRETATION:

Both the County and the Town have had the opportunity to consult with legal counsel and to participate in the drafting of this Agreement. Consequently, this Agreement shall not be more strictly or more harshly construed against either party as the drafter hereof.

SECTION 17. PUBLIC ENTITY CRIMES:

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

SECTION 18. SCRUTINIZED COMPANIES:

- 18.1 The Agency certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, Florida Statutes, the County may immediately terminate this Contract at its sole option if the Agency or its subcontractors are found to have submitted a false certification; or if the Agency, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel during the term of this Contract.
- 18.2 If this Contract is for more than one million dollars, the Agency further certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes.
- 18.3 Pursuant to Section 287.135, Florida Statutes, the County may immediately terminate this Contract at its sole option if the Agency, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Agency, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the contract.
- 18.4 The Agency agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this contract.
- 18.5 As provided in subsection 287.135(8), Florida Statutes, if federal law ceases to authorize these contracting prohibitions, this section shall become inoperative and unenforceable

SECTION 19. NON-EXCLUSIVE CONTRACT:

The Parties acknowledge that this Contract is not an exclusive contract and the County may employ other professional or technical personnel to furnish services for the County, as the County, in its sole discretion, finds is in the public interest. The County reserves the right to assign such work to the Agency as it may approve in the sole discretion of the County.

SECTION 20. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY):

- 20.1 The Agency shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract. Upon request, the Agency shall provide acceptable evidence of their enrollment at the time of the submission of the Agency's bid. Acceptable evidence shall include, but not be limited to, a copy of the fully executed E-Verify Memorandum of Understanding for the business.
- 20.2 Agency shall expressly require any subcontractors performing work or providing services pursuant to this Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of this Contract.
- 20.3 Agency agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the County consistent with the terms of Agency's enrollment in the program. This includes maintaining a copy of proof of Agency's and any subcontractors' enrollment in the E-Verify Program.
- 20.4 Compliance with the terms of this section is made an express condition of this Contract and the County may treat a failure to comply as a material breach of this Contract.
- 20.5 An Agency who registers with and participates in the E-Verify program may not be barred or penalized under this section if, as a result of receiving inaccurate verification information from the E-Verify program, the Agency hires or employs a person who is not eligible for employment.
- 20.6 Nothing in this section may be construed to allow intentional discrimination of any class protected by law.

SECTION 21. COUNTERPARTS AND AUTHORITY:

This Contract may be executed in counterparts all of which, taken together, shall constitute one and the same Contract. Each party represents that the person signing on its behalf has been fully authorized by all required action to sign on behalf of and to bind that party to the obligations stated herein.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

Rachel Sadoff, Clerk
(SEAL)

By: _____
Kristine Zonka, Chair
As approved by the Board on _____

Reviewed for BCFR Content:

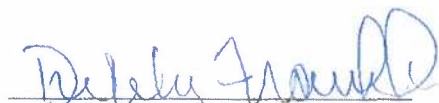
Reviewed for Legal Form and Content:

Scott M. Jurgensen, Deputy Fire Chief

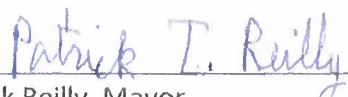
Melissa Powers, Assistant County Attorney

ATTEST:

TOWN OF MALABAR, FLORIDA



Debby Franklin, CMC, Town Clerk

By: 

Patrick Reilly, Mayor

Approved by the Town Council on 8/15/2022

Reviewed for Legal Form and Content:

Karl Bohne, Town Attorney

