

Meeting Date
2/21/17



AGENDA	
Section	CONSENT
Item No.	II.A.3

**AGENDA REPORT**  
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	BOARD APPROVAL RE: FIRST AMENDMENT TO THE CONTRACTOR LICENSING INTERLOCAL AGREEMENT WITH THE CITY OF PALM BAY (DISTRICTS 3 & 5)
DEPT/OFFICE:	PLANNING & DEVELOPMENT DEPARTMENT/Licensing Regulation & Enforcement

Requested Action:  
 It is requested that the Board of County Commissioners approve the First Amendment to the City of Palm Bay Interlocal Agreement.

Summary Explanation & Background:  
 On July 26, 2016, the Board of County Commissioners approved an Interlocal Agreement with the City of Palm Bay that provides contractor licensing, regulation and enforcement services within the City. The City offered an annual payment of \$10,000 to defray the County costs of performing these services. A payment date of October 15<sup>th</sup> was inadvertently omitted in the original Interlocal Agreement. Therefore, this First Amendment was created to include the payment date, as specified in Article III, Section H of the Agreement.

Interlocal Agreements allow the County and City to collectively utilize their powers and authority in protecting the citizens' health, safety and welfare. In addition, this Agreement provides for the County to retain any fines collected for enforcement actions in the City of Palm Bay.

Currently, the County has Interlocal Agreements with eight cities: Palm Bay, Indialantic, Melbourne, Melbourne Beach, Indian Harbour Beach, Grant/Valkaria, Rockledge and Satellite Beach.

The City of Palm Bay City Council signed this First Amendment to the Interlocal Agreement on January 20, 2017.

Clerk to the Board Instructions: Chairman to execute **two originals** of the Agreement, with attestation by the Clerk, and return the originals to the Department for distribution to the City and County staff.

Exhibits Attached: First Amendment to Interlocal Agreement and the Recorded Interlocal Agreement

Contract /Agreement (If attached): Reviewed by County Attorney		Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR <input type="checkbox"/>
County Manager		Assistant County Manager		Department Director / Extension		
Stockton Whitten				 Robin M. DiFabio, AICP 5-2069		



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

February 22, 2017

MEMORANDUM

TO: Robin DiFabio, Planning and Development Director

RE: Item II.A.3., Interlocal Agreement with the City of Palm Bay for First Amendment to Contractor Licensing

The Board of County Commissioners, in regular session on February 21, 2017, approved the Interlocal Agreement with the City of Palm Bay for the first amendment to contractor licensing. Enclosed are two fully-executed Interlocal Agreements for your action.

**Upon recordation of the Interlocal Agreement, please return the original to this office for inclusion in the official minutes.**

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/ds

Encl. (2)

## FIRST AMENDMENT TO INTERLOCAL AGREEMENT

THIS FIRST AMENDMENT, made and entered into this 21 day of February, 2017, by and between the City of Palm Bay, a Florida municipal corporation organized and existing under the laws of the State of Florida, (hereinafter "CITY"), and Brevard County, Florida, a political subdivision of the State of Florida (hereinafter "COUNTY").

### WITNESSETH:

**WHEREAS**, on July 26, 2016, the CITY and the COUNTY entered into an Interlocal Agreement providing for a centralized uniform system for local registration, licensing and discipline of registered contractors, and a listing of State certified contractors operating in both the unincorporated areas of the COUNTY and within the CITY's municipal limits; and

**WHEREAS**, due to an oversight, Article III, Section H of the existing Agreement does not specify the deadline by which the CITY needs to make its annual contribution of \$10,000.00 to the COUNTY; and

**WHEREAS**, entering into this Interlocal Agreement is in the best interests of the citizens of the COUNTY and the CITY as it will benefit the health, safety and welfare of said citizens.

**NOW THEREFORE**, in consideration of the mutual terms, conditions, promises, and covenants hereinafter set forth, the CITY and COUNTY agree to perform the following acts and to be bound by the following statements:

#### 1.0 RECITALS

The above recitals are true and correct and are deemed an integral part of this First Amendment.

#### 2.0 DOCUMENTS

The following documents are hereby incorporated into and made part of this First Amendment.

**Attachment A:** The previous Interlocal Agreement, dated July 26, 2016.

#### 3.0 AMENDED LANGUAGE

Article III, Section H, of the July 26, 2016 Interlocal Agreement is hereby amended to read:

The CITY shall make an annual contribution of \$10,000.00 to the COUNTY in order to offset the expenses borne by the COUNTY in performing its duties pursuant to this Agreement. Failure of the CITY to make its annual contribution by October 15<sup>th</sup> of each year will grant the COUNTY the power to terminate this Agreement at will.

**4.0 FULL FORCE AND EFFECT**

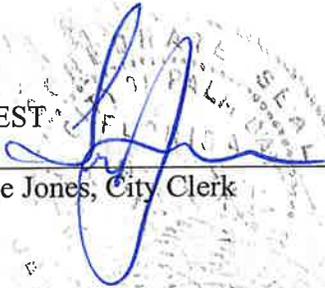
To the extent not modified or amended by this First Amendment, the terms and conditions as set forth in the existing Agreement, attached as "Attachment A," shall remain in full force and effect.

**5.0 EFFECTIVE DATE**

This First Amendment shall take effect upon being filed with the Clerk of the Circuit Court of Brevard County, Florida.

**IN WITNESS WHEREOF**, the Parties hereto have agreed to adopt this First Amendment and incorporate it into the existing Agreement made and entered into on July 26, 2016.

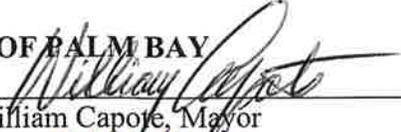
ATTEST

  
\_\_\_\_\_  
Terese Jones, City Clerk

ATTEST

  
\_\_\_\_\_  
Scott Ellis, Clerk

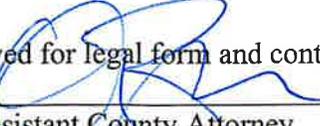
**CITY OF PALM BAY**

BY:   
\_\_\_\_\_  
William Capote, Mayor  
DATE: 01-20-17

**BOARD OF COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA**

BY:   
\_\_\_\_\_  
Curt Smith, Chairman  
As approved by the Board on 2/21/17  
DATE: 2/21/17

Reviewed for legal form and content:

BY:   
\_\_\_\_\_  
Assistant County Attorney  
DATE: 1-26-17

## FIRST AMENDMENT TO INTERLOCAL AGREEMENT

THIS FIRST AMENDMENT, made and entered into this 21 day of February, 2017, by and between the City of Palm Bay, a Florida municipal corporation organized and existing under the laws of the State of Florida, (hereinafter "CITY"), and Brevard County, Florida, a political subdivision of the State of Florida (hereinafter "COUNTY").

### WITNESSETH:

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**WHEREAS**, due to an oversight, Article III, Section H of the existing Agreement does not specify the deadline by which the CITY needs to make its annual contribution of \$10,000.00 to the COUNTY; and

**WHEREAS**, entering into this Interlocal Agreement is in the best interests of the citizens of the COUNTY and the CITY as it will benefit the health, safety and welfare of said citizens.

**NOW THEREFORE**, in consideration of the mutual terms, conditions, promises, and covenants hereinafter set forth, the CITY and COUNTY agree to perform the following acts and to be bound by the following statements:

#### 1.0 RECITALS

The above recitals are true and correct and are deemed an integral part of this First Amendment.

#### 2.0 DOCUMENTS

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**Attachment A:** The previous Interlocal Agreement, dated July 26, 2016.

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**4.0 FULL FORCE AND EFFECT**

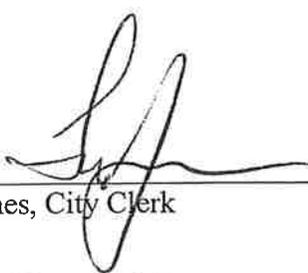
To the extent not modified or amended by this First Amendment, the terms and conditions as set forth in the existing Agreement, attached as "Attachment A," shall remain in full force and effect.

**5.0 EFFECTIVE DATE**

This First Amendment shall take effect upon being filed with the Clerk of the Circuit Court of Brevard County, Florida.

**IN WITNESS WHEREOF**, the Parties hereto have agreed to adopt this First Amendment and incorporate it into the existing Agreement made and entered into on July 26, 2016.

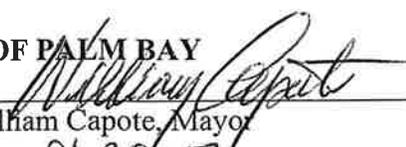
ATTEST

  
\_\_\_\_\_  
Terese Jones, City Clerk

ATTEST

  
\_\_\_\_\_  
Scott Ellis, Clerk

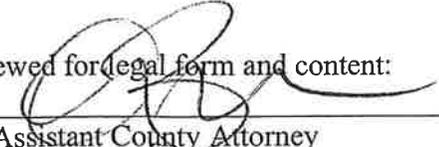
**CITY OF PALM BAY**

BY:   
\_\_\_\_\_  
William Capote, Mayor  
DATE: 01-20-17

**BOARD OF COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA**

BY:   
\_\_\_\_\_  
Curt Smith, Chairman  
As approved by the Board on 2/21/17  
DATE: 2/21/17

Reviewed for legal form and content:

BY:   
\_\_\_\_\_  
Assistant County Attorney  
DATE: 1-26-17

## INTERLOCAL AGREEMENT

*The purpose of this Interlocal Agreement is to provide for a centralized uniform system for the local registration, licensing and discipline of registered contractors, and a listing of state certified contractors operating in the unincorporated areas of the County of Brevard and the City of Palm Bay.*

**THIS AGREEMENT**, made and entered into this 26 day of JULY, 2016 by and between the City of Palm Bay, a Florida municipal corporation organized and existing under the laws of the State of Florida (hereinafter "CITY"), and the County of Brevard, a political subdivision of the State of Florida (hereinafter "COUNTY").

### WITNESSETH:

**WHEREAS**, The parties in this agreement are authorized pursuant to the Florida Interlocal Cooperation Act of 1969 (163.01, Florida Statutes) to make the most efficient use of their respective powers, resources, authority and capabilities by enabling them to cooperate on the basis of mutual advantage and thereby provide the facilities and efforts provided for herein in the manner that will best utilize existing resources, powers and authority available to each of them; and

**WHEREAS**, it is the purpose of the Cooperation Act to provide a means by which the COUNTY and the CITY may exercise their respective powers, privileges and authority which they may have separately, but which pursuant to this Interlocal Agreement and the Cooperation Act they may exercise collectively; and

**WHEREAS**, the COUNTY and the CITY desire to establish a uniform system for local registration, licensing and discipline of registered contractors pursuant to Parts I and II, Chapter 489, Florida Statutes and Chapter 22, Article VI of the Brevard County Code; and

**WHEREAS**, entering into this Interlocal Agreement is in the best interests of the citizens of Brevard County and the City of Palm Bay as it will benefit the health, safety and welfare of said citizens.

**NOW THEREFORE**, in consideration of the premises, mutual covenants, provisions and representations contained herein, the parties hereto agree as follows:

### ARTICLE I. STATEMENT OF PURPOSE

The purpose of this Interlocal Agreement is to establish a centralized and uniform system for the local regulation of registered contractors pursuant to Parts I and II, Chapter 489, Florida Statutes within Brevard County, Florida.

## **ARTICLE II. DURATION AND MODIFICATIONS**

This Interlocal Agreement shall become effective upon being filed with the Clerk of the Circuit Court of Brevard County, Florida. This Interlocal Agreement shall remain in effect for three (3) years and shall be automatically renewed for successive three (3) year periods unless one party notifies the other party in writing, at least sixty (60) days before each three (3) year anniversary of their wish not to proceed with automatic renewal of this Interlocal Agreement.

Either party may terminate this agreement for any reason upon one hundred eighty (180) days written notice.

This Interlocal Agreement may be amended by mutual written agreement of the parties. Any amendments to this Interlocal Agreement shall be effective upon being filed with the Clerk of the Circuit Court of Brevard County, Florida.

## **ARTICLE III. DUTIES**

- A. Chapter 22, Article VI of the Brevard County Code shall have full force and effect in the City of Palm Bay, which established a Contractor Licensing Board in accordance with Parts I and II, Chapter 489, Florida Statutes for the regulation of locally registered contractors. The COUNTY's Contractor Licensing Board shall act for both parties as the disciplinary authority for contractors pursuant to Parts I and II, Chapter 489, Florida Statutes and Chapter 22, Article VI of the Brevard County Code.
- B. COUNTY shall, in accordance with state law and Chapter 22, Article VI of the Brevard County Code, review the qualifications of locally certified and state registered contractors desiring to provide services within the CITY.
- C. CITY shall recognize the list of qualified locally certified and state registered contractors maintained by the COUNTY. The CITY shall not create or in anyway charge or impose a registration fee on said contractors.
- D. COUNTY shall process and investigate complaints regarding locally certified and state registered contractors regulated by the COUNTY program in accordance with Parts I and II, Chapter 489, Florida Statutes and COUNTY ordinances.
- E. COUNTY will provide CITY with regular reports containing information regarding registered contractors.
- F. The COUNTY, as agreed by both parties, will provide a centralized uniform system for the registration, licensing and discipline of registered contractors. The COUNTY may prosecute, before the Contractor Licensing Board, or any court, violations of Chapter 22, Article VI of the Brevard County Code or Chapter 489, Florida Statutes, relating to contractor discipline. It is agreed that any fines collected, as part of disciplinary action against a registered contractor performing work in the CITY will be kept by the COUNTY.

- G. The COUNTY has established an Unlicensed Contractor Special Master pursuant to Chapter 489, Florida Statutes and Chapter 22, Article VI of the Brevard County Code. The COUNTY shall process and investigate all complaints regarding unlicensed contractors performing work within the jurisdiction of the CITY. The COUNTY may prosecute, before the Unlicensed Contractor Special Master, any violation of unlicensed contracting as provided in Chapter 489, Florida Statutes or Chapter 22, Article VI of the Brevard County Code, occurring within the jurisdiction of the CITY. It is agreed that any fines collected as part of any enforcement action taken against any person acting as an unlicensed contractor in violation of any relevant section of Chapter 22, Article VI, Brevard County Code will be kept by the County.
- H. The CITY shall make an annual contribution of \$10,000.00 to the COUNTY in order to offset the expenses borne by the COUNTY in performing its duties pursuant to this Agreement. Failure of the CITY to make its annual contribution by \_\_\_\_\_ will grant the COUNTY the power to terminate this Agreement at will.

#### **ARTICLE IV. DISPUTE RESOLUTION**

Venue for any dispute arising under this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida and any trial shall be non-jury. In the event of any legal action to enforce the terms of this Agreement each party shall bear its own attorney's fees and costs.

#### **ARTICLE V. LIABILITIES**

Each party shall be solely responsible for its performance under this Interlocal Agreement, and no liability shall inure to the other party from such performance or lack of performance. This provision shall not be construed as any waiver of Sovereign Immunity by either party. No private cause of action shall arise based on Article III duties.

#### **ARTICLE VI. RECORDING**

The County Manager of Brevard County is hereby authorized and directed after approval of this Interlocal Agreement by the respective governing bodies of COUNTY and CITY and the execution thereof by the duly qualified and authorized officers of each of the parties hereto, to file and record in the Official Records Book of the Brevard County Public Records, this Interlocal Agreement with the Clerk of the Circuit Court of Brevard County, Florida. A recorded copy shall be promptly transmitted to the City Clerk of the City of Palm Bay.

#### **ARTICLE VII. MEMBERS LIABILITY**

No covenant, stipulation, obligation, or agreement contained herein shall be deemed to be a covenant, stipulation, obligation, or agreement binding any individual present or future member of the governing body or any individual agent or employee of the COUNTY or CITY in

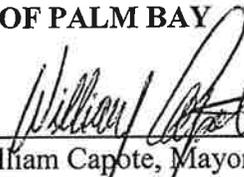
his, her, or their individual capacity, and neither the individual members of either governing body nor any individual agents or employees of either governing body shall be personally liable or subject to any accountability due to the execution of this Interlocal Agreement by the COUNTY or CITY or any act taken pursuant to its terms.

**ARTICLE VIII. SEVERABILITY**

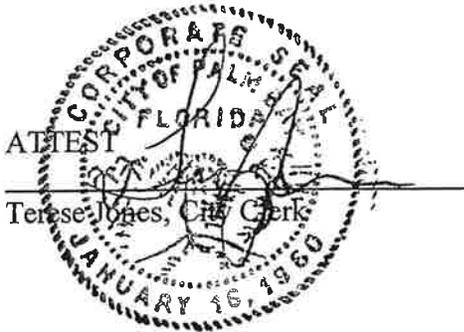
If any portion or provision of this Interlocal Agreement shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this Interlocal Agreement which shall remain in effect.

**IN WITNESS WHEREOF**, the parties have executed this Agreement the date and year written herein.

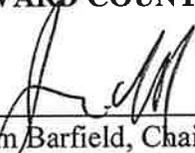
**CITY OF PALM BAY**

BY:   
William Capote, Mayor

DATE: 6-17-16



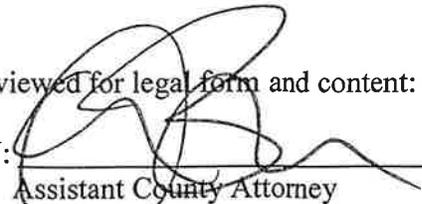
**BOARD OF COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA**

BY:   
Jim Barfield, Chairman

As approved by the Board on JULY 26, 2016

DATE: JULY 26, 2016

ATTEST   
Scott Ellis, Clerk

Reviewed for legal form and content:  
BY:   
Assistant County Attorney

DATE: 11-21-16