

**INTERLOCAL AGREEMENT BETWEEN INDIAN RIVER COUNTY
AND THE CITY OF FELLSMERE REGARDING THE CITY OF
FELLSMERE'S ACCEPTANCE OF A CERTIFICATE OF
COMPETENCY ISSUED BY THE INDIAN RIVER COUNTY
BUILDING DEPARTMENT**

THIS INTERLOCAL AGREEMENT (the "Agreement"), made and entered into this _____ day of _____, 2021, between Indian River County, Florida (the "County") and the City of Fellsmere, a municipal corporation created pursuant to the laws of the State of Florida (the "City"), provides for the City's acceptance of the County's issuance of certificates of competency to contractors.

WITNESSETH:

WHEREAS, Chapter 400 of the County's Code of Ordinances sets forth the contractor and building regulations applicable to any person engaging in the business of construction, contracting, and subcontracting within the County's jurisdiction; and

WHEREAS, Section 400.01(1) of the County's Code of Ordinances requires all persons engaged in the business of construction, contracting, and subcontracting to have a valid certificate of competency issued by: (i) the Indian River County Building Department in accordance with Chapter 400 of the County's Code of Ordinances; or (ii) the Florida Department of Business and Professional Regulation in accordance with Chapter 489, Florida Statutes; and

WHEREAS, the City desires to accept the County's certificate of competency in lieu of the City's own certificate of competency, to which the County has no objection; and

WHEREAS, the City also desires to utilize the County's Construction Board of Adjustments and Appeals in lieu of the City establishing its own regulatory board to monitor persons and entities performing contracting activities, to which the County has no objection, and to accept any decision made by the County's Construction Board of Adjustments and Appeals Board, including, but not limited to, the suspension or revocation of a certificate of competency; and

WHEREAS, the City and the County share a common goal of ensuring that all persons engaged in the business of construction, contracting, and subcontracting are qualified and competent to engage in such activity; and

WHEREAS, the City and the County are mutually committed to address the aforementioned concerns; and

WHEREAS, pursuant to section 489.131(10), Florida Statutes, “[n]o municipal or county government may issue any certificate of competency or license for any contractor defined in s. 489.105(3)(a)-(o) after July 1, 1993, unless such local government exercises disciplinary control and oversight over such locally licensed contractors, including forwarding a recommended order in each action to the board as provided in subsection (7)”; and

WHEREAS, Section 489.131(11), Florida Statutes, states “[a]ny municipal or county government which enters or has in place a reciprocal agreement which accepts a certificate of competency or license issued by another municipal or county government in lieu of its own certificate of competency or license allowing contractors defined in s. 489.105(3)(a)-(o), shall file a certified copy of such agreement with the board not later than 60 days after July 1, 1993, or 30 days after the effective date of such agreement.”

NOW, THEREFORE, in consideration of the mutual undertakings and agreements herein contained and assumed, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the County and City agree as follows:

SECTION 1. RECITALS INCORPORATED. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. PUBLIC PURPOSE. The City and County are entering into this Agreement in order to allow the City to delegate certain functions pertaining to certificate of competency licensing in accordance with subsections 10 and 11 of section 489.131, Florida Statutes. This Agreement serves a municipal purpose and satisfies, fulfills, and is pursuant to and for a public purpose, is in the public interest, and is a proper exercise of each party’s power and authority with respect to their individual governmental authority.

SECTION 3. DURATION, TERMINATION, AND AMENDMENT.

- (a) The term of this Agreement commences on the Effective Date.
- (b) This Agreement shall remain in full force and effect unless terminated per section 3(c);
- (c) This Agreement may be terminated for any reason by either party upon 90 days’ written notice to the other party. This Agreement may only be amended by the mutual consent of the parties and in the same manner as its original adoption.

SECTION 4. DUTIES AND RESPONSIBILITIES.

- (a) County shall be responsible for issuing certificate of competency licenses and renewals to contractors and to schedule Construction Board of Adjustment and Appeals hearings pertaining to such licenses and renewals, if necessary.
- (b) City shall be responsible for reporting, investigating, researching and prosecuting any contractor licensing complaints pertaining to any work conducted in the City.
- (c) Within thirty (30) days of the Effective Date of this Agreement, the City shall file a certified copy of this Agreement with the State of Florida Construction Industry Licensing Board as required by Section 489.131(11), Florida Statutes.

SECTION 5. CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS. County's Construction Board of Adjustments and Appeals shall be used to monitor persons and entities performing contracting activities.

SECTION 6. NOTICE.

(a) Unless specified by a party in writing otherwise, all notices, demands, or other papers required to be given or made by this Agreement, or which may be given or made, by either party to the other, will be given or made in writing and addressed as follows:

City: City Manager
 City of Fellsmere
 22 S. Orange Street
 Fellsmere, FL 32948
 with a copy to the City Attorney

County: County Administrator
 1801 27th Street
 Vero Beach, Florida 32960-3365
 with a copy to the County Attorney

The parties will consider notice to be properly given if (1) personally delivered; (2) sent by certified U.S. Mail, return receipt requested; or (3) sent by an overnight letter delivery company; and

(b) The parties will consider the effective date of notice to be the date personally delivered; or, if sent by U.S. Mail, the date of postmark; or, if sent by an overnight letter delivery company, the date the notice was picked up by the overnight letter delivery company from the party giving notice.

SECTION 7. SOVEREIGN IMMUNITY. Nothing contained herein shall be construed as a waiver or attempted waiver of any immunity from, or limitation of, liability either party has under

the Doctrine of Sovereign Immunity of Section 768.28, Florida Statutes, and the Florida Constitution.

SECTION 8. BUSINESS RELATIONSHIP. The City and the County are not partners, or joint ventures or agents of each other for any activities pursuant to this Agreement, and no such relationship between them shall be deemed to exist by virtue of this Agreement.

SECTION 9. CONSTRUCTION. The headings of the sections of this Agreement are for the purpose of convenience only, and shall not be deemed to expand, limit, or modify the provisions contained in such Sections. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the party or parties may require. The parties hereby acknowledge and agree that each was properly represented by counsel and this Agreement was negotiated and drafted at arm's length so that the judicial rule of construction to the effect that a legal document shall be construed against the draftsman shall be inapplicable to this Agreement.

SECTION 10. MERGER AND MODIFICATION. This Agreement incorporates and includes all prior and contemporaneous negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings of any nature whatsoever concerning the subject matter of the Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior or contemporaneous representations or agreements, whether oral or written, unless the provisions of the parol evidence rule applies.

SECTION 11. GOVERNING LAW AND VENUE. This Agreement, including all attachments hereto, shall be construed according to the laws of the State of Florida. Venue for any lawsuit brought by either party against the other party or otherwise arising out of this Agreement shall be in Indian River County, Florida, or, in the event of federal jurisdiction, in the United States District Court for the Southern District of Florida.

SECTION 12. CONFLICT. To the extent of any conflict between this Agreement and any existing City or County agreement, this Agreement will be deemed to be controlling. This Agreement is not intended to amend or repeal any existing City or Indian River County ordinance.

SECTION 13. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Agreement is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase, or portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Agreement.

SECTION 14. RECORDATION. This Agreement shall be recorded in the Office of the Circuit Court in Indian River County. The City shall bear the costs of recordation of this Agreement.

SECTION 15. EFFECTIVE DATE. This Agreement will become effective upon its filing with the Clerk of the Circuit Court of Indian River County, Florida, as required by Section 163.01(11), Florida Statutes.

APPROVED this _____ day of _____, 2021.

INDIAN RIVER COUNTY, FLORIDA

By: _____
Joseph E. Flescher, Chairman

ATTEST: Jeffrey R. Smith,
Clerk of Court and Comptroller

By: _____
Deputy Clerk

APPROVED:

By: _____
Jason E. Brown, County Administrator

Approved as to form and legal sufficiency.

By: _____
Dylan Reingold, County Attorney

CITY OF FELLSMERE, a municipal corporation and political subdivision of the State of Florida

By: _____
Joel Tyson, Mayor

ATTEST: Maria Suarez-Vazquez
City Clerk

By: _____

APPROVED:

By: _____
Mark D. Mathes, City Manager

Approved as to form and legal sufficiency.

By: _____
Warren W. Dill, City Attorney