

## INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT is entered into this 31<sup>st</sup> day of May 2018, by and between the CITY OF OCALA ("City") and the SCHOOL BOARD OF MARION COUNTY, FLORIDA ("School Board").

### WITNESSETH:

WHEREAS, both the City and the School Board are a "Public Agency" having authority under Florida Statute, §163.01, the "Florida Interlocal Cooperation Act of 1969," to enter into Interlocal Agreements; and

WHEREAS, the City and School Board wish to make the most efficient use of their tax payer supplied funding by cooperating with each other on a basis of mutual advantage of their respective communities; and

WHEREAS, the City and the School Board have been litigating the payment of stormwater and fire user fees in Case No. 2011-3112-CA-G in the Circuit Court of the Fifth Judicial Circuit, in and for Marion County, Florida (the "Complaint"); and

WHEREAS, the City claims it is owed approximately \$766,562.74 in unpaid stormwater fees as of April 2018; and

WHEREAS, the School Board disputes it owes those past due stormwater fees; and

WHEREAS, the City of Ocala and the School Board wish to amicably resolve their disputes as to stormwater fees and to agree how stormwater fees will be determined by the City and paid by the School Board in the future; and

NOW THEREFORE, in the consideration of the matters set forth above (which are incorporated herein by reference), the exchange of the mutual promises set forth herein, and other good and valuable consideration, the parties hereto agree as follows:

1. **Recitals:** The recitals contained above are true, correct and are incorporated herein by reference.

2. **Term:** This Interlocal Agreement shall remain in effect for five (5) years, and thereafter shall automatically renew on an annual basis until rescinded or terminated by either party. Should the School Board rescind or terminate this Agreement without entering a new agreement for stormwater, the City shall be entitled to bill for stormwater at the then existing rate and the School Board shall be obligated to pay for same until a new agreement is negotiated.

3. **Waiver of Past Fees:** The City as partial consideration for this Agreement waives its claim to the unpaid stormwater indebtedness set forth in the recitals and claimed in the Complaint and agrees to accept the payment of stormwater fees as set forth herein.

**4. Payment for future stormwater services:** The School Board as partial consideration for its settlement of the City's unpaid stormwater indebtedness claim agrees to pay to the City for stormwater services going forward as follows:

a. Pay to the City pursuant to its current stormwater ordinances and rate resolution a base rate<sup>1</sup> of \$111,847.23 per annum in equal monthly payments equaling \$9,320.60, said payments payable on or before the 15<sup>th</sup> day of each month, with the first payment due on or before July 15, 2018 and the last payment due on or before October 15, 2018.

b. Pay to the City pursuant to its current stormwater ordinances and rate resolution a base rate of \$121,354.25 per annum in equal monthly payments equaling \$10,112.85, on or before the 15<sup>th</sup> day of each month, with the first payment due on or before November 15, 2018 and the last payment due on or before October 15, 2019.

c. Pay to the City pursuant to its current stormwater ordinances and rate resolution a base rate of \$131,669.35 per annum in equal monthly payments equaling \$10,972.45, on or before the 15<sup>th</sup> day of each month, with the first payment due on or before November 15, 2019 and the last payment due on or before October 15, 2020.

d. The City agrees that the base rates set forth herein shall not increase because of future development on current School Board owned properties within the boundary of the current city limits of the City of Ocala, but may be increased consistent with City's stormwater ordinances and rate resolution for new development on future acquired property within the boundary of the current city limits, or within the boundary of the future city limits of the City of Ocala resulting from annexation.

**5. Disputes:** The City and the School Board shall resolve any and all disputes or disagreements created by this Interlocal Agreement as required by Florida Statute, §164.101 et. seq. the "Florida Governmental Conflict Resolution Act".

**6. Dismissal of Stormwater Claims:** After execution of this Agreement and receipt of the payment set forth in paragraph four (4) above the City shall cause to be filed with the Court a dismissal with prejudice of its stormwater related claims in the Second Amended Complaint.

**7. Entire Understanding:** This agreement represents the entire understanding and agreement between the parties with respect to the subject matter hereof, and supersedes all other negotiations (if any) made by and between the parties.

**8. Amendments:** The provisions of this agreement may not be amended, supplemented, waived, or changed orally but only by a writing making specific reference to this agreement signed by the party as to whom enforcement of any such amendment, supplement, waiver or modification is sought.

---

<sup>1</sup> City has informed School Board that a pre-existing rate resolution passed by City Council pursuant to its stormwater ordinances currently in effect whereby an 8.5% annual increase is being imposed on all stormwater customers for every year through 2020.

9. **Enforcement:** All of the terms and provisions of this agreement, whether so expressed or not, shall be binding upon, inure to the benefit of, and be enforceable by the parties and their respective legal representatives, heirs, estates, successors and permitted assigns.

10. **Notices:** All notices, requests, consents and other communications required or permitted under this agreement shall be in writing (including taxed communication) and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, faxed, or mailed by Registered or Certified Mail (postage pre-paid), Return Receipt Requested, addressed to:

Marion County School Board  
512 S.E. 3rd Street  
P.O. Box 670  
Ocala, Florida 34478-0670  
Fax Number: (352) 620-7735

City of Ocala  
110 SE Watula Avenue  
Ocala, Florida 34471  
Fax Number: (352) 629-8391

or to such other addresses as any party may designate by notice complying with the terms of this section. Each such notice shall be deemed delivered:

- (a) On the date delivered if by personal delivery,
- (b) On the date faxed it by fax, and
- (c) On the date upon which the Return Receipt is signed or delivery is refused or the notice is designated by the postal authorities as not delivered, as the case may be, if mailed.

12. **Governing Laws:** This agreement and all transactions contemplated by this agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida without regard to principles of conflicts of laws.

13. **Attorney's Fees:** If any legal action or other proceeding, including arbitration, is brought for the enforcement of this contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this contract, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses even if not taxable as court costs, incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

14. **Counterparts:** This agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

15. **Survival of Covenant:** All covenants, agreements, representations and warranties

15. **Survival of Covenant:** All covenants, agreements, representations and warranties made herein or otherwise made in writing by any party pursuant hereto shall survive the execution and delivery of this agreement and the consummation of the transactions contemplated hereby.

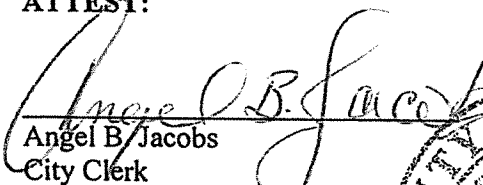
16. **Remedies:** No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

17. **Severability Clause:** Provisions contained in this agreement which are contrary to, prohibited by or invalid under applicable laws or regulations shall be deemed omitted from this document and shall not invalidate the remaining provisions thereof.


18. **Waiver:** A failure to assert any rights or remedies available to a party under the terms of this agreement, or a waiver of the right to remedies available to a party by a course of dealing or otherwise shall not be deemed to be a waiver of any other right or remedy under this agreement, unless such waiver of such right or remedy is contained in a writing signed by the party alleged to have waived his other rights or remedies.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date mentioned above.

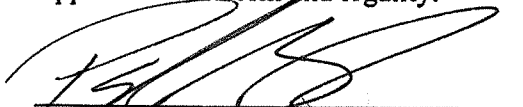
ATTEST:

  
Angel B. Jacobs  
City Clerk

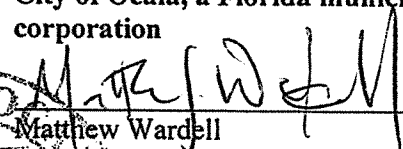
Approved as to form and legality

  
Patrick G. Gilligan  
City Attorney

Approved as to form and legality:

  
Paul Gibbs, Board Attorney

City of Ocala, a Florida municipal corporation

  
Matthew Wardell  
President, Ocala City Council

**APPROVED**

MAY 22

SCHOOL BOARD OF  
MARION COUNTY, FLORIDA

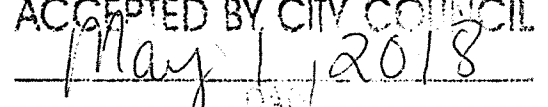
School Board of Marion County, Florida

By:   
E. Elizabeth McCall, Chair

**APPROVED**

MAY 22 2018

SCHOOL BOARD OF  
MARION COUNTY, FLORIDA

ACCEPTED BY CITY COUNCIL  
  
OFFICE OF THE CITY CLERK