

**INTERLOCAL AGREEMENT BETWEEN
ALACHUA COUNTY & CITY OF NEWBERRY
FOR A FIRE TRAINING FACILITY**

THIS INTERLOCAL AGREEMENT (“Agreement”) is entered by and between Alachua County, a political subdivision of the State of Florida, by and through its Board of County Commissioners (“County”), and the City of Newberry, Florida, a municipal corporation (“City”), collectively the “Parties”.

WITNESSETH:

WHEREAS, the County and the City are authorized by Section 163.01, Florida Statutes, to enter into interlocal agreements on a basis of mutual advantage and for provisions of services that benefit the public health, safety and welfare; and

WHEREAS, both the City of Newberry Fire Department and the Alachua County Fire Rescue Department are committed to providing fire suppression and emergency medical services for their communities; and

WHEREAS, the County and the City have determined that a joint use of a fire safety training facility located in Newberry, Alachua County (hereinafter “Facility”) would be effective and provide a benefit to both Parties; and

WHEREAS, the City is the owner of real property located on SW 266th Street, Newberry, Alachua County, Florida identified by Parcel ID number 02538-009-001 and 02538-008-000, commonly referred to as the ‘Newberry Environmental Park’ (“City Property”); and

WHEREAS, a part of the City Property is used for the City’s wastewater treatment facility; and

WHEREAS, it is intended that the jointly used fire safety training facility will be located on a part of the City Property; and

WHEREAS, the Parties desire to enter into this Agreement for use of part of the City Property for a fire training facility to be jointly used by the Parties.

NOW, THEREFORE, the County and the City agree as follows:

1. **Recitals**. The foregoing recitals are incorporated herein.
2. **Term**. This Agreement shall be effective upon the date this Agreement is fully executed by the last Party to sign and upon the filing of this Agreement in the Official Records of Alachua County, Florida (“effective date”). This Agreement will remain in effect for a period of 50 years from the effective date with the option to renew, until and unless terminated by the Parties.
3. **Use, License and Agreement**.
 - A. For purpose of fire safety training, the City hereby grants to the County the right and irrevocable license to enter, access and use a portion of the City’s Property (“Licensed Premise”) in area indicated shown on **Exhibit “A”** exhibit hereto and incorporated

herein, which is at minimum two acres in size.

- B. The City is working, at its expense, on a site plan and obtaining the proper zoning and land use designations for this intended use on the Property. In the event that the Licensed Area is not in the exact location as shown in Exhibit A, the County Manager and the City Manager are hereby authorized to enter into a written amendment to this Agreement to amend Exhibit "A" as to the location or size of the Licensed Premise only.
- C. Within two years of the effective date of this Agreement, the City shall construct or install a fire safety training facility ("Facility") on the Licensed Premise. The Facility shall meet NFPA standards and ISO requirements to be certified recognized fire training site. The City shall ensure that any construction or installation of the Facility shall be properly designed, structurally sound, safe, and in compliance with all applicable federal, state and local laws, codes, rules, regulations, and ordinances. The County's Fire Chief and the City's Fire Chief will coordinate as to the Facility's specifications. The City will allow inspections of the Facility by the County during the times of construction. By this Agreement, the County shall have unlimited access to the Facility during the term of this Agreement.
- D. In addition to the fire safety training structure, the County is authorized to use the other Facility related infrastructure located on or supporting the Licensed Premise, such as the parking area, storage, props, and restrooms.
- E. Neither the City nor the County will restrict use of the Facility by the other Party. If a conflict arises on scheduling of the Facility that cannot be mutually resolved by the City's Fire Chief and the County's Fire Chief, the City Manager and County Manager will meet to resolve the matter.
- F. No third party shall be given authorization to use the Facility without first obtaining the consent of the County Fire Chief and the City Fire Chief. Fees for use will not be collected by the City from a third party.
- G. The Parties agree that the use of the Premise will comply with all applicable laws, rules, ordinances and regulations of any government authority.

4. **Funding.** In accordance with the terms of this Agreement, and support for the joint use of the Licensed Premise and Facility, the County agrees to provide funding to the City in the amount not to exceed \$250,000 to be used solely by the City for the purchase or construction cost of an ISO certified recognized fire training Facility ("Funding Amount"). The City agrees to competitively solicit for the purchase and/or construction of the Facility, in accordance with City procedures, process, or code. After responsive bids are received, the City will notify the County with copies of the bids received, and invoice to the County. The County reserves the right, prior to payment, to request and receive supporting documentation from the City regarding the invoice, which may include but is not limited to a copy of the solicitation, bid responses, construction contract, quotes, and estimates.

It is expressly agreed by and between the Parties that all obligations under this Agreement are conditioned upon and subject to the availability of funds lawfully appropriated and budgeted annually for the purposes stated herein at a level which, in the sole discretion of the respective parties, permits the successful continuation of such purposes.

5. **Security.** If the Licensed Premise or the Facility is secured by the City, the City shall provide the County with sufficient means of access (i.e. keys, code, etc.) to the Licensed Premise and the Facility.

6. **Maintenance.** The City agrees to provide, at the City's expense, the utilities and the general maintenance of the Facility on the Property and keep the Facility in good repair, with reasonable wear and tear expected. For purposes of this Agreement, 'general maintenance' includes pest control, janitorial services and supplies, landscaping, pressuring washing, and trash collection.

7. **Improvements.** After the completion of the Facility, neither Party shall make or cause to be made any alterations, renovations, additions, or improvements that exceed \$1,000 in price ("major improvement") to or of the Facility, or any part thereof, without the prior written notice to other Party. If the City determines that the Facility is need of major improvement, the City will give prior notice to the County's Fire Chief. If there is no response from the County's Fire Chief within 5 days, excluding weekends and holidays, from the date of the notice, the City may assume the major improvement is acceptable and may proceed. The County's Fire Chief is authorized to provide this consent on behalf of Alachua County. Unless otherwise agreed to in writing by the Parties, in the event the City proposes any major improvements to the Facility, the same shall be at the City's sole cost and expense. In the event of any major improvements results disrupts use of the Facility, the Parties will cooperate as to scheduling and timing.

8. **Property and Notice.** Each Party's Fire Rescue agrees to promptly, without delay, notify the other Fire Rescue, respectfully, either in phone, email, or orally of any hazardous, dangerous, unsafe, or destructive conditions, trespassers, vandalism or damages that either the City or the County, including any of their employees or agents or invitees, notices or is made aware of on or at the Facility.

9. **Insurance.** The City shall obtain coverage insurance on the Facility and any improvements thereto in its full insurable value.

10. **Default and Termination.**

A. If either Party fails to fulfill its obligations under this Agreement or if any Party breaches any of the terms or stipulations under this Agreement, the other Party will give the other Party with written notice of the default. The notice shall state the specifics of the failure or breach and shall provide a reasonable time for correction of same. If the correction is not made within the time stated (or if none stated than within thirty calendar days), then the County Manager and the City Manager will meet to resolve the dispute if the dispute cannot be first resolved by the Chiefs of the Fire Departments. If the City Manager and County Manager are unable to resolve the disagreement, the Parties agree to mediate. If mediation is unsuccessful, either Party may then terminate this Agreement by following section (B) below.

B. If the (a) the City ceases to open the Facility, (b) a party intends to terminate this Agreement, or (c) the City rejects or discontinues the County's ability to use the Facility, then the following subsections will apply. For purposes of this Agreement, whether the City "discontinues ability to use the Facility" to the County will be determined according to the discretion of the County Manager and his/her designee.

a. The City shall pay-back to the County the entire amount of the Funding Amount if the City ceases to (a) ceases to open the Facility, (b) closes the Facility, or (c)

disallows or discontinues the County's ability to use the Facility or Licensed Premise, within the time of one (1) calendar year after the Completion Date.

- b. The City shall pay-back to the County fifty percent (50%) of the Funding Amount if the City (a) closes the Facility or (b) discontinues the County's ability to use the Facility between the time period of one (1) calendar year and five (5) calendar years after the Completion Date.
- c. The City shall pay-back to the County twenty-five percent (25%) of the Funding Amount if the City (a) closes the Facility or (b) discontinues the County's ability to use the Facility between the time period of five (5) calendar years and fifteen (15) calendar years after the Completion Date.
- d. No pay-back provision exists after the joint use of the Facility by the County for fifteen (15) years after the Completion Date.

Upon the occurrence of one of the events listed above, the County may, in the County's individual and sole discretion, issue the City an invoice for the applicable respective amounts due. The City shall then, within ninety (90) calendar days of the date of the invoice from the County, pay back to the County the applicable amount of the County's Funding Support. If the City fails to pay back any amounts due as described in this subsection, the City will be deemed in default of this Agreement. The County may then proceed with the provisions of paragraph 6(A) above or pursue any other legal remedy available under the law.

11. **Damages and Liabilities.** Each Party shall be solely responsible, and agrees to indemnify and hold harmless the other Party, for any liabilities, claims, injuries and damages arising out of the omissions, misconduct, negligent or wrongful acts of the Party and the Party's employees and its agents concerning or involving the Facility and its structures and elements. Nothing contained herein shall be construed as consent to be sued by third parties in any manner. Nothing contained herein shall constitute a waiver by either Party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes. The County, and City further agree that nothing contained herein shall be construed or interpreted as: (1) denying to either Party any remedy or defense available to such Party under the laws of the State of Florida; (2) the consent of the County or the City be sued; (3) a waiver of the sovereign immunity of County or the City beyond the waiver provided in Section 768.28, Florida Statutes; (4) cause the County to be responsible for the acts or omissions of the City or the City's respective officers, employees, servants, agents, contractors, or subcontractors; and (4) cause the City to be responsible for the acts or omissions of the County or the County's respective officers, employees, servants, agents, contractors, or subcontractors. This section will survive the termination or expiration of this Agreement. Upon termination of this Agreement, notice of the termination will be recorded in the Official Records.

12. **Non-Waver.** The failure of either Party to exercise any right in this Agreement shall not be considered a waiver of such right.

13. **Notice.** Except as otherwise provided in this Agreement, any notice from either Party to the other Party must be in writing and delivered by email, hand delivery with receipt or sent by certified mail, return receipt requested, to the addresses below. Except for notice sent by email which is deemed received when sent, all notices will be deemed delivered five (5) business days after mailing. Each Party may change its mailing address by giving the other Party, written notice of election to change the address.

To City:

City of Newberry, FL
Attn: Fire Chief
310 NW 250th Street
Newberry, FL 32669

To County:

Alachua County, FL
Attn: County Manager
12 SE NW 1st Street
Gainesville, FL 32601

With a copy sent to:

Alachua County Fire Rescue
Attn: Fire Chief
P.O. Box 5038
Gainesville, FL 32627-5038

Alachua County Procurement, Attn: Contracts
acpur@alachuacounty.us

14. **Third Party Beneficiaries.** This Agreement does not create any relationship with, or any rights in favor of, any third party.
15. **Amendments.** This Agreement shall only be amended upon written agreement mutually agreed to by both Parties.
16. **Assignment.** This Agreement shall not be assigned without the prior written consent of both Parties. The City shall notify the County prior to any conveyance, lease, sublease or assignment of the Property.
17. **Governing Law.** This Lease Agreement shall be governed in accordance with the laws of the State of Florida. Venue shall be in Alachua County, Florida.
18. **Force Majeure.** The Parties shall exercise every reasonable effort to meet their respective duties under this Agreement but will not be liable for delays resulting from force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any government laws or regulation, acts of nature, fires, strikes, national disasters, wars, riots, transportation problems, and any other cause whatsoever beyond the reasonable control of the Parties. Any such cause will reasonably extend the performance of the delayed duty to the extent of the delay so incurred and so agreed by the Parties. In the event the Facility is damaged, destroyed, or has experienced another casualty, the County and the City will either (1) jointly agree to terminate this Agreement by a separate writing or (2) jointly agree to amend this Agreement to provide for a re-build and re-pair of the Facility.
19. **Counterparts.** This Agreement may be executed in any number of and by the Parties on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument. Receipt via email with pdf attachment by a party or its designated legal counsel of an executed counterpart of this Agreement shall constitute valid and sufficient delivery in order to complete execution and delivery of this Agreement and bind the Parties to the terms hereof.
20. **Severability and Ambiguity.** It is understood and agreed by the Parties that if any of the provisions of the Agreement shall contravene or be invalid under the laws of the State of Florida,

such contravention or invalidity shall not invalidate the entire Agreement, but it shall be construed as if not containing the particular provision(s) held to be invalid, and the rights and obligations of the Parties shall be construed and enforced accordingly. This Agreement shall not be construed more strictly against one Party than against the other Party, merely due to fact that it may have been prepared by one of the Parties. Each Party represents and agrees that it has had the opportunity to seek the advice of appropriate professionals, including legal counsel, in the review and execution of this Agreement.

21. **Electronic Signatures.** The Parties agree that an electronic version of this Agreement shall have the same legal effect and enforceability as a paper version. The Parties further agree that this Agreement, regardless of whether in electronic or paper form, may be executed by use of electronic signatures. Electronic signatures shall have the same legal effect and enforceability as manually written signatures. Delivery of this Agreement or any other document contemplated hereby bearing a manual written or electronic signature, by electronic mail in “portable document format” (“.pdf”) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original or electronic signature.

22. **Entire Agreement.** This Agreement constitutes the entire Agreement and supersedes all prior written or oral agreements, understandings, or representations of the Parties regarding the Facility.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the respective dates under each signature: by Alachua County, Florida by its Chair of the Board of County Commissioners who is authorized to sign, and by the City of Newberry, Florida, through its Mayor, who is authorized to sign this Agreement.

ALACHUA COUNTY, FLORIDA

By: _____

Anna Prizzia, Chair

Board of County Commissioners

Date: _____

ATTEST:

APPROVED AS TO FORM

J.K. “Jess” Irby, Esq., Clerk

Alachua County Attorney's Office

(SEAL)

CITY OF NEWBERRY, FLORIDA

ATTEST:

By: _____
Jordan Marlowe, Mayor

Judy S. Rice, City Clerk

Approved as to form and legality:

City Attorney

DRAFT

Exhibit 1 – Licensed Premise

Newberry Environmental Park

