

**INTERLOCAL AGREEMENT FOR COLLECTION OF
POLK COUNTY IMPACT FEES**

between

CITY OF MULBERRY, FLORIDA

and

POLK COUNTY, FLORIDA

This Interlocal Agreement (“Agreement”) is entered into as of the Effective Date (as defined in Section 13, below), by and between the City of Mulberry, a municipal corporation in the State of Florida (the “CITY”), and Polk County, a political subdivision of the State of Florida (the “COUNTY”), their respective successors and assigns.

W I T N E S S E T H

WHEREAS, the COUNTY first imposed Impact Fees in 1989 to require new growth contribute its fair share of the costs of providing capital additions and improvements to certain county systems and infrastructure; and

WHEREAS, the COUNTY has subsequently consolidated, amended and restated its impact fee ordinance by adopting Ordinance No. 24-062 (as may be further amended from time to time, the “Polk County Impact Fee Ordinance”); and

WHEREAS, pursuant to Section 2.01.C. of the Polk County Impact Fee Ordinance, if Capital Facilities Impact Construction is located within a City which has agreed to collect Impact Fees, the Impact Fees shall be paid directly to the City according to the terms of the interlocal agreement between the City and the County pertaining to the payment and collection of Impact Fees; and

WHEREAS, Section 163.01, Florida Statutes (the Florida Interlocal Cooperation Act of 1969, also referred to herein as the “Cooperation Act”), at subsection 163.01(4), provides that public agencies of the State of Florida may exercise jointly with any other public agency of the State of Florida any power, privilege, or authority which such agencies share in common, and which each might exercise separately, by contract in the form of an interlocal agreement; and

WHEREAS, the Florida Legislature, in 2006, imposed statutory limitations on the imposition of impact fees and the administrative costs thereof through the enactment of Section 163.31801, Florida Statutes, the “Florida Impact Fee Act”; and

WHEREAS, Section 163.3180(5)(j)1, Florida Statutes, requires that, if a county and a municipality charge the developer of a new development or redevelopment a fee for transportation capacity impacts, the county and municipality must create and execute an interlocal agreement to coordinate the mitigation of their respective transportation capacity impacts; and

WHEREAS, the CITY and the COUNTY mutually desire to enter into this Interlocal Agreement authorizing the CITY to collect COUNTY impact fees for Capital Facilities Impact Construction within the City limits, and to coordinate the mitigation of their respective transportation capacity impacts, in compliance with Section 163.31801 and Section 163.3180, Florida Statutes, and all other applicable law; and

WHEREAS, it is the express intent of the CITY and the COUNTY that this Interlocal Agreement shall amend, supersede and replace any and all prior agreements between the CITY and the COUNTY related to the CITY’s collection and remittance of COUNTY impact fees.

NOW, THEREFORE, in consideration of the promises, mutual covenants, conditions and payments hereinafter contained, the parties agree, stipulate and covenant as follows:

SECTION 1: Recitals

The above recitals are true and correct and incorporated herein.

SECTION 2: Authority

This Interlocal Agreement (hereinafter the “Agreement”) is entered into pursuant to the provisions of the Florida Interlocal Cooperation Act of 1969, Chapter 163, Florida Statutes, and Section 2.01(c) of the Polk County Impact Fee Ordinance.

SECTION 3: All Prior Agreements Superseded

The Parties agree that this Agreement sets forth the entire understanding between the Parties as to the subject matter contained herein, and that there are no promises or understandings between the Parties other than those stated herein. This Agreement supersedes all prior agreements, contracts, proposals, representations, negotiations, letters or other communications between the CITY and the COUNTY pertaining to the matters stated herein, whether written or oral.

SECTION 4: Definitions

Capitalized terms used in this Agreement shall have the meanings ascribed in the Polk County Impact Fee Ordinance, unless a contrary definition is provided herein.

SECTION 5: CITY’s Obligations

(A) The CITY hereby agrees to assist and cooperate with the COUNTY in the collection of COUNTY Impact Fees which are imposed on Capital Facilities Impact Construction undertaken within the CITY limits including Impact Fees for Transportation, Correctional Facilities, the Emergency Medical System and the Educational System on and after the Effective Date of this Agreement. The CITY shall require that the Applicant pay to the CITY the applicable COUNTY Impact Fees imposed by the Polk County Impact Fee Ordinance prior to the issuance of a Building Permit by the City for Capital Facilities Impact Construction. To facilitate that collection, the CITY shall prepare, on forms provided by the County, a summary of the Impact Fees paid for each Capital

Facilities Impact Construction, which summary shall contain the following:

1. The date paid;
2. The location of the property for which the Building Permit was issued;
3. The name and address of the Applicant;
4. The type of structure for which the Building Permit was issued;
5. The amount of the COUNTY Transportation Impact Fee paid;
6. The amount of the COUNTY Corrections Impact Fee paid;
7. The amount of the COUNTY Emergency Medical System Impact Fee paid;
8. The amount of the COUNTY Educational System Impact Fee paid.

(B) If the Capital Facilities Impact Fee Construction undertaken does not require the issuance of a Building Permit, the appropriate Impact Fee shall be paid prior to final inspection by either the CITY or the COUNTY.

(C) The CITY shall maintain the collected COUNTY Impact Fees separate and distinct from all other revenues and shall transfer such collected Impact Fees to the COUNTY no later than the thirtieth (30th) day of each month following collection, or as may otherwise be required by applicable law, including, without limitation, Section 163.3180(5)(j)3.c, Florida Statutes.

SECTION 6: Administrative Costs

Pursuant to Section 163.31801(4)(c), Florida Statutes, the CITY shall be entitled to retain, as administrative charges, the actual costs incurred in the collection of COUNTY impact fees. No later than thirty (30) days from the Effective Date of this Agreement, the CITY shall provide to the COUNTY documentation to support the actual costs incurred by the CITY in the collection of COUNTY impact fees. Thereafter, the CITY shall review and update such costs on a biennial basis and shall provide documentation of those costs to the COUNTY. In no event shall the CITY's

administrative charges for the collection of COUNTY impact fees exceed the actual costs of such collection.

SECTION 7: COUNTY's Obligations

(A) The COUNTY shall provide to the CITY written notice of any change by the Board of County Commissioners in the amount of the Impact Fees and shall provide the CITY with a copy of any Resolution or Ordinance which alters the amount of the Impact Fees to be collected by the CITY. Pursuant to Section 163.31801(3)(d), Florida Statutes, the COUNTY shall publish a notice no less than ninety (90) days prior to the effective date of any such Resolution or Ordinance which increases Impact Fees.

(B) Periodically during the term of this Agreement, the COUNTY shall provide written reports of the collection and expenditure of Impact Fees, including current balances maintained in the applicable Trust Accounts, and shall provide a copy of such reports to the CITY. All such reports shall be prepared in accordance with the provisions of Sections 163.31801(8) and (13) of the Florida Statutes.

SECTION 8: Transportation Capacity Impacts Coordination

If at any time during the Agreement Term (as defined in Section 9 below), the COUNTY and the CITY both impose a transportation impact fee upon Capital Facilities Impact Construction occurring within their respective jurisdictions, then the COUNTY and the CITY hereby agree to coordinate the mitigation of their respective transportation capacity impacts, in accordance with Section 163.3180(5)(j), Florida Statutes, or any applicable successor statute. Without limiting the generality of the foregoing, the COUNTY and the CITY each expressly agree as follows:

(A) The COUNTY and the CITY shall mutually ensure that any new development or

redevelopment is not charged twice for the same transportation capacity impacts, by excluding the impact of such development to the other's transportation facilities from the calculation of their respective transportation impact fee rates. To that effect, the Parties shall utilize and employ the following definitions, as set forth in the Polk County Impact Fee Ordinance and Florida Statutes:

- i. The "City Street System" shall mean the road system of the City located within Polk County, Florida, as defined in Section 334.03(3), Florida Statutes, and the Polk County Impact Fee Ordinance.
- ii. The "County Road System" shall mean the road system of the County as defined in Section 334.03(8), Florida Statutes, including Collector Roads, Local Roads within the unincorporated area, and all Arterial Roads, but shall not include any roads within the City Street System or the State Highway System.
- iii. "Transportation Network" shall mean the County Road System, excluding all Local Roads located in the unincorporated areas of the County. The term "Transportation Network" shall not include any roads or facilities within the City Street System or State Highway System except for the intersection of said roads or facilities with County Collector Roads or Arterial Roads.

(B) The COUNTY acknowledges and agrees that its Transportation Impact Fee shall be calculated and imposed to fund growth-necessitated capital improvements to the Transportation Network only and shall be used solely for the purpose of constructing or improving Transportation Network roads, as provided in Article IV of the Polk County Impact Fee Ordinance. The COUNTY's calculated Transportation Impact Fee rate shall not include the impact of any Capital Facilities Impact Construction upon roads or facilities within the City

Street System or State Highway System except for the intersection of said roads or facilities with County Collector Roads or Arterial Roads.

(C) The CITY acknowledges and agrees that its transportation impact fee shall be calculated and imposed to fund growth-necessitated capital improvements to the City Street System, and the City's calculated transportation impact fee rate shall not include the impact of any Capital Facilities Impact Construction upon roads or facilities within the County's Transportation Network.

(D) Following the Effective Date of this Agreement, all transportation impact fee studies conducted by the CITY or the COUNTY shall employ a plan-based methodology for determining the legally permissible fee to be charged to Road Impact Construction that is in full compliance with Section 163.3180(5)(j)2.b, Florida Statutes, and any updates to the CITY's or COUNTY's respective transportation impact fee rates shall be consistent with the findings of such studies and reflect said methodologies.

SECTION 9: Term

This Agreement shall be for an initial term of three (3) years from the Effective Date of this Agreement. This initial term shall be automatically renewed for additional one-year terms (collectively, the "Agreement Term") unless either of the following events occur: (i) one party delivers a written notice of termination to the other party, which notice of termination shall be delivered to the other party at least sixty (60) days prior to the effective date of the termination; or (ii) the CITY and the COUNTY dually execute a subsequent interlocal agreement which, by its express terms, amends and replaces this Interlocal Agreement.

SECTION 10: Review

The CITY and the COUNTY shall each have the reciprocal right to review the records of the

other as to the receipt, allocation and expenditure of Impact Fees, including records as to the issuance of Building Permits and Certificates of Occupancy. All such inspections shall be made upon reasonable notice and at reasonable times and places.

SECTION 11: Notice

All notices, clarifications, and reports required under this Agreement shall be directed to the following offices:

For the COUNTY: Office of the County Manager
P.O. Box 9005, Drawer CA01
330 W. Church St.
Bartow, Florida 33831

For the CITY: Office of the City Manager
104 South Church Ave.
Mulberry, Florida 33860

SECTION 12: Indemnification

Without in any manner waiving sovereign immunity pursuant to Section 768.28, Florida Statutes, each party will indemnify the other from and against any and all claims, demands, causes of action, losses, damages, penalties and expenses, including attorneys' fees, arising from or incurred because of any loss or damage sustained as a result of the indemnifying party's failure to comply with the provisions of this Agreement, to the extent permissible by Florida Law. Nothing herein shall be deemed a waiver, express or implied, of either party's sovereign immunity or an increase in the limits of liability pursuant to Section 768.28, Florida Statutes, regardless of whether any such obligations are based in tort, contract, statute, strict liability, negligence, product liability or otherwise. Neither party hereto shall be required to indemnify or insure the other party for the other

party's negligence or to assume any liability for the other party's negligence.

SECTION 13: Filing / Effective Date

Pursuant to Section 163.01(11), Florida Statutes, a fully executed Agreement shall be filed with the Clerk of the Circuit Court for Polk County, Florida. This Agreement shall become effective on October 1, 2025 (the "Effective Date").

SECTION 14: Third-Party Rights

Nothing in this Agreement is intended, nor shall be construed, to confer any rights or benefits upon any party other than the CITY and the COUNTY.

SECTION 15: Severability

The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The Parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Section shall not prevent the entire Agreement from being void should a provision which is of the essence of the Agreement be determined to be void.

SECTION 16: Controlling Law / Members of the City and County Not Liable

All covenants, stipulations, obligations and agreements of the County and the City contained in this Agreement shall be deemed to be covenants, stipulations, obligations and agreements of the County and the City, respectively, to the full extent authorized by the Cooperative Act and provided by the Constitution and the laws of the State of Florida. No covenant, stipulation, obligation or

agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member of the governing body or agent or employee of the City or the County in its, his, her or their individual capacity and neither the members of the governing body of the City or the County nor any official executing this Agreement shall be liable personally or shall be subject to any accountability by reason of the execution by the City or the County of this Agreement or any act pertaining hereto.

SECTION 17: LIMITATION OF LIABILITY

IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, INCLUDING LOSS OF PROFIT, WHETHER FORESEEABLE OR NOT, ARISING OUT OF OR RESULTING FROM THE NONPERFORMANCE OR BREACH OF THIS AGREEMENT WHETHER BASED IN CONTRACT, COMMON LAW, WARRANTY, TORT, STRICT LIABILITY, CONTRIBUTION, INDEMNITY OR OTHERWISE.

SECTION 18: Governing Law and Venue

This Agreement shall be governed in all respects by the laws of the State of Florida and any litigation with respect thereto shall be brought only in the circuit courts of Polk County, Florida.

SECTION 19: Attorneys' Fees and Costs

Each party shall be responsible for its own legal and attorneys' fees, costs and expenses incurred in connection with any dispute or any litigation arising out of, or relating to this Agreement, including attorneys' fees, costs, and expenses incurred for any appellate or bankruptcy proceedings.

SECTION 20: Waiver

A waiver by either the COUNTY or the CITY of any breach of this Agreement shall not be

binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

SECTION 21: Amendment

This Agreement may not be modified, added to, superseded or otherwise altered unless such modifications, additions or other alterations are evidenced in writing signed by both the COUNTY and the CITY.

SECTION 22: No Construction Against Drafter

The parties hereto acknowledge that this Agreement and all the terms and conditions contained herein have been fully reviewed and negotiated by the parties. Accordingly, any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the respective dates under each signature.

ATTEST:

Stacy M. Butterfield, Clerk

POLK COUNTY, a political subdivision
of the State of Florida

By: _____
Deputy Clerk

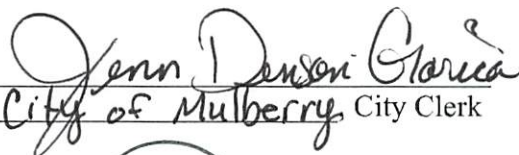
By: _____
T.R. Wilson, Chairman
Board of County Commissioners

Reviewed as to form and legal sufficiency:

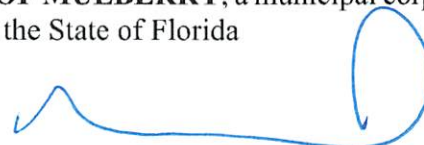
County Attorney's Office Date

Date: _____

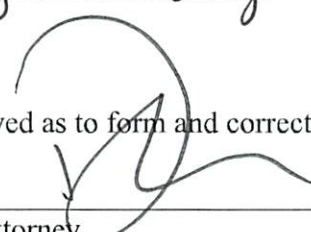
ATTEST:


City of Mulberry City Clerk

CITY OF MULBERRY, a municipal corporation of
the State of Florida

By: 
NEIL DEVINE Vice Mayor

Reviewed as to form and correctness:


City Attorney

Date: 08/19/2025

Date: Aug. 19, 2025