

Prepared by and return to
Neill W McArthur, Jr
117 West Duval Street
Suite 480
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**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF JACKSONVILLE
AND
THE TOWN OF BALDWIN
FOR LIFE SUPPORT AND FIRE SERVICES**

THIS INTERLOCAL AGREEMENT FOR LIFE SUPPORT AND FIRE SERVICES (the “Agreement”), is entered into in duplicate this _____ day of _____, 2008 (the “Effective Date”), by and between **THE CITY OF JACKSONVILLE**, a consolidated county and municipal government extending territorially throughout the geographic boundaries of Duval County, Florida (“Jacksonville”) and the **TOWN OF BALDWIN**, a municipal corporation (Baldwin”).

WITNESSETH:

WHEREAS, residents and businesses located in Baldwin can benefit from the advanced Life Support and Fire Services offered by Jacksonville; and

WHEREAS, Jacksonville will benefit from centralized communication and coordination relative to the delivery of Fire and Rescue Services; and

WHEREAS, Jacksonville and Baldwin desire to provide a method for said residents and businesses in Baldwin to have such use of Jacksonville’s Advanced Life

Support and Fire Services available in the manner and under the terms and conditions specified herein; and

WHEREAS, Jacksonville desires to provide Advanced Life Support and Fire Services county-wide; and

WHEREAS, it is the intent of this Agreement to provide an effective, efficient means of delivering Advanced Life Support and Fire Services to residents and businesses in Baldwin; and

WHEREAS, Section 175.101, Florida Statutes, relating to the municipal firefighters' pension trust fund, authorizes a state excise tax on insurance premiums on properties being provided fire protection to help fund the firefighters' pension fund of the governmental body providing the fire protection; and

WHEREAS, until recently, the State of Florida would only distribute funds to a firefighters' pension fund established within the corporate limits of a municipality or the boundaries of a special fire district providing fire protection, such that the separate corporate limits for Baldwin prevented Jacksonville from receiving fund distributions from properties within Baldwin even when Jacksonville was providing fire protection services to Baldwin; and

WHEREAS, a recent amendment to Chapter 175, Florida Statutes, creating Section 175.041(b), Florida Statutes, addresses the unique consolidated form of government in Jacksonville and allows Jacksonville to receive fund distributions from the state derived from the excise tax on insurance premiums on properties located within the consolidated Jacksonville regardless of the municipal boundaries; and

WHEREAS, in order for Jacksonville to receive fund distributions from the tax imposed on properties located within Baldwin, Section 175.041(b), Florida Statutes provides that it is necessary for Jacksonville to enter into an interlocal agreement with Baldwin reflecting this arrangement and for Baldwin to enact an ordinance imposing the excise tax authorized by Chapter 175, Florida Statutes; and

WHEREAS, Baldwin's passage of the ordinance imposing the excise tax on property insurance companies does not constitute an additional tax nor serve to raise the property insurance rates for the citizens of Baldwin because the ordinance would merely place a reporting requirement on insurance companies to report premiums for property within the corporate limits of Baldwin and the insurance companies would receive a credit for the statewide excise tax they are already paying; and

WHEREAS, on July 8, 2008, Baldwin, by and through the action of its Town Council, enacted Ordinance No. 2008-05 assessing and imposing the excise tax on property insurance premiums, as authorized by Section 175.101, Florida Statutes: now therefore,

IN CONSIDERATION of the mutual covenants herein contained and for other good and valuable consideration, the sufficiency of which is acknowledged, the parties agree as follows:

1. **Incorporation of Recitals.** The above-stated recitals are accurate, true and correct and, by this reference, are incorporated herein and made a part hereof.

2. **Provision of Advanced Life Support and Fire Services to Baldwin.**

2.01. Beginning on a mutually agreeable date as soon as practicable after the Effective Date of this Agreement, Jacksonville will provide Baldwin with 24-hour,

seven (7) days per week (around the clock) advanced life support and fire services (hereinafter referred to as the "Services"). These Services will be provided and operated out of the Jacksonville Fire and Rescue Department facilities from which the Services are currently provided as of the Effective Date of this Agreement.

2.02. Jacksonville will relocate its brush truck from Fire Station # 43 in Maxville to Fire Station # 46 in Baldwin. In addition Jacksonville will provide one (1) engineer and one (1) firefighter each day providing coverage twenty-four (24) hours per shift. Each shift will commence at 0800 hours and end at 0800 hours the next day, totaling twenty-four (24) hours for each crew shift ("A", "B" or "C"), to be assigned to Jacksonville's brush truck at Fire Station # 46 at Baldwin. Said brush truck may be replaced as more particularly specified in Section 3.02

2.03. Jacksonville shall pay all salaries and benefits for the three (3) engineers and the three (3) firefighters to be assigned to the brush truck at Fire Station # 46 at Baldwin; *provided however*, the salaries and benefits for the firefighters will be reimbursed by Baldwin, to Jacksonville, as more particularly specified in Section 3.01 of this Agreement. Such reimbursement by Baldwin will be made at the end of every calendar quarter on the 15th of January, the 15th of April, the 15th of July and the 15th of October.

2.04. With respect to any brush truck, owned by Jacksonville, in use at Fire Station # 46 in Baldwin, Jacksonville shall be responsible for fueling costs to operate its brush truck; for maintenance of its brush truck and for equipment repairs and replacement of its brush truck.

2.05. With respect to advanced life support services and fire services, provided by Jacksonville from facilities outside the town limits of Baldwin, Jacksonville agrees to use best efforts to maintain the current levels of the Services and to keep response time comparable to the current levels that exist as of the Effective Date of this Agreement.

2.06. Jacksonville agrees to issue, provide and maintain all equipment which it deems necessary for delivery of the Services to Baldwin. Jacksonville shall have sole discretion to determine what equipment is necessary for delivery of such Services.

2.07. Except as otherwise provided in this Agreement, Jacksonville will be responsible for the provision of all City of Jacksonville personnel, including recruitment, assignment, hiring, training, payroll, benefits, etc., necessary (in its sole judgment) for provision of Services under this Agreement.

2.08. Jacksonville agrees to be responsible for all fire and rescue communication for Baldwin. Baldwin will transfer all such calls it receives to Jacksonville Fire/Rescue dispatch as Baldwin will continue to operate as a 911 PSAP.

2.09. Jacksonville, as a self insurer, under Section 768.28, Florida Statutes, will provide full casualty, liability and personal property insurance for Jacksonville's negligent actions; and Jacksonville will provide workers' compensation insurance for City of Jacksonville employees. Jacksonville agrees to defend Baldwin in all suits arising out of the City of Jacksonville's negligent acts and omissions in the Service being delivered to Baldwin by Jacksonville, subject to the limitations set forth in paragraph 6 hereof.

2.10. Jacksonville agrees to abide by all local, state and federal laws in the performance of this Agreement.

3. **Services to be provided by Baldwin to Jacksonville:** Baldwin will use its best efforts to join Jacksonville in fire responses made within Baldwin's jurisdiction and shall be responsible for the following:

3.01. Notwithstanding any other provision of this Agreement to the contrary, Baldwin shall, pursuant to the schedule specified in Section 2.03, reimburse Jacksonville for the salaries and benefits of three (3) firefighters, at the then current monetary amounts paid by Jacksonville as salaries and benefits for the three (3) firefighters.

3.02. Baldwin shall convey title to its existing brush truck, more particularly identified as a 2003 Ford FT, VIN #1FDAW57P23ECO2439 to Jacksonville upon the execution of this Agreement. Said brush truck shall be based at Fire Station # 46 in Baldwin, but will be used on runs both within and without the town limits of Baldwin. This brush truck will be used to replace Jacksonville's brush truck relocated from Fire Station #43 in Maxville. If this agreement is in force for less than 10 years, Jacksonville shall convey title to the brush truck back to Baldwin.

3.02. Baldwin shall allow Jacksonville to locate said brush truck and an engineer and a firefighter at Fire Station # 46 in Baldwin twenty-four (24) hours per day, seven (7) days per week.

3.03. Baldwin shall be responsible for all upkeep. Maintenance, repairs, upkeep and utilities for Fire Station, including real property and building, shall be provided by Baldwin at its sole cost and expense and at no cost or expense to Jacksonville.

4. **Imposition of Tax.** The tax on insurance premiums on properties located within the geographic boundaries of Baldwin, in an amount as authorized by Chapter 175, Florida Statutes, as may be amended from time to time imposed by Town of Baldwin Ordinance No. 2008-05, shall continue to be imposed so long as Jacksonville provides the Services specified in Section 2 of this Agreement.

5. **Distribution of Tax Funds.** Jacksonville shall receive all state distributions of premium tax funds derived from the tax imposed in the Town of Baldwin's Ordinance No. 2008-05. Should Baldwin receive any funds directly from the state under Chapter 175, Florida Statutes, such funds shall be paid immediately to Jacksonville.

6. **Indemnification.**

6.01. Subject to the provisions and limitations of Section 768.28, Florida Statutes, Jacksonville shall indemnify, hold harmless and defend Baldwin from and against any claim, action, loss, damage, injury, liability, cost, and expense of whatsoever kind or nature (including, but not by way of limitation, attorney's fees and court costs) arising out of injury (whether mental or corporeal) to persons, including death or damage to property, caused by the negligent acts or omissions of Jacksonville in the performance of the Services under this Agreement. In no event shall Jacksonville be responsible for any negligent act committed by Baldwin.

6.01. It is expressly agreed that Jacksonville shall not indemnify, defend, or hold harmless Baldwin for events, occurrences or conditions which took place prior to the effective date of this Agreement, nor shall Jacksonville assume liability or responsibility for any events, occurrences or conditions (including Workers'

Compensation claims) which took place prior to the effective date of this Agreement. Any indemnification, liability or responsibility of Jacksonville acknowledged under subparagraph (a) of this paragraph shall be prospective from the effective date hereof and shall be subject to the provisions and limitations of Section 768.28, Florida Statutes.

7. **Force Majeure.** If Jacksonville or Baldwin shall be delayed in, hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental laws, regulations or actions, riots, insurrection, the act, failure to act or default of the other party, war, acts of terrorism or other reason beyond such party's reasonable control, then the performance of such act shall be excused for the period of the delay, and the period for the performance of any such act as required herein shall be extended for a period equivalent to the period of such delay.

8. **Severability.** Should any provision hereof for any reason be held illegal or invalid, no other provision of this Agreement shall be affected; and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

9. **Headings.** The headings in this Agreement are solely for convenience and shall have no effect on the legal interpretation of any provision hereof.

10. **Waiver.** The failure of any party to insist upon strict performance of this Agreement or of any of the terms or conditions hereof shall not be construed as a waiver of any of its rights hereunder.

11. **Default.** In the event that one of the parties to this Agreement shall fail to perform a material obligation hereunder, the other party shall give the defaulting

party thirty (30) days' written notice to cure such default. Should the nonperforming party not cure such default within the thirty (30) days, the other party shall have the right to terminate this Agreement without further notice.

12. **Attachments and Exhibits.** All exhibits, attachments, appendices and schedules which may, from time to time, be referred to in this Agreement or in any duly executed amendment hereto are by such reference incorporated herein and shall be deemed a part of this Agreement as fully as if set forth herein. The exhibits attached hereto, to the extent not completed at the time of execution hereof, shall conform substantially to the description thereof contained on each exhibit page and may be supplied by the parties.

13. **Rights and Obligations Not Transferable.** The rights and obligations of the parties hereunder are not assignable and may not be transferred without the prior written consent of the other party hereto, which will not be unreasonably withheld.

14. **Effective Date of Agreement.** This Agreement shall become effective on the Effective Date, upon execution by both parties, by and through their respective authorized representatives, pursuant to such procedural requirements as are applicable to each of the respective parties.

15. **Term.** The term of this Agreement shall commence on the Effective Date and shall continue in effect, from year to year thereafter unless terminated earlier by the parties in accordance with this Section 15. If either party should desire to terminate this Agreement, such party may do so by providing a one year notice to the other party. Such notice must be in writing to the Mayor of Baldwin or the Mayor of Jacksonville with copy to the Office of General Counsel for Jacksonville. Such written notice must be

perfected by Certified Mail, Return Receipt Requested or by other delivery with written receipt.

16. **Governing Law.** This Agreement shall be governed in all respects by the laws of the State of Florida.

17. **Negotiated Agreement.** The parties agree that they have had meaningful discussion and/or negotiation of the provisions, terms and conditions contained in this Agreement. Therefore, doubtful or ambiguous provisions, if any, contained in this Agreement shall not be construed against the party which physically prepared this Agreement. The rule commonly referred to as "*Fortius Contra Proferentem*" shall not be applied to this Agreement or any interpretation thereof.

18. **Entire Agreement.**

18.01. This Agreement constitutes the entire agreement by and between the parties hereto. No statement, representation, writing, understanding, or agreement made by either party, or any representative of either party, which is not expressed herein shall be binding.

18.02. All modifications of, changes, alterations, revisions or amendments to this Agreement, or to any of the terms, provisions and conditions hereof, shall be binding only when in writing and signed by the authorized representative of each of the parties hereto.

19. **Audit Rights.**

19.01. Baldwin must establish and maintain books, records, papers, financial records, supporting documents, statistical records, and all other documents, in whatsoever form or format including, but not limited to electronic storage media, (for purposes of this

Section 19, hereinafter referred to as the “Records”) sufficient to reflect all receipt and distribution of premium tax funds received by Baldwin.

19.02. Baldwin must retain all such Records pertinent to this Agreement during the term of this Agreement and for a period of six years after termination of this Agreement. If Jacksonville initiates an audit and audit findings have not been resolved at the end of six years, the Records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this Agreement, at no additional cost to the CITY. Records shall be retained for longer periods when the retention period exceeds the time frames required by this Agreement.

19.03 Upon demand, at no additional cost to Jacksonville, Baldwin must facilitate the duplication and transfer of any Records during the required retention period in Section 19.02 hereof.

19.04. Baldwin must provide said Records at all reasonable times for inspection, review, copying or audit by Jacksonville.

19.05. At all reasonable times for as long as the Records are maintained, Baldwin must allow persons duly authorized by Jacksonville to have full access to and the right to examine and/or audit any of the Records, regardless of the form in which kept.

19.06. Baldwin, at its sole and exclusive cost and expense, must provide audits or reports, concerning receipt and distribution of premium tax funds, as requested by Jacksonville, and must insure that all related transactions are disclosed to the auditor.

19.07. Baldwin must comply and cooperate immediately with any inspections, reviews, investigations, deemed necessary by Jacksonville.

19.08. Baldwin must permit Jacksonville to interview any employees subcontractors and subcontractor employees of Baldwin to assure Jacksonville of the satisfactory performance of Baldwin with respect to receipt and distribution of premium tax funds. If Baldwin's performance is not satisfactory, it must correct all deficiencies within ten (10 business days from Jacksonville's written notice of unsatisfactory performance.

[Remainder of page left blank intentionally. Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under their respective seals by their officers hereunto duly authorized as of the date first above written.

CITY OF JACKSONVILLE

Attest: _____
Neill W. McArthur, Jr.
Corporation Secretary

By: _____
John Peyton, Mayor

Approved as to Form:

Office of General Counsel

TOWN OF BALDWIN

Attest: _____
Lula M. Hill, Town Clerk

By: _____
Stan Totman, Mayor

Approved as to form:

Town Attorney

