



**CITY OF BELLE ISLE, FLORIDA
CITY COUNCIL AGENDA ITEM COVER SHEET**

Meeting Date: August 21, 2018

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: Interlocal Agreement with OC Fire Department for Emergency Services

Background: The current contract with the OCFD is set to expire at the end of September. The City Manager negotiated a new contract with the Fire Department. After reviewing the agreement, the City Attorney is requesting some changes with OCFD that are primarily aimed at the provisions of the Agreement requiring the City to adopt certain City Code amendments authorizing the County to enforce its Fire Prevention Code within the City. Those requested changes should fix this issue while preserving the substance of the Agreement and the negotiated terms for payment. This agreement will be a 10-year agreement with no change in the cost formula. For reference, the City of Edgewood also is negotiating these same terms.

Staff Recommendation: Approve the Interlocal Agreement.

Suggested Motion: If no changes are made to the draft, the motion would be: **I move that we approve the Interlocal Agreement with OCFD for providing emergency services to Belle Isle.**

Alternatives: None.

Fiscal Impact: Approximately \$1.5 million annually based on the formula provided in the Agreement.

Attachments: Draft Agreement (redline and clean)

INTERLOCAL AGREEMENT

between

ORANGE COUNTY, FLORIDA

and

CITY OF BELLE ISLE, FLORIDA

regarding

**ORANGE COUNTY'S PROVISION OF FIRE PREVENTION AND RESCUE SERVICES
FOR THE CITY OF BELLE ISLE, FLORIDA**

THIS INTERLOCAL AGREEMENT ("Agreement"), is by and between **ORANGE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida located at 201 South Rosalind Avenue, Orlando, Florida 32801 (the "County"), and the **CITY OF BELLE ISLE, FLORIDA**, a municipal corporation created and existing under the laws of the State of Florida located at 1600 Nela Avenue, Belle Isle, Florida 32809 (the "City"). The County and the City may be referred to herein individually as "party" or collectively as "parties."

RECITALS

WHEREAS, this Agreement is entered into pursuant to the home-rule powers granted to the County and the City under the Constitution and laws of the State of Florida, including expressly, but not limited to, the powers granted under the Florida Interlocal Cooperation Act contained in Section 163.01, Florida Statutes; and

WHEREAS, the boundaries of the County and the City are adjacent; and

WHEREAS, pursuant to an agreement entered into on February 7, 1983, the City transferred to the County the responsibility of providing fire prevention and rescue services to the residents and properties residing within the City's territorial limits; and

WHEREAS, the City believes that the County's continued provision of fire prevention and rescue services to the residents and properties residing within the City's territorial limits will benefit the public and ensure the continued provision of adequate levels of service to the City areas that are presently served; and

WHEREAS, the County recognizes the public benefit of its continued provision of fire prevention and rescue services to the residents and properties residing within the City's territorial limits.

NOW, THEREFORE, in consideration of the mutual promises, terms, and conditions contained herein, and good and valuable consideration that by execution of this Agreement the parties affirm receipt thereof, it is agreed by and between the County and the City as follows:

Section 1. Recitals Incorporated. The foregoing recitals are true and correct and are incorporated as part of this Agreement.

Section 2. Contract Area. The “Contract Area” shall be defined as the area within the territorial limits of the City.

Section 3. Adoption of the County’s Fire Prevention Code.

A. By executing this Agreement, the City agrees to consider doing the following by ordinance:

1. Adopt the same edition of the Florida Fire Prevention Code as the County, the County’s amendments thereto, and any additional fire protection and prevention codes that are adopted by the County (collectively, the “County Fire Prevention Code”); and
2. Designate the County Fire Marshal as the “authority having jurisdiction” in regards to the County Fire Prevention Code for the Contract Area.

B. The County shall provide notice to the City Manager no later than thirty (30) days following any amendments that the County has made to the County Fire Prevention Code.

C. The County shall have no obligation to enforce or administer any codes that the City adopts that are additional or different than those found within the County Fire Prevention Code.

D. Failure by the City to amend its municipal code as described in this Section, or to keep its municipal code as described in this Section, shall be cause for the County to terminate this Agreement, but shall not be grounds for any other remedy against or liability by the City.

Section 4. Code Enforcement Officer Designation.

A. By executing this Agreement, the City agrees to consider doing the following by ordinance:

1. Appoint and designate the County’s fire inspectors as City Code Enforcement Officers who are authorized agents of the City for the purposes of enforcement and compliance with the County’s Fire Prevention Code. This authority shall specifically include, but shall not be limited to:
 - a. Inspection of buildings, lands, and premises, except for single-family dwellings and the usual appurtenances thereto;

- b. Issuance of notices of violations and other appropriate warnings to those who are in violation of the County's Fire Prevention Code; and
- c. Review and approval of building and subdivision plans related to applicable requirements of the County Fire Prevention Code.

B. Failure by the City to amend its municipal code as described in this Section, or to keep its municipal code as described in this Section, shall be cause for the County to terminate this Agreement, but shall not be grounds for any other remedy against or liability by the City.

Section 5. The Obligations of the Parties.

A. The County shall:

- 1. Provide fire prevention and rescue services to all persons and property within the areas of the City that lie within the Contract Area that include, but are not limited to:
 - a. Fire Suppression;
 - b. EMS First Response;
 - c. EMS Transport;
 - d. Fire plans review, permitting, and fire inspection services; and
 - e. Any other non-law enforcement emergency services that the County provides to properties and persons located within the County's jurisdictional limits.
- 2. Provide such services at the same level of quality and timeliness as is provided in other parts of the County, without differentiation or discrimination toward any areas in the Contract Area.

B. The City shall:

- 1. Assume no liability for the payment of salary, wages, or other compensation or entitlements to officers, agents, or employees of the County performing services hereunder provided in the Agreement.
- 2. Abide by the established permitting procedures, inspection requirements, and administrative policies of the County as are necessary for the County to enforce the County Fire Prevention Code within the City.

Section 6. Payment.

A. Commencing immediately upon execution of this Agreement and continuing on an annual basis thereafter:

- 1. The City shall pay to the County for the services provided hereunder a sum determined by applying the millage levied in the Urban Fire Protection and

Emergency Medical Services municipal service taxing unit, existing in Orange County, to the ad valorem tax assessment roll covering real property within the municipal limits of the City multiplied by ninety-two and one half percent (92.5%) of said sum. Said sums shall be remitted in two (2) installments, each representing one half of the sum owed by City to County for a given service (Fiscal) year, on or before December 15th and March 15th of each year this Agreement is in effect.

2. The County shall invoice City for the amount payable under the formula found in this Section for the then-current fiscal year.

Section 7. Permitting Procedures.

A. By executing this Agreement, the City agrees to consider doing the following by ordinance:

1. Adopt the County's permitting process for matters regarding the County Fire Prevention Code; and
2. Grant exclusive jurisdiction to the County regarding inspection, permit review, and permit approval regarding the County Fire Prevention Code for all City construction and subdivision projects.

B. The County shall, upon receipt of the materials described in this Section, complete the following actions in so far as they are applicable to the administration and enforcement of the County Fire Prevention Code:

1. Review plans;
2. Collect permit fees;
3. Issue permits; and
4. Perform inspections.

C. To accomplish the aims of this Section, the following procedures shall be followed:

1. The County shall collect all County Fire Prevention Code permitting fees from permit applicants for the Contract Area at the same rates as charged for such services in the unincorporated areas of the County.
2. All fees related to fire permitting shall be retained by the County and used to defray the costs incurred in performing the administrative and enforcement services described in this Agreement.

3. The City shall follow its normal review and approval process for permit applications and site plan review regarding compliance with its zoning ordinances, land development codes, and other applicable local and state requirements, including, but not limited to, landscaping, parking, storm water management, utilities, driveways, and sidewalks, and all matters other than permitting under the County Fire Prevention Code.
 4. **Submittal of Plans for Review by the County.**
 - a. The following shall be submitted to the County, and approved by the County, prior to the commencement of work: (i) construction-related permit applications and associated construction-related site plans that require review for compliance with the County Fire Prevention Code; and (ii) all subdivision plans.
 - b. Developers shall be directed to submit the above-stated plans and other relevant documents electronically to: https://www.mobile-eyes.com/PA_Index.asp?Submit=Logon. Once the plans are uploaded, the County will be notified of the submittal and accept them for review.
 - c. If the plans cannot be submitted electronically, they can be hand-delivered to: 7079 University Boulevard, Winter Park, Florida 32792.
 5. **County Review Timeline.** The County shall review all plans submitted that are from the Contract Area within the same timeline as is required by the County for unincorporated areas. As of the execution of this contract, and with the caveat that these times are subject to change should the County change its own requirements, those time lines are:
 - a. **New Construction Plans:** 21 days.
 - b. **Corrected Plans:** 14 days.
 - c. **Interior Alterations:** 7 days.
 - d. **Fire Protection Systems:** 10 days.
 6. Once the County issues the permits and provides the review required by the County Fire Protection Code, or provides its requisite approval for subdivision plans, the City shall follow its normal process for the issuance of building permits to applicants.
 7. The County shall maintain construction and subdivision records and shall notify the City when an inspection indicating adequate completion of the work relating to the County's Fire Prevention Code has been completed.
- B. Failure by the City to amend its municipal code as described in this Section, or to keep its municipal code as described in this Section, shall be cause for the County to terminate this Agreement, but shall not be grounds for any other remedy against or liability by the City.

Section 8. Jurisdiction of County Code Enforcement and Quasi-Judicial Processes.

A. By executing this Agreement, the City agrees that it shall consider granting by ordinance exclusive jurisdiction to:

1. The County regarding the enforcement of violations of the County's Fire Prevention Code;
2. The County's Code Enforcement Special Magistrate to hear matters regarding alleged violations of the County's Fire Prevention Code, and to issue binding orders and impose liens against properties within the territorial limits of the city for such violations; and
3. The County's Fire and Life Safety Code of Board of Adjustment and Appeals to hear and decide appeals arising from the Fire Marshal's interpretation or application of the provisions of the County Fire Prevention Code.

B. Failure by the City to amend its municipal code as described in this Section, or to keep its municipal code as described in this Section, shall be cause for the County to terminate this Agreement, but shall not be grounds for any other remedy against or liability by the City.

Section 9. Duties.

A. No officer or department of the County shall perform for the City any function not within the scope of the duties of such officer or department in performing the same kind of services for the County.

B. Rendition of service, standards of performance, discipline of officers and employees, and other matters incident to performance of services and control of personnel shall remain in the County. In the event of dispute between the parties regarding the extent of the duties to be rendered under this Agreement, the parties shall attempt to settle such disputes through consultation and negotiation in good faith and spirit of mutual cooperation.

Section 10. The City's Enforcement Right. The City shall be entitled to enforce this duty against the County through equitable actions for specific performance or injunctive relief but not through any claim for damages.

Section 11. Term. The term of this Agreement shall commence on October 1, 2018, which is the beginning of the County's 2018-19 Fiscal Year, and shall automatically renew for ten (10) subsequent Fiscal Years thereafter.

Section 12. Termination.

A. Termination for Convenience. Either party may terminate this Agreement at will by delivering written notice to the other party by January 31 of any term. Termination will take effect at the end of the term in which termination notice is delivered.

B. Termination for Cause. Should either party move to terminate this Agreement for cause pursuant to this Agreement, that party shall provide the other party with a reasonable opportunity to cure and ninety (90) days written notice of termination thereafter. Should the Agreement be terminated, the County shall remit to the City any payment advanced prorated as of the date of termination.

Section 13. Notices. Notices to either party provided for herein shall be sufficient if sent by certified or registered mail, return receipt requested, postage prepaid, addressed to the following addressees or to such other addressees as the parties may designate to each other in writing from time to time:

To the County:

Orange County Fire Rescue Division
Attn: Fire Chief
P.O. Box 5879
Winter Park, Florida 32793

AND

Orange County Administrator
Administration Building, 5th Floor
201 South Rosalind Avenue
Orlando, Florida 32801

To the City:

City Manager's Office
1600 Nela Avenue
Belle Isle, Florida 32809

Section 14. Indemnification. Each party agrees to defend, indemnify, and hold harmless the other party, its officials, employees, and agents from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorneys' fees and court costs at the trial and appellate levels) attributable to its any act or omission of the indemnifying party's officials, employees, agents, contractors and subcontractors acting within the scope of their employment or contract, or arising out of or resulting from this Agreement. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions, and/or negligence of the other party.

Section 15. General Provisions.

A. No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to, or shall confer, upon any person, other than the parties and their respective

successors and permitted assigns, any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement.

B. **Written Modification.** None of the provisions, terms, and conditions contained in this Agreement may be added to, deleted, modified, superseded, or otherwise altered, except by written amendment executed by the parties hereto. Such amendment(s) shall not be valid, binding, and enforceable against the County unless executed by an authorized County representative and expressly approved by the County's Board of County Commissioners.

C. **No Waiver of Sovereign Immunity.** Nothing contained herein shall constitute, or be in any way construed to be, a waiver of either the County's or City's sovereign immunity or the protections and provisions of Section 768.28, Florida Statutes.

D. **Liability.** Neither party shall be liable to the other for any special, consequential, incidental, punitive, or indirect damages arising from or relating to any breach of this Agreement, regardless of any notice of the possibility of such damages.

E. **Assignments and Successors.** Each party binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement. Neither party shall assign, sublet, convey, or transfer its interest in this Agreement without the written consent of the other, which consent shall be in the sole determination of the party with the right to consent.

F. **Waiver.** No delay or failure on the part of any party hereto to exercise any right or remedy accruing to such party upon the occurrence of an event of violation shall affect any such right or remedy, be held to be an abandonment thereof, or preclude such party from the exercise thereof at any time during the continuance of any event of violation. No waiver of a single event of violation shall be deemed to be a waiver of any subsequent event of violation.

G. **Severability.** The provisions of this Agreement are declared by the parties to be severable. However, the material provisions of this Agreement are dependent upon one another, and such interdependence is a material inducement for the parties to enter into this Agreement. Therefore, should any material term, provision, covenant or condition of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, the party protected or benefited by such term, provision, covenant, or condition may demand that the parties negotiate such reasonable alternate contract language or provisions as may be necessary either to restore the protected or benefited party to its previous position or otherwise mitigate the loss of protection or benefit resulting from holding.

H. **Governing Law.** This Agreement, and any and all actions directly or indirectly associated herewith, will be governed by and construed in accordance with the internal laws of the State of Florida, without reference to any conflicts of law provisions.

I. **Venue.** For any legal proceeding arising out of or relating to this Agreement, each party hereby submits to the exclusive jurisdiction of, and waives any venue or other objection against,

the Ninth Circuit Court in and for Orange County, Florida. Should any federal claims arise for which the courts of the State of Florida lack jurisdiction, venue for those actions will be in the Orlando Division of the U.S. Middle District of Florida.

J. **Jury Waiver.** Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any legal proceeding directly or indirectly arising out of or relating to this Agreement.

K. **Construction of Agreement.** The parties hereby agree that they have reviewed this Agreement, have consulted with legal counsel of their choice, have participated in the drafting of this Agreement, and that this Agreement is not to be construed against any party as if it were the drafter of this Agreement.

L. **Authority of Signatory.** Each signatory below represents and warrants that he or she has full power and is duly authorized by their respective party to enter into and perform this Agreement. Such signatory also represents that he or she has fully reviewed and understands the above conditions and intends to fully abide by the conditions and terms of this Agreement as stated.

Section 16. Entire Agreement. This Agreement, and any documents incorporated herein, sets forth and constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof. This Agreement supersedes any and all prior agreements, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, of any party to this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials, as of the day and year set forth below.

ORANGE COUNTY, FLORIDA

By: Orange County Board of County Commissioners

By: _____
Teresa Jacobs
Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: _____
Deputy Clerk

Date: _____

CITY OF BELLE ISLE, FLORIDA

By: City of Belle Isle City Council

By: _____
Lydia Pisano, Mayor

ATTEST:

By: _____
Yolanda Quiceno, City Clerk

Date: _____

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A. By executing this Agreement, the City agrees that it shall, ~~by ordinance,~~ consider granting by ordinance exclusive jurisdiction to:

1. The County regarding the enforcement of violations of the County's Fire Prevention Code;
2. The County's Code Enforcement Special Magistrate to hear matters regarding alleged violations of the County's Fire Prevention Code, and to issue binding orders and impose liens against properties within the territorial limits of the city for such violations; and
3. The County's Fire and Life Safety Code of Board of Adjustment and Appeals to hear and decide appeals arising from the Fire Marshal's interpretation or application of the provisions of the County Fire Prevention Code.

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B. Rendition of service, standards of performance, discipline of officers and employees, and other matters incident to performance of services and control of personnel shall remain in the County. In the event of dispute between the parties regarding the extent of the duties to be rendered under this Agreement, the parties shall attempt to settle such disputes through consultation and negotiation in good faith and spirit of mutual cooperation.

Section 10. The City's Enforcement Right. The City shall be entitled to enforce this duty against the County through equitable actions for specific performance or injunctive relief but not through any claim for damages.

Section 11. **Term.** The term of this Agreement shall commence on October 1, 2018, which is the beginning of the County's 2018-19 Fiscal Year, and shall automatically renew for ten (10) subsequent Fiscal Years thereafter.

Section 12. **Termination.**

A. Termination for Convenience. Either party may terminate this Agreement at will by delivering written notice to the other party by January 31 of any term. Termination will take effect at the end of the term in which termination notice is delivered.

B. Termination for Cause. Should either party move to terminate this Agreement for cause pursuant to this Agreement, that party shall provide the other party with a reasonable opportunity to cure and ninety (90) days written notice of termination thereafter. Should the Agreement be terminated, the County shall remit to the City any payment advanced prorated as of the date of termination.

Section 13. **Notices.** Notices to either party provided for herein shall be sufficient if sent by certified or registered mail, return receipt requested, postage prepaid, addressed to the following addressees or to such other addressees as the parties may designate to each other in writing from time to time:

To the County:

Orange County Fire Rescue Division
Attn: Fire Chief
P.O. Box 5879
Winter Park, Florida 32793

AND

Orange County Administrator
Administration Building, 5th Floor
201 South Rosalind Avenue
Orlando, Florida 32801

To the City:

City Manager's Office
1600 Nela Avenue
Belle Isle, Florida 32809

Section 14. **Indemnification.** Each party agrees to defend, indemnify, and hold harmless the other party, its officials, ~~and~~ employees, and agents from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorneys' fees and court costs at the trial and appellate levels) attributable to its ~~negligent-any~~ acts or omissions, ~~or those of its the indemnifying party's~~ officials, ~~and~~ employees, agents, contractors and subcontractors acting within the scope of their employment or contract, or arising out of or resulting from ~~the indemnifying party's negligent performance under~~ this Agreement. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida

Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions, and/or negligence of the other party.

Section 15. General Provisions.

A. **No Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to, or shall confer, upon any person, other than the parties and their respective successors and permitted assigns, any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement.

B. **Written Modification.** None of the provisions, terms, and conditions contained in this Agreement may be added to, deleted, modified, superseded, or otherwise altered, except by written amendment executed by the parties hereto. Such amendment(s) shall not be valid, binding, and enforceable against the County unless executed by an authorized County representative and expressly approved by the County's Board of County Commissioners.

C. **No Waiver of Sovereign Immunity.** Nothing contained herein shall constitute, or be in any way construed to be, a waiver of either the County's or City's sovereign immunity or the protections and provisions of Section 768.28, Florida Statutes.

D. **Liability.** Neither party shall be liable to the other for any special, consequential, incidental, punitive, or indirect damages arising from or relating to any breach of this Agreement, regardless of any notice of the possibility of such damages.

E. **Assignments and Successors.** Each party binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement. Neither party shall assign, sublet, convey, or transfer its interest in this Agreement without the written consent of the other, which consent shall be in the sole determination of the party with the right to consent.

F. **Waiver.** No delay or failure on the part of any party hereto to exercise any right or remedy accruing to such party upon the occurrence of an event of violation shall affect any such right or remedy, be held to be an abandonment thereof, or preclude such party from the exercise thereof at any time during the continuance of any event of violation. No waiver of a single event of violation shall be deemed to be a waiver of any subsequent event of violation.

G. **Severability.** The provisions of this Agreement are declared by the parties to be severable. However, the material provisions of this Agreement are dependent upon one another, and such interdependence is a material inducement for the parties to enter into this Agreement. Therefore, should any material term, provision, covenant or condition of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, the party protected or benefited by such term, provision, covenant, or condition may demand that the parties negotiate such reasonable alternate contract language or provisions as may be necessary either to restore the protected or benefited party to its previous position or otherwise mitigate the loss of protection or benefit resulting from holding.

H. **Governing Law.** This Agreement, and any and all actions directly or indirectly associated herewith, will be governed by and construed in accordance with the internal laws of the State of Florida, without reference to any conflicts of law provisions.

I. **Venue.** For any legal proceeding arising out of or relating to this Agreement, each party hereby submits to the exclusive jurisdiction of, and waives any venue or other objection against, the Ninth Circuit Court in and for Orange County, Florida. Should any federal claims arise for which the courts of the State of Florida lack jurisdiction, venue for those actions will be in the Orlando Division of the U.S. Middle District of Florida.

J. **Jury Waiver.** Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any legal proceeding directly or indirectly arising out of or relating to this Agreement.

K. **Construction of Agreement.** The parties hereby agree that they have reviewed this Agreement, have consulted with legal counsel of their choice, have participated in the drafting of this Agreement, and that this Agreement is not to be construed against any party as if it were the drafter of this Agreement.

L. **Authority of Signatory.** Each signatory below represents and warrants that he or she has full power and is duly authorized by their respective party to enter into and perform this Agreement. Such signatory also represents that he or she has fully reviewed and understands the above conditions and intends to fully abide by the conditions and terms of this Agreement as stated.

Section 16. Entire Agreement. This Agreement, and any documents incorporated herein, sets forth and constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof. This Agreement supersedes any and all prior agreements, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, of any party to this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officials, as of the day and year set forth below.

ORANGE COUNTY, FLORIDA

By: Orange County Board of County Commissioners

By: _____
Teresa Jacobs
Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: _____
Deputy Clerk

Date: _____

CITY OF BELLE ISLE, FLORIDA

By: City of Belle Isle City Council

By: _____
Lydia Pisano, Mayor

ATTEST:

By: _____
Yolanda Quiceno, City Clerk

Date: _____