

# City of South Daytona

## Office of the City Manager

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### MEMORANDUM

**AGENDA ITEM**  
# D14 DATE 11/10/20

**To:** The Honorable Mayor and Members of the City Council

**From:** James L. Gillis, Jr., City Manager *JLG*

**Re:** Consideration of Approving the Sixth Amendment to the Agreement with Volusia County for the Provision of Fire Suppression Services to the Unincorporated Area on Nova Road until September 30, 2022

**Date:** November 3, 2020

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On October 1, 2012, the City entered into an agreement with Volusia County to provide fire suppression services and respond to calls within the unincorporated area located along Nova Road mostly comprised of the La Costa Village mobile home park.

That original agreement was extended through five subsequent amendments and was set to expire on September 30, 2020; however, the City was able to negotiate a sixth amendment which, if approved, will carry the term to September 30, 2022. The City was reimbursed \$60,600 last year for responding to fire suppression calls in this unincorporated area of Volusia County.

Attached to this memorandum is the proposed sixth amendment to our agreement which keeps the amount of reimbursement the same at \$60,600 per year and extends the term two more years. Staff is recommending approval of the sixth amendment as written.

**SIXTH AMENDMENT TO AGREEMENT  
BETWEEN THE CITY OF SOUTH DAYTONA  
AND  
THE COUNTY OF VOLUSIA  
REGARDING THE PROVISION OF  
FIRE SUPPRESSION SERVICES TO A  
CERTAIN SERVICE AREA**

This Sixth Amendment to Agreement between the City of South Daytona and the County of Volusia Regarding The Provision of Fire Suppression Services to a Certain Service Area (hereinafter "**Agreement**") is entered into by and between the **COUNTY OF VOLUSIA, FLORIDA**, a body corporate and politic and political subdivision of the State of Florida, with its business address at 123 W. Indiana Ave., DeLand, Florida 32720 (hereinafter referred to as "**COUNTY**"), and the **CITY OF SOUTH DAYTONA**, a municipal corporation under the laws of the State of Florida with administrative offices located at 1672 South Ridgewood Ave., South Daytona, Florida 32119 (hereinafter referred to as "**CITY**").

**RECITALS**

**WHEREAS**, the COUNTY is authorized by § 125.01(1)p, Florida Statutes, to "... enter into agreements with other governmental agencies within or outside the boundaries of the county for the joint performance, or performance by one unit in behalf of the other, of any of either agency's authorized functions"; and

**WHEREAS**, public agencies (including COUNTY and CITY) are authorized by §163.01(14), Florida Statutes, to enter "... into contracts for the performance of service functions of [such] public agencies, but shall not be deemed to authorize the delegation of the constitutional or statutory duties of ... county or city officers." The parties expressly deny any intent, expressed or implied, in this Agreement to provide for a delegation by CITY of such constitutional or statutory duties to COUNTY; and

**WHEREAS**, pursuant to § 163.01(2), Florida Statutes, the foregoing authorization for such agreements is granted to counties and cities for the purpose of permitting "... local governments to make the most efficient use of their powers by enabling them to cooperate with the other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that shall accord best with geographic, economic, population, and other factors influencing the needs and development of local communities"; and

**WHEREAS**, pursuant to §768.28(19), Florida Statutes, neither the COUNTY nor the CITY waives any defense of sovereign immunity, or increases the limits of its liability, upon entering into this Agreement. This Agreement does not contain any provision that requires one party to indemnify or insure the other party for the other party's negligence, or to assume any liability for the other party's negligence; and

**WHEREAS**, on October 1, 2012, the COUNTY entered into an agreement with CITY for fire suppression services, with an expiration date of February 28, 2013 ("Agreement"); and

**WHEREAS**, on April 4, 2013, the parties agreed to amend the Agreement through a First Amendment to the Agreement to extend the term from February 28, 2013, through September 30, 2013; and

**WHEREAS**, on March 19, 2015, the parties agreed to amend the Agreement through a Second Amendment to the Agreement to amend the fees for service and to extend the contract term from October 1, 2013, to September 30, 2016; and

**WHEREAS**, the parties agreed to amend the Agreement through a Third Amendment to the Agreement to amend the fees for service and to extend the contract from October 1, 2016, to September 30, 2018; and,

**WHEREAS**, the parties agreed to amend the Agreement through a Fourth Amendment to the Agreement to amend the fees for service and to extend the contract from October 1, 2018, to September 30, 2019; and,

**WHEREAS**, the parties agreed to amend the Agreement through a Fifth Amendment to the Agreement to extend the contract term from October 1, 2019 to September 30, 2020.

**WHEREAS**, the parties agree to amend the Agreement through this Sixth Amendment to the Agreement to extend the contract term from October 1, 2020 to September 30, 2022.

**NOW THEREFORE**, in consideration of the foregoing recitals, which are incorporated herein by reference, and other specific consideration set forth in this Sixth Amendment, the receipt and sufficiency of which is acknowledged by COUNTY and CITY, the parties agree and stipulate as follows:

1. The foregoing recitals are true, correct and material to this Sixth Amendment and the Agreement.

2. Section 10.1 of **ARTICLE 10 – TERM OF AGREEMENT**, is hereby amended to read as follows:

10.1 The effective date of this Agreement shall be retroactive to October 1, 2020 and remain in full force and effect through September 30, 2022 (inclusive), unless this Agreement is otherwise extended or terminated in accordance with the terms hereof.

3. Section 8.1 of **ARTICLE 8 - FEES FOR SERVICE**, is amended to read as follows:

8.1 Compensation to the CITY shall be paid in the same manner and subject to the same terms and conditions as set forth in the Agreement, commencing October 1, 2020, and the total annual compensation due to the CITY shall be \$60,600.

4. This Sixth Amendment is incorporated by reference into the Agreement as if fully set forth therein. Except as provided above, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect and are hereby ratified and reaffirmed by the parties hereto. In the event of any conflict or inconsistency between the provisions set forth in this Sixth Amendment and the Agreement, this Sixth Amendment shall govern and control.

**IN WITNESS WHEREOF**, the parties hereto have caused this Sixth Amendment to the Agreement between the City of South Daytona and the County of Volusia Regarding the Provision of Fire Suppression Services to a Certain Service Area to be executed by their duly authorized officers on the dates set forth below.

ATTEST:

COUNTY OF VOLUSIA

By: \_\_\_\_\_  
Name: George Recktenwald  
Title: County Manager  
Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Ed Kelley  
Title: County Chair  
Dated: \_\_\_\_\_

ATTEST:

CITY OF SOUTH DAYTONA

By: \_\_\_\_\_  
Name: James L. Gillis, Jr.  
Title: City Manager  
Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Name: William C. Hall  
Title: Mayor  
Dated: \_\_\_\_\_

Approved as to Form and Correctness:

\_\_\_\_\_  
SCOTT SIMPSON City Attorney