

**LEASE AGREEMENT BETWEEN
POLK COUNTY, FLORIDA
AND
THE SCHOOL BOARD OF POLK COUNTY, FLORIDA
REGARDING
TEMPORARY FIRE RESCUE STATION (LAKE MARION CREEK)**

This is a Lease Agreement (the "Agreement") between Polk County, a political subdivision of the State of Florida, its successors and assigns, hereinafter referred to as "COUNTY"; and

The School Board of Polk County, Florida, a political subdivision of the State of Florida, hereinafter referred to as "BOARD". The COUNTY and the BOARD shall hereinafter be collectively referred to as the "PARTIES".

W I T N E S S E T H:

WHEREAS, the COUNTY, by and through its Fire Rescue Division, provides fire and rescue services for the unincorporated portions of Polk County; and

WHEREAS, the COUNTY intends to commence construction of a permanent Fire Rescue station to provide services in the Poinciana and adjoining unincorporated areas of Polk County; and

WHEREAS, the COUNTY desires to establish a temporary Fire Rescue station so it may begin providing those services while the permanent station is under construction; and

WHEREAS, the BOARD owns certain real property (hereinafter referred to as the "LEASED PREMISES") ,more particularly described in Section 2 below which is located at 3055 Lake Marion Creek Drive, Poinciana, Florida 37459, that adjoins the Lake Marion Creek Middle School; and

WHEREAS, the LEASED PREMISES has previously been used by the Polk County Sheriff as a temporary substation but is no longer needed for that purpose; and

WHEREAS, the COUNTY has requested and the BOARD has agreed to lease the LEASED PREMISES to the COUNTY upon the terms and conditions stated in this Agreement;

NOW THEREFORE, IN CONSIDERATION of the mutual promises, covenants and conditions hereinafter contained, the parties agree as follows:

SECTION 1. RECITALS.

The above recitals are true and correct and incorporated herein.

SECTION 2. LEASED PREMISES.

The BOARD, for and in consideration of the terms and conditions hereinafter contained to be kept, performed and observed by the COUNTY, does hereby lease to the COUNTY, and the COUNTY does hereby lease and accept from the BOARD, the LEASED PREMISES which is described as follows:

SEE EXHIBIT "A".

SECTION 3. USE OF THE LEASED PREMISES.

The LEASED PREMISES shall be utilized by the COUNTY on a continuous basis during the term of this Agreement for the purpose of operating, maintaining and housing the COUNTY personnel and equipment necessary for it to conduct the day to day activities of a temporary COUNTY Fire Rescue station. Said use shall encompass all normal activities generally associated with Fire Rescue operations. The BOARD agrees that the COUNTY may move and install a modular type residential structure onto the LEASED PREMISES to serve as the temporary Fire Rescue station and may construct temporary vehicle canopies to protect and to store the COUNTY'S vehicles and equipment. The BOARD agrees to allow COUNTY to use existing steps and ramps at the site, if appropriate. The modular residential structure and vehicle canopies shall be provided by the COUNTY and shall remain the property of the COUNTY following the termination of this Agreement.

SECTION 4. CONSIDERATION.

In consideration of the lease of the LEASED PREMISES to the COUNTY, the COUNTY will occupy the LEASED PREMISES on a continuous basis during the Agreement to fulfill its duties and responsibilities for providing Fire Rescue services. The COUNTY shall be responsible for any and all utility costs associated with its habitation of the LEASED PREMISES.

SECTION 5. LEASE TERM.

Unless sooner terminated as stated in Section 8, below, the initial term of this Interlocal Agreement shall be for the continuous period of three (3) years beginning on December 15, 2015 and terminating on December 14, 2018. Notwithstanding the foregoing, this Agreement may be unilaterally extended by the COUNTY for 2 (two) additional 1 (one) year renewal terms.

SECTION 6. CONDITION OF LEASED PREMISES.

The COUNTY accepts the LEASED PREMISES in the condition that the premises are in at the beginning of this Agreement.

SECTION 7. IMPROVEMENTS AND ALTERATIONS.

The BOARD agrees to permit improvements to be made by the COUNTY to the LEASED PREMISES as necessary for it to install the modular residential structure and vehicle canopies as stated in Section 3, above, and, as necessary, to any street curbs and parking areas, providing that said improvements meet all applicable laws, local codes and regulations, and further, that upon the expiration or termination of this Agreement said improvements are returned to their original state as so requested by the BOARD. All improvements or alterations to the LEASED PREMISES made by the COUNTY shall be at the expense of the COUNTY.

SECTION 8. TERMINATION OF AGREEMENT.

This Agreement may be terminated as follows:

- a. Termination for Default: If either party gives written notice to the other party that such other party has materially breached or defaulted in the performance of any of its obligations herein, and such breach has not been cured within sixty (60) days following the giving of such

notice, or if the breach is one which previously occurred and has now reoccurred, the non-breaching party shall have the right to immediately provide notice for the termination of this Agreement and the COUNTY shall have one hundred twenty (120) days to vacate the LEASED PREMISES.

b. The COUNTY may terminate this Agreement at any time, with or without cause, upon providing the BOARD at least thirty (30) days prior written notice.

SECTION 9. LIABILITY.

a. To the extent specified under Section 768.28, Florida Statutes, and without waiving any statutory and constitutional sovereign immunity protections, the COUNTY shall be responsible for (i) monetary damages for bodily injury or death to any person, and (ii) monetary damages for the injury or loss of personal property, that are caused by the negligent or wrongful act or omission of an employee of the COUNTY who is acting within the scope of the employee's office or employment while on or around the LEASED PREMISES.

b. To the extent specified under Section 768.28, Florida Statutes, the BOARD shall be responsible for (i) monetary damages for bodily injury or death to any person, and (ii) monetary damages for the injury or loss of personal property, that are caused by the negligent or wrongful act or omission of an employee of the BOARD who is acting within the scope of the employee's office or employment while on or around the LEASED PREMISES.

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

SECTION 10. SOVEREIGN IMMUNITY AND EMPLOYEE STATUS.

a. Nothing herein shall be deemed a waiver, express or implied, of either parties' 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, and negligence, product liability or otherwise. Nothing herein shall be construed as consent by either party to be sued by third parties in any matter arising out of any contract, act or action.

b. All of the respective privileges and immunities from liability, exemptions from laws, ordinances, and rules, and all pensions and relief, disability, worker's compensation, and other benefits, as held by each party, respectively, shall be unaffected by this Agreement.

c. All costs associated with the compensation and benefits for personnel shall be borne by the party employing said personnel unless otherwise agreed upon in an amendment to this Agreement, which is reduced to writing and executed between the parties.

d. Persons employed by the COUNTY or BOARD, in the performance of services and functions pursuant to this Agreement, shall have no claim on the other party to this Agreement for pension, worker's compensation, unemployment compensation, civil service, or any other employee rights or privileges granted by operation of law or otherwise to officers and employees of the other party to this Agreement.

SECTION 11. ENTRY FOR INSPECTION AND REPAIRS.

The BOARD shall have the right to enter the LEASED PREMISES for inspection at all reasonable business hours, and whenever reasonably necessary.

SECTION 12. SIGNS.

The COUNTY shall be permitted to erect and to place any and all signs on or about the LEASED PREMISES identifying and related to the COUNTY's Fire Rescue department including but not limited to, the identity of the department, traffic control signs and any other signs denoting general information and instructions concerning the Fire Rescue department or its services.

SECTION 13. ASSIGNMENT.

The COUNTY shall not sublet or assign all or any part of the LEASED PREMISES, and the COUNTY shall not permit the use or occupancy of the LEASED PREMISES for any purposes other than those purposes specified or otherwise contemplated herein without the express, prior written consent of the BOARD.

SECTION 14. NOTICES.

a. All notices, demands, or other writings required to be given or made or sent in this Agreement, or which may be given or made or sent, by either party to the other, shall be deemed to have been fully given or made or sent when in writing and addressed as follows:

POLK COUNTY:

Right of Way and Real Estate Manager
Post Office Box 9005, Drawer RE01
Bartow, Florida 33831

BOARD:

Property Manager
Facilities and Operations
Post Office Box 391
Bartow, Florida 33831

b. All notices required, or which may be given hereunder, shall be considered properly given if (i) personally delivered, (ii) sent by certified United States mail, return receipt requested, or (iii) sent by Federal Express or other equivalent overnight letter delivery company.

c. The effective date of such notices shall be the date personally delivered, or if sent by mail, the date of delivery stated on the return receipt, or if sent by overnight letter delivery company, the date the notice was picked up by the overnight letter delivery company.

d. The parties may designate other parties or addresses to which notice shall be sent by notifying, in writing, the other party in a manner designated for the filing of notice hereunder.

SECTION 15. ENTIRE AGREEMENT.

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the PARTIES agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements

whether oral or written.

It is further agreed between the PARTIES that the COUNTY and the BOARD equally contributed to and assisted in the drafting of this Agreement.

SECTION 16. WAIVER OF BREACH.

A waiver by any party of a breach or violation of any provision of this Agreement shall not operate, or be construed to be, a waiver of any subsequent breach of the same or other provisions hereof.

SECTION 17. ENFORCEMENT.

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

SECTION 18. AMENDMENTS TO AGREEMENT.

It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

SECTION 19. SEVERABILITY.

In the event any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement which shall remain in full force and effect and enforceable in accordance with its terms.

SECTION 20. MUTUAL INTENT.

It is agreed between the COUNTY and BOARD that the aforementioned provisions represent the true intent of the PARTIES and that sufficient consideration exists for each to be bound thereby.

SECTION 21. EFFECTIVE DATE AND DISSEMINATION OF AGREEMENT.

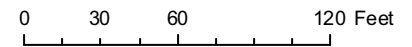
This Agreement is entered into by and between the PARTIES pursuant to Section 163.01, Florida Statutes. The Agreement shall be effective once filed with the Clerk of the Circuit Court of Polk County. Further, fully executed copies of this Agreement shall be kept on file with the respective clerk and/or custodian of both parties.

**THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK;
THE AGREEMENT CONTINUES ON THE FOLLOWING PAGE
WITH THE PARTIES' SIGNATURES.**

EXHIBIT "A" LEASED PREMISES



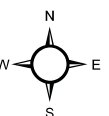
Part of Parcel Number 282803-934760-086100
Site located in the Northwest corner of said parcel.
Section 3, Township 28 South, Range 28 East
Polk County, Florida



All maps are worksheets used for illustrative purposes only, they are not surveys. The Polk County Property Appraiser assumes no responsibility for errors in the information and does not guarantee the data is free from error or inaccuracy. The information is provided "as is".



Marsha M. Faux, CFA, ASA
Property Appraiser
Polk County, Florida



September 18, 2015

IN WITNESS WHEREOF, the parties have signed this Lease Agreement on the respective dates specified herein.

ATTEST:
Stacy M. Butterfield, Clerk

POLK COUNTY,
a political subdivision of the State of Florida

Deputy Clerk

By: _____
Chairman, Board of County Commissioners

Reviewed as to form and legal sufficiency:

Date Signed by Chairman: _____

County Attorney's Office Date

ATTEST:

**THE SCHOOL BOARD OF
POLK COUNTY, FLORIDA**

Witness

By: _____
Board Chair

Date Signed by Board Chair: _____

Reviewed as to form and content:

General Counsel