

RESOLUTION NO. 2018- 1

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, PROVISIONS, CONDITIONS, AND REQUIREMENTS OF AN INTERLOCAL AGREEMENT BETWEEN ST. JOHNS COUNTY AND THE STATE ATTORNEY, SEVENTH JUDICIAL CIRCUIT, IN ORDER TO PROVIDE THE MEANS AND PROCEDURE FOR COMPENSATING THE STATE ATTORNEY'S OFFICE FOR PROSECUTING VIOLATIONS OF SPECIAL LAWS AND COUNTY ORDINANCES PUNISHABLE BY INCARCERATION AS DETAILED IN THE INTERLOCAL AGREEMENT; AUTHORIZING THE CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS TO EXECUTE THE INTERLOCAL AGREEMENT ON BEHALF OF ST. JOHNS COUNTY; AND INSTRUCTING THE CLERK OF COURT TO FILE THE AGREEMENT IN THE PUBLIC RECORDS OF ST. JOHNS COUNTY.

WHEREAS, Section 27.02, Florida Statutes, provides that the state attorney shall appear in circuit and county courts within his or her judicial circuit for the purpose of prosecuting violations of special laws and county ordinances punishable by incarceration if the prosecution is ancillary to a state prosecution or if the state attorney has contracted with the county for reimbursement for services rendered in accordance with Section 27.34(1), Florida Statutes; and

WHEREAS, Section 27.34, Florida Statutes, provides for limitations on payments of salaries and other related costs of state attorneys' offices by other than the state, and that a county may contract with, or appropriate or contribute funds to the operation of, the various state attorneys, and that a state attorney prosecuting violations of special laws or county ordinances punishable by incarceration and not ancillary to a state charge shall contract with the county to recover the full cost of services rendered on an hourly basis or reimburse the state for the full cost of assigning one or more full-time or equivalent attorney positions to work on behalf of the county; and

WHEREAS, St. Johns County and the State Attorney, Seventh Judicial Circuit desire to enter into an Interlocal Agreement in order to provide for the means and procedure for compensating the State Attorney, Seventh Judicial Circuit for such legal services detailed in the Interlocal Agreement attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, the Florida Cooperation Act of 1969, Section 163.01, Florida Statutes, authorizes St. Johns County and the State Attorney, Seventh Judicial Circuit to enter into such an Interlocal Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, THAT:

Section 1. The recitals set forth above are incorporated by reference into the body of this Resolution and are adopted as findings of fact.

Section 2. The Board of County Commissioners hereby approves the terms, provisions, conditions, and requirements of the Interlocal Agreement between St. Johns County and the State Attorney, Seventh Judicial Circuit, and authorizes the Chairman of the Board of County Commissioners to execute the Interlocal Agreement on behalf of St. Johns County in substantially the same form and format as attached.

Section 3. To the extent there are any typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

Section 4. The Clerk of Courts of St. Johns County is instructed to file the Interlocal Agreement in the public records of St. Johns County.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, State of Florida, this 16th day of January, 2018.

ATTEST: HUNTER S. CONRAD, Clerk

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: *Pam Halterman*
Deputy Clerk

By: *Henry Dean*
Henry Dean, Chair

Rendition Date: 1/18/18

Effective Date: 1/18/18



INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT ("Agreement") is made and entered by and between **St. Johns County, Florida**, a political subdivision of Florida ("County"), by and through its Board of County Commissioners, whose address is 500 San Sebastian View, St. Augustine, Florida 32084, and R.J. Larizza, as the **State Attorney of the Seventh Judicial Circuit** ("State Attorney"), duly elected, pursuant to Article V, Section 17, of the Florida Constitution.

RECITALS

WHEREAS, Section 27.02, Florida Statutes, provides that the state attorney shall appear in circuit and county courts within his or her judicial circuit for the purpose of prosecuting violations of special laws and county ordinance punishable by incarceration if the prosecution is ancillary to a state prosecution or if the state attorney has contracted with the county for reimbursement for services rendered in accordance with Section 27.34(1), Florida Statutes; and

WHEREAS, Section 27.34, Florida Statutes, provides for limitations on payments of salaries and other related costs of state attorney's offices by other than the state, and that a county may contract with, or appropriate or contribute funds to the operation of, the various state attorneys, and that a state attorney prosecuting violations of special laws or county ordinances punishable by incarceration and not ancillary to a state charge shall contract with the county to recover the full cost of services rendered on an hourly basis or reimburse the state for the full cost of assigning one or more full-time or equivalent attorney positions to work on behalf of the county; and

WHEREAS, the **County** and the **State Attorney** desire to enter into an agreement in order to provide for the means and procedure for compensating the **State Attorney** for such legal services as detailed in this **Agreement**; and

WHEREAS, the **County** and the **State Attorney** desire to contract for services rendered on an hourly basis based on estimates by the **State Attorney** of the number of hours required to handle the projected workload; and

WHEREAS, Section 27.34, Florida Statutes, provides that a contract for reimbursement on an hourly basis shall require counties to reimburse the state attorney at a rate of fifty dollars (\$50.00) per hour; and

WHEREAS, the **County** is willing to pay the **State Attorney** such sum on a quarterly basis in arrears; and

WHEREAS, the **State Attorney** is currently providing for the prosecution of violations of special laws or county ordinances punishable by incarceration, and not ancillary to a state charge, when said violations are written by sworn county law enforcement officers, and so is able to reasonably estimate the appropriate time required; and

WHEREAS, the **State Attorney** estimates five (5) hours per week, which totals sixty-five (65) hours per quarter and two hundred sixty (260) hours per year, is a reasonable estimate of the

time necessary to prosecute such violations written by sworn **County** law enforcement officers; and

WHEREAS, this **Agreement** sets forth the duration, terms and provisions, rights and responsibilities of both the **County** and the **State Attorney**; and

WHEREAS, Section 163.01, Florida Statutes, authorizes the **County** and the **State Attorney** to enter into such an **Agreement**.

NOW, THEREFORE, in consideration of mutual covenants and promises contained herein, it is agreed by and between the parties as follows:

Section 1. Incorporation of Recitals. The above recitals are incorporated into the body of this **Agreement**, and said recitals are adopted as Findings of Fact.

Section 2. Responsibilities of the State Attorney. The **State Attorney** shall appear in the Circuit and County Courts within the **State Attorney's** judicial circuit by and through the County-Funded Local Prosecutor for the purpose of prosecuting violations of special laws and **County** ordinances punishable by incarceration if the prosecution is ancillary to a state prosecution, and of prosecuting violations of special laws and **County** ordinances punishable by incarceration when said violations are cited by a **County** law enforcement officer. The County-Funded Local Prosecutor will be hired by the **State Attorney** and subject to the **State Attorney's** sole direction, supervision, and control. Consequently, for purposes of this **Agreement**, the **State Attorney** and the County-Funded Local Prosecutor are and shall be independent contractors, and not employees, agents, or servants of the **County**.

For the purposes of this **Agreement**, "County-Funded Local Prosecutor" shall mean the person or persons assigned to prosecute violations of special laws and **County** ordinances pursuant to this **Agreement**.

Section 3. Responsibilities of the County. The **County** agrees to pay of all fees, costs and/or expenses in accordance with state law which are incurred during the prosecution of any violations of special laws and **County** ordinances undertaken pursuant to this **Agreement**. The **State Attorney** shall bear no expense of actions brought pursuant to this **Agreement**. The **County** further agrees to obtain separate legal counsel to represent the **County** in any proceedings concerning the constitutionality of the enactment or enforcement of a **County** ordinance.

Section 4. Compensation. The maximum amount available as compensation to the **State Attorney** under this **Agreement** is thirteen thousand dollars (\$13,000.00) annually, unless the amount and the **Agreement** are amended in the manner set forth in this **Agreement**. Said amount is based on an hourly billing rate of fifty dollars (\$50.00) per hour, which is inclusive of expenses unless specifically approved by the **County** on a case-by-case basis. However, it is strictly understood that the **State Attorney** is not entitled to this amount of compensation as a matter of right. Rather, the **State Attorney's** compensation is based on the provision of approved legal services provided by the County-Funded Local Prosecutor.

For purposes of this Section, "approved legal services" means instances in which the County-Funded Local Prosecutor provides services in accordance with Section 2 above.

Within forty-five (45) days of the services having been rendered, the **State Attorney** shall submit to the **County** an invoice which details the total hours incurred and the case(s) or matter(s) prosecuted and/or handled pursuant to Section 2 above. If the **State Attorney** submits an incomplete and/or incorrect invoice, the **County** shall notify the **State Attorney** within fifteen (15) days of submission of the incomplete/incorrect invoice by the **State Attorney**. The **State Attorney** shall then submit a complete and correct invoice within fifteen (15) days of being so notified. The **County** has forty-five (45) days from the date of the submission of the complete and correct invoice in which to reimburse and/or compensate the **State Attorney** for such approved legal services.

The **County's** obligations under this **Agreement** are subject to the availability of lawfully appropriated funds. While the **County** will make all reasonable efforts in order to provide funds needed to perform under this **Agreement**, the **County** makes no express commitment to provide such funds in any given **County** fiscal year. Moreover, it is expressly noted that the **State Attorney** cannot demand that the **County** provide any such funds in any given **County** fiscal year. Further, in order to accommodate the budget concerns and/or procedures of the **County**, the **County** may modify any aspect of the above payment procedure at any time without prior approval of the **State Attorney** upon ten (10) days prior notice to the **State Attorney**.

Section 5. Term. The term of this **Agreement** shall be from the date this **Agreement** is executed by both parties and filed with the St. Johns County Clerk of Court through January 1, 2023. Either the **County** or the **State Attorney** may request a one-year extension of this **Agreement** by submitting a written request to the other party no later than November 1, 2022. The other party then has no later than December 1, 2022 to approve and agree to the one-year extension to this **Agreement**. If a request for a one-year extension is not submitted on or before November 1, 2022, or approved and agreed to on or before December 1, 2022, then this **Agreement** will automatically terminate on January 1, 2023 without further notice of termination required. The parties may agree to subsequent one-year extensions to this **Agreement**, to be handled in the same manner and with the same deadlines in subsequent years as described above.

Section 6. Termination. This **Agreement** may be terminated without cause upon either the **County** or the **State Attorney** giving at least thirty (30) days advance written notice to the other party of intent to terminate without cause. Such written notification shall indicate that either the **County** or the **State Attorney** intends to terminate this **Agreement** thirty (30) days from the date of notification (unless a date greater than thirty (30) days is specified). Consistent with other provisions of this **Agreement**, the **State Attorney** shall be compensated by the **County** for any services and/or expenses that are authorized under this **Agreement** and that are performed and/or accrue up to the date of termination of this **Agreement**.

This **Agreement** may be terminated with cause by either the **County** or the **State Attorney** for the following reasons:

- A. assignment of this **Agreement** by either party without the prior express written approval of the other party;

B. failure by either party to comply with any obligation noted in this **Agreement**;

C. failure by the **County** to pay, for a period exceeding seventy-five (75) days, any amounts due and owing for authorized services performed by the **State Attorney**;

D. failure by the **County** to budget for the services and/or expenses noted in this **Agreement**;

E. an exhaustion of funds budgeted for the services and/or expenses noted in this **Agreement** without **County** approval of a subsequent increase in the amount of funds budgeted for the services and/or expenses noted in this **Agreement**;

F. a subsequent revisions, change, or amendment to state law that would create an ethical conflict in funding and operations between the **County** and its **Office of County Attorney** and the **State Attorney**; or

G. a subsequent revision, change, amendment to State law that would prohibit either the **County** or the **State Attorney** from entering into this type of **Agreement**.

The **County** or the **State Attorney** shall provide written notification of any and all issues of non-compliance, which the other party shall then have fourteen (14) consecutive business days to correct. If correction is not made, or acceptable corrective action has not been taken, this **Agreement** may be terminated by the **County** or the **State Attorney** for cause upon giving at least seven (7) days advanced written notice to the other party.

Section 7. Notices. All notices and correspondence pertaining to this **Agreement** shall be delivered either by hand, with receipt of delivery, or by certified mail, return receipt requested, to:

County: County Administrator
500 San Sebastian View
St. Augustine, Florida 32084

With copy to: Patrick McCormack
County Attorney
500 San Sebastian View
St. Augustine, Florida 32084

State Attorney: R.J. Larizza, State Attorney
Seventh Judicial Circuit
The S. James Foxman Justice Center
251 North Ridgewood Avenue
Daytona Beach, Florida 32114-7505

Section 8. Severability. If any word, phrase, sentence, part, subsection, section, or other portion of this **Agreement**, or any application thereof, to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion or the proscribed application thereof, shall be severable, and the remaining portions of this **Agreement**, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force, and effect.

Section 9. Governing Law and Venue. This Agreement shall be construed according to the laws of the State of Florida. Venue for any administrative and/or legal action arising under this Agreement shall be in St. Johns County, Florida.

Section 10. Assignment. In light of the scope and rationale of this Agreement, neither the County nor the State Attorney may assign, transfer, and/or sell any of the rights or responsibilities set forth in this Agreement without the prior express written approval of the other party. Should either the County or the State Attorney assign, transfer, or sell any of the rights or responsibilities set forth in this Agreement without prior express written approval of the other party, then such action on the part of either the County or the State Attorney shall result in the automatic termination of this Agreement without further notice or action required on the part of the other party.

Section 11. Access to Records. The cost of reproduction, access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes) and other applicable state or federal law. Access to such public records may not be blocked, thwarted; and/or hindered by placing the public records in the possession of a third party or an unaffiliated party.

Section 12. Section Headings. Section headings in this Agreement are intended for convenience only and shall not constitute a part of this Agreement or affect its meaning, construction, or effect.

Section 13. Entire Agreement. Both the County and the State Attorney acknowledge and agree that this Agreement constitutes the entire agreement and understanding of both parties and that there are no promises or understandings other than those stated herein or incorporated by reference into this Agreement. No amendment or modification to this Agreement or any of its terms or provisions shall be valid unless in writing and executed by duly authorized representatives of both the County and the State Attorney. No amendment or modification to this Agreement shall be effective until filed with the St. Johns County Clerk of Court.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties have hereunto set their hand and seal on this day and year below written.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY

STATE ATTORNEY, SEVENTH
JUDICIAL CIRCUIT, STATE OF
FLORIDA

By: _____
Henry Dean, Chair

By: _____
R.J. Larizza, State Attorney, Seventh
Judicial Circuit

Date: _____

Date: _____

ATTEST: HUNTER S. CONRAD, Clerk

ATTEST:

By: _____
Deputy Clerk

By: _____

Title: _____