

**County Staff Recommendations and Comments on Draft Joint Planning Agreement: August 20, 2020
With City Responses: September 14, 2020**

County staff's recommended revisions are shown in red font following the particular section to which they apply, and are labeled as "**RECOMMENDED REVISION BY COUNTY STAFF**".

Additional background information and comments from County staff are provided in blue font following the particular section to which it applies, and are labeled as "**COMMENT BY COUNTY STAFF**".

This draft agreement has not yet undergone full legal review by the County Attorney's Office and is subject to further comments and recommended revisions that may arise during legal review.

City staff comments and responses are shown in the margins of the document.

**JOINT PLANNING AREA INTERLOCAL AGREEMENT
BETWEEN ALACHUA COUNTY AND THE CITY OF NEWBERRY**

This Joint Planning Area Interlocal Agreement ("JPA" or "Agreement") is made and entered into this _____ day of _____, 2020 between Alachua County, a charter county and political subdivision of the State of Florida, by and through its Board of County Commissioners (the "County") and the City of Newberry, a municipal corporation created under the laws of Florida, by and through the City Commission of the City of Newberry (the "City"). Hereinafter, the County and the City may be each individually preferred to as "Party" or collectively referred to as the "Parties."

WHEREAS, the County and the City wish to provide for better intergovernmental relations and coordinate planning efforts, as authorized pursuant to Section 163.01, Florida Statutes;

WHEREAS, Part II of Chapter 163, Florida Statutes, addresses the need for an efficient and orderly system of planning and growth management by and among governmental entities and subdivisions thereof to ensure continued growth while preserving and enhancing the public welfare; and

WHEREAS, Section 163.01(4) and (5), Florida Statutes, provides that a public agency of the State, as defined by Section 163.01(3), Florida Statutes, may contract with any other public agency of the State to exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

WHEREAS, the County and the City are public agencies within the meaning of Section 163.01(3), Florida Statutes; and

WHEREAS, Section 163.3171(3), Florida Statutes, addresses the concept of joint planning pursuant to mutual agreement, including procedures for joint action and the preparation and adoption of the comprehensive plans, procedures for the administration of land development regulations or the land development codes applicable thereto, and the manner of representation of any joint body that may be created under the joint agreement; and

WHEREAS, on April 27, 2020, the City adopted Ordinances 2020-04, 2020-06, 2020-09 and 2020-10 on second reading, annexing approximately 396 acres of unincorporated property into the jurisdiction of the City and on June 8, 2020, the City adopted Ordinance 2020-13 on second reading, annexing approximately 118 acres of unincorporated property into the jurisdiction of the City (the "Annexation" or "Annexed Property"); and

WHEREAS, on May 12, 2020, the County adopted Resolution 2020-37, which initiated the intergovernmental conflict resolution process, pursuant to Chapter 164, Florida Statutes, due to the configuration of the lands annexed pursuant to the City's Ordinances 2020-04, 2020-06, 2020-09 and 2020-10 ~~Annexation~~ and concerns regarding service delivery; and

WHEREAS, on June 8, 2020, the City adopted Ordinance 2020-13 on second reading, annexing approximately 118 acres of unincorporated property into the jurisdiction of the City; and

WHEREAS, on June 23, 2020, the County adopted Resolution 2020-55, which initiated the intergovernmental conflict resolution process, pursuant to Chapter 164, Florida Statutes, due to the configuration of the lands annexed pursuant to City's Ordinance 2020-13 and concerns regarding service delivery; and

RECOMMENDED REVISION BY COUNTY STAFF: As discussed at the August 6th conflict assessment meeting, the County initiated the conflict resolution process on Ord. 2020-13 on *June 23, 2020*; it was separate from the conflict resolution process initiated on May 12, 2020 for the other four annexations. City Attorney indicated they would revise this whereas clause to separate Ord. 2020-13.

Commented [AT1]: See revisions above

WHEREAS, the County and the City are currently participating in the intergovernmental conflict resolution process; and

WHEREAS, the Parties agree that entering into this JPA resolves the existing intergovernmental conflict by establishing a framework to address future annexations in the defined joint planning area and address the Parties' concerns regarding the efficient provision of services in areas subject to this JPA; and

WHEREAS, the County and the City recognize that mutual coordination of land use densities and designations is necessary to maintain community character, support urban infrastructure, accommodate future populations, and protect rural areas within the County; and

WHEREAS, the County and the City recognize that the coordination and subsequent planned transition of services and capital improvements from the County to the City is part of the shared goal of providing efficient and effective public services and facilities to all residents within the JPA; and

WHEREAS, the County and the City have: (i) full power and authority to enter into this Agreement; (ii) taken all necessary actions and obtained all necessary approvals to enter into this Agreement and to perform the terms and conditions of this Agreement; and (iii) duly authorized, executed, and delivered this Agreement such that this Agreement constitutes the

legal, valid, and binding obligations of the County and City; and

WHEREAS, this Agreement does not conflict with, and is not prohibited or limited by, any agreement or instrument to which the County or City is a party, or by which the County or City is bound, or any statute, law, ordinance, rule, or regulation applicable to the Parties or by which they are bound; and

WHEREAS, the County and the City acknowledge that the current intergovernmental conflict resolution process between the Parties will conclude with the execution of this JPA.

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein, the County and the City do hereby agree as set forth below:

ARTICLE 1. INCORPORATION OF RECITALS. The above recitals are incorporated herein and made part of this Agreement.

ARTICLE 2. PURPOSE AND AUTHORITY OF AGREEMENT. This Agreement is executed pursuant to Chapters 125, 163, and 166, Florida Statutes. The purpose of this Agreement is to accomplish the following:

- a. Confirm that the County and the City have jointly approved the boundaries of the Joint Planning Area;
- b. Set forth the conditions and procedures under which the City will accomplish annexation;
- c. Set forth the conditions and procedures under which the County and City will accomplish joint planning and service delivery within the Joint Planning Area;
- d. Set forth a mechanism for the City to improve roads within the Joint Planning Area in the event that a certain threshold of impact exists, as defined in Article 6 below.

ARTICLE 3. DESIGNATION OF JOINT PLANNING AREA.

- a. The Joint Planning Areas, as illustrated on **Map Series 1: Joint Planning Area Boundaries**, includes all outlined unincorporated and incorporated parcels (**Attachment A**).
- b. Any change in the boundary of the Joint Planning Areas must be made by amendment of this Agreement and is not effective unless jointly approved by both County and City.

RECOMMENDED REVISION BY COUNTY STAFF: Replace "joint planning area" with "joint planning areas" (plural). This recommended change would apply throughout the entire agreement.

COMMENT BY COUNTY STAFF: This agreement covers four separate annexation areas around the City, so terminology throughout the agreement should reflect that. Each area has different issues from a statutory perspective, and different circumstances in terms of service delivery, annexation, and land use.

Commented [AT2]: Changes made above

ARTICLE 4. TERM. This Agreement is effective upon the later date of execution of the Parties hereto and will remain in effect for a period of 10 years from that date. At its expiration, this Agreement will automatically renew for additional 10-year terms, unless either Party has notified the other Party in writing, at least 180-calendar days prior to the expiration of the current term, of its intent not to renew this Agreement. Unless otherwise agreed to by the Parties, this Agreement expires upon the complete annexation or contraction of all areas within the designated Joint Planning Areas.

RECOMMENDED REVISION BY COUNTY STAFF: Delete last sentence. There may be aspects of this agreement that should continue even if the areas become fully annexed or contracted (e.g., coordination on service delivery, roads issues, and land use planning).

COMMENT BY COUNTY STAFF: Need further discussion with City on term for agreement. Why 10 years? It seems unlikely that all four areas will be fully annexed within 10 years. Also, there may be aspects of this agreement having to do with service delivery and land use, for example, that should continue even beyond the term of the agreement.

Commented [AT3]: The automatic renewal contemplates extension of the JPA until complete annexation within the JPA

Commented [AT4]: If the agreement is terminated prior to all areas being annexed, 171.042 requires the City to set forth plans for municipal service within the area to be annexed.

ARTICLE 5. ANNEXATION. The City may annex lands inside the boundary of the Joint Planning Areas consistent with this Agreement without objection from the County.

- a. For annexations within the Joint Planning Areas, the City must provide notice to the County of all annexations within the Joint Planning Areas in accordance with Chapter 171, Florida Statutes. The City will make a good faith effort to provide additional notification of intended annexations prior to statutory notification requirements.

RECOMMENDED REVISION BY COUNTY STAFF: Delete the existing subsection a. above. Draft language on notice requirement does not add anything to already required notice to County under Statute.

COMMENT BY COUNTY STAFF: Some additional time for notification to the County by City earlier than required by Statute, prior to advertisement of hearings by the City, would be beneficial for consideration of aspects addressed in the JPA. Whatever notice is provided should specifically note if a proposed annexation is being considered within a Joint Planning Area.

Commented [AT5]: See addition to (a) above

- b. The County will not object to the City's annexations within the Joint Planning Areas that fail to meet the strict requirements of Chapter 171, Florida Statutes, regarding enclaves, contiguity, and compactness; provided the annexation is consistent with the annexation plans for the Joint Planning Areas ("Annexation Plans"), attached hereto and incorporated herein as Exhibit A.

RECOMMENDED REVISION BY COUNTY STAFF: Add to end of sentence in "b.": "...provided the annexation is consistent with the annexation plans for each of the four areas that are attached to this document and incorporated herein." *Note, City should provide annexation plans for each area as soon as possible to allow adequate time for County staff to review, and to allow for any questions and issues needing clarification to be identified prior to the next conflict assessment meeting.*

Commented [AT6]: See additions included in (b) above

COMMENT: As discussed at previous conflict assessment meetings and described in the

recommended revision above, the annexation plans for each of the four areas covered under this agreement would consist of the following:

- Map of the parcels within the applicable joint planning area, an identification of all the parcels within that area with owners who are interested in being annexed, parcels whose owners have indicated they are not interested in being annexed, and parcels where the City has been unable to confirm if the owners are interested in being annexed, and a schedule for annexation of the parcels within those areas.
 - Where the annexation plans and schedules do not include annexation of the whole area (e.g., because owners have indicated they are not interested in annexing), then the annexation plan will identify any potential issues associated with annexations failing to meet the strict form requirements under Chapter 171, and provide an analysis of how public facility provision and service delivery needs to those properties would be accomplished without adverse impacts to those and other properties, including road access (maps of local roads and access easements map should be provided), provision of central water and sewer connections currently and in the future, and how land use compatibility with surrounding properties would be assured for all parcels within the joint planning areas (both those annexed and those not).
 - Information on how public services and facilities are currently provided within the area and the plan for provision of facilities and services after annexation, including the local government that will provide and fund those facilities and services and, if applicable, identification of any interlocal agreements or contractual arrangements relating to those services, and their duration.
 - Identification of the future land use designation of the unincorporated portions of the area under the County's Comprehensive Plan, the future land use designation of incorporated portions of the area under the City's Comprehensive Plan, and the future land use designation the City expects to propose for the parcels identified for annexation.
- c. Nothing contained in this Agreement limits the County's ability to challenge annexations by the City outside of the designated Joint Planning Areas. If the County challenges a City annexation outside of the Joint Planning Areas, that will not in any way affect or impact this Agreement or the rights of the Parties contained herein.
- d. The Parties agree that the properties in the unincorporated area described in Attachment A that are developed or improved real property less than 110 acres shall be automatically annexed to the City upon change of ownership, including but not limited to transfers by sale, inheritance by descent and distribution and transfer by gift. -

COMMENT: Based on preliminary review by the County Attorney's Office, the concept of automatic annexation does not appear to be addressed in Florida Statutes. The closest thing is Section 171.046(2)(a) which provides for municipalities to annex enclaves of 110 acres or less by interlocal agreement with the County (does not apply to undeveloped or unimproved real

Commented [BT7]: Agreed, included in Annexation Plans

Commented [AT8]: This is already contemplated in Article 7

Commented [AT9]: This is already contemplated in Article 7

Commented [BT10]: Agreed, included in Annexation Plans

Commented [AT11]: See comment below for further discussion

Commented [AT12]: We could conform the JPA to meet with 171.046:

"If the properties in the mapped areas are less than 110 acres developed or improved real estate, they will be annexed to the City via this interlocal pursuant to 171.046"

property).

Automatic annexation concept raises questions and concerns about, (1) legality and how it would meet any statutory procedural requirements; (2) notification to the property owners that are being automatically annexed; (3) practical and logistical issues with tracking of sales, inheritance, transfer by gift, etc., and; and (4) desirability of automatic annexation from a policy perspective. Further discussion is needed on these questions and concerns.

OTHER RECOMMENDED ADDITIONS TO ARTICLE 5:

- e. "Annexation of individual parcels within platted subdivisions is prohibited within the joint planning areas. Platted subdivisions shall only be proposed for annexation either as a whole, or as a full phase of the subdivision."
- f. "Annexations that further extend the outermost boundaries of the City of Newberry are prohibited until existing enclaves and internal unincorporated areas have been filled in through annexation." *Note, this will require a map to show a "squaring-off" of the outermost municipal boundaries and infill areas.*

Commented [AT13]: Not agreeable with this provision

Commented [AT14]: Not agreeable with this provision

ARTICLE 6. INFRASTRUCTURE AND IMPACT FEES. To provide more efficient and economical public services to the residents of the County and the City, particularly those residents within the Joint Planning Areas, the County and the City agree to plan for public infrastructure in and around the Joint Planning Areas, as follows:

- a. ~~For any proposed development generating at least 25 peak hour trips and located within the Joint Planning Area, the City shall require the developer to submit to the City a formal traffic methodology letter and traffic study that is signed and sealed by a professional engineer. Within 10 business days of receipt of the formal traffic methodology letter, the City shall provide such signed and sealed letter and traffic study to the County Manager for review and comment. County staff shall submit any comments to City staff within 10 business days and City staff shall submit the County's comments into the record during any hearing held by the City on the application. The traffic study must address operational and safety improvements attributable to the proposed development. As a condition of the development plan, the City shall cause the developer of the proposed development to construct, or pay the full costs of, the necessary improvements including turn lanes, turn lane storage, acceleration/deceleration lanes, traffic control devices, traffic signals, and bicycle and pedestrian facilities, as warranted based on the traffic study. If the foregoing provision is found to be illegal by a court of competent jurisdiction or if the City is unable or unwilling to cause the developer to construct or pay for the necessary improvements, the City shall cause the construction, or payment of the full costs, of the necessary improvements outlined in this Article through some alternative means. All necessary traffic control devices must be installed in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) and FDOT roadway and traffic design standards. All left turn storage lanes, at a minimum must include the addition of paved shoulders and~~

~~a full width overlay.~~

~~If the County disagrees with the process or findings of the traffic study and traffic methodology letter, the County shall notify the City Manager of such dispute and the County Manager, or designee, and City Manager, or designee, shall meet within 30 calendar days to resolve the dispute. If the County Manager and City Manager are unable to resolve the dispute over the traffic study and methodology, the County Manager and City Manager shall select a mutually agreeable third party expert to make a traffic study methodology determination that is binding on the Parties and must be used in the review of the proposed development. Any costs associated with hiring the third party expert will be evenly shared between the Parties.~~

- ~~b. If the County permits development within the unincorporated portions of the Joint Planning Area that will increase trips on collector or arterial rights of way owned or maintained by the City within two miles of the County permitted development, the County shall pay the City the value of the proportionate share of any impact fee, or equivalent fee, associated with the subject development and collected by the County. The payment may come from any legally available funding source deemed appropriate by the County. The proportionate share of the fee will be based on the percentage of trips projected to impact City owned or maintained collector or arterial rights of way compared to the percentage of trips projected on other roads. Any money paid by the County to the City under this paragraph must be used by the City for an impact related project within 10 years of the County's payment to the City or any portion not used for an impact related project will be returned to the County.~~

RECOMMENDED REVISION BY COUNTY STAFF: Delete all language in subsections "a." and "b." above and replace with the following:

"Effective immediately, the County offers and the City accepts ownership of the following local road segments including the underlying fee and the improvements thereon within the joint planning areas:

- Road name (need to identify roads and consult existing road maintenance agreement)
- Road name
- Road name

Transfer of ownership will be effectuated through the execution of a deed transferring ownership of the right-of-way, executed by the chairperson of each Party and recorded within ## calendar days of the effective date of this Agreement. Upon transfer of ownership from the County to the City, the County retains no responsibilities for ongoing maintenance of the road segments listed herein.

After the transfer of ownership, the County shall provide funding to the City for its ongoing maintenance of the road segments (as identified in Attachment ##) in a particular joint

Commented [AT15]: Please see our proposed language below

planning area until 75% of the originally unincorporated area of that joint planning area (by acreage) has been annexed into the City. After that time the City shall then assume full responsibility for maintenance of the identified road segments, and the County shall assume no further responsibility for funding.” *Note, ~~funding will need to be calculated a funding formula will need to be developed~~ and the amount included in the agreement. The road segments in question will need to be shown on a map to be developed and included in the agreement.*

(alternative a) **Road Maintenance.** The Parties acknowledge that both the County and the City currently provide road maintenance within the jurisdictional boundaries of the City and unincorporated Alachua County pursuant to the Interlocal Agreement (“Road Interlocal”). Therefore, there is not a concern regarding inefficient provision of road maintenance within the Joint Planning Area. If the City exits the Road Interlocal or the Road Interlocal is otherwise terminated, then the City will continue to maintain the following local road segments within the Joint Planning Areas:

(insert applicable roads).

SW 15 Avenue from NW 202 Street to State Road 45

(alternative b) **Roads.** The County shall offer and the City shall accept ownership, as well as complete and total responsibility for all maintenance obligations and duties for the following local roads segments within the Joint Planning Areas within 60 calendar days of the roadway being paved to the City’s standard for local roads (as approved by the City) and the County shall be 100% responsible for the cost of improvements to the road. The County may effectuate the transfer of ownership through recordation of deeds or right-of-way maps:

(Insert roads)

SW 15 Avenue from NW 202 Street to State Road 45

After the transfer of ownership, the County shall provide funding to the City for its ongoing maintenance of the road segments (as identified in Attachment ##) in a particular joint planning area until 75% of the originally unincorporated area of that joint planning area (by acreage) has been annexed into the City. After that time the City shall then assume full responsibility for maintenance of the identified road segments, and the County shall assume no further responsibility for funding.

ARTICLE 7. JOINT PLANNING AND SERVICE DELIVERY.

- a. **Fire Services.** The Parties acknowledge that both the County and the City currently provide fire services within the jurisdictional boundaries of the City and unincorporated Alachua County pursuant to the Uniform Fire Services Interlocal Agreement for Fire Suppression and First Response EMS/Rescue Services (“FSA”). Therefore, there is not

Commented [AT16]: The City has suggested 2 alternative provisions for consideration. (flip a and b) If we are going to discuss transfer of roads in this JPA, alternative B is the proposed language from City. Alternatively, we can handle roads like other joint planning services, consistent with Section 7.

Commented [AT17]: Mike/Bryan: We will need to include which roads we will maintain here. Can you provide a list?

Commented [AT18]: Mike/Bryan: We will need to include which roads we will maintain here. Can you provide a list?

Commented [AT19]: This needs to be further identified like in the roads agreement. Mike/Bryan, ,thought?

a concern regarding inefficient provision of fire services within the Joint Planning Areas. ~~If the FSA is terminated, then the City will include the Joint Planning Area in its fire service territory. If the FSA is terminated, the City will have sole responsibility to provide fire and first response EMS services to the annexed portions of the joint planning areas.~~

RECOMMENDED REVISION BY COUNTY STAFF: Replace last sentence above with the following: "If the FSA is terminated, the City will have sole responsibility to provide fire and first response EMS services to the annexed portions of the joint planning areas."

Commented [AT20]: Suggestion is added above.

COMMENTS FROM COUNTY STAFF: Alachua County and all of its municipalities have established agreements that detail fire and first response emergency medical services throughout the County. The agreement with the City of Newberry provides that the closest unit is dispatched to calls for service regardless of jurisdictional boundaries.

Under the existing FSA, annexation of parcels has no impact on timely responses. From a budgetary point of view, as the City continues to annex properties that are farther away from its one fire station, more cost will incur to the City. Additionally, as properties are annexed out of the County, income from the County's Fire Assessment will be reduced.

If the City and/or County were to terminate the Fire Service Agreement, the City would be responsible for providing fire and EMS first response services citywide. Unless the City opened additional fire stations or entered into a new agreement with the County, response times to City residents would likely increase.

Under the existing FSA, the County and City have negotiated a payment rate of \$717.67 per unit response. On an annual basis, ACFR Chief and Newberry Fire Chief review the call response data for accuracy and then come to an agreement to establish the next fiscal year's total anticipated budgets. The existing FSA also has language that provides the City with a County Paramedic in exchange for a City EMT who drives the County's Rescue. In addition to the agreement, the City fire station is home to a County Rescue Unit (R28).

- b. **Waste Collection.** The Parties acknowledge that at the time of execution of this Agreement, the County currently contracts with a third-party waste provider for the unincorporated portions of the Joint Planning Areas and cannot unilaterally allow the City to extend its waste collection services into the unincorporated areas subject to this Agreement. When appropriate and able, the County will seek to negotiate its waste services contract to allow the City and its waste provider to extend services into the unincorporated portions of the Joint Planning Areas.

RECOMMENDED REVISION BY COUNTY STAFF: Delete subsection "b., Waste Collection" above.

Commented [AT21]: To discuss

COMMENT BY COUNTY STAFF: The County understands the intent of this language is to eliminate existing inefficiencies in solid waste collection in these areas that have a mix of incorporated and unincorporated parcels. Even if the County is able to negotiate its waste services contract as described in “b.” above, there is still uncertainty about how this subsection would be implemented (e.g., exact intent of the last sentence), and how it would ultimately impact both the services that are provided and the costs to the unincorporated property owners in these areas. The County’s current waste collection contract with WCA expires in October 2021. Would the City also need to renegotiate its waste services contract to accomplish what is required in this subsection?

The four annexation areas are not within the County’s mandatory curbside collection area. County Solid Waste staff estimates there are approximately 249 unincorporated solid waste customers within all four of the joint planning areas combined; of those 249 customers, approximately 54 subscribe to curbside collection through WCA (the County’s waste collection provider), while the remaining customers use the County’s Rural Collection Centers. Those unincorporated customers who rely solely on the Rural Collection Centers for waste disposal will likely see an increase in the rates they pay if they are required to subscribe to curbside collection service through the City.

- c. **Law Enforcement Services.** The Parties acknowledge that the Alachua County Sheriff’s Office currently provides law enforcement services within the jurisdictional boundaries of the City and unincorporated Alachua County and that the Alachua County Sheriff is an independent, constitutional officer with no direct oversight from the County. If the City pursues law enforcement services through an alternative means and no longer utilizes the Alachua County Sheriff’s Office, then the City will include service arrangements within the Joint Planning Areas in any future agreement on law enforcement services.
- d. **Water and Sewer Connection.** New development within the Joint Planning Area shall be required to connect to centralized water and sewer services, unless economically or technically infeasible. New residential development at a density lower than one dwelling unit per two acres, or consisting of six or fewer lots, shall be exempt from this requirement.

RECOMMENDED REVISION BY COUNTY STAFF: Delete subsection “d.” above. The annexation plans described in Article 5 would address the City’s plans for service provision within the joint planning areas, which would include any future extension of water and sewer lines and connection requirements for new development within the joint planning areas.

COMMENT BY COUNTY STAFF: The language in “d.” is taken from the Alachua JPA, but that area had different circumstances than the four joint planning areas covered under this agreement. The area covered in the Alachua JPA was located within the Urban Cluster where new development is generally required by policies in the County’s Comprehensive Plan to

Commented [MN22]: 1.This is the biggest service delivery issue to be discussed – law enforcement, fire, ems, roads are all addressed by current interlocal agreements. Have 2 different solid waste collection companies in the JPAs is inefficient and puts additional wear and tear on roads that are marginal today.
2.The County can agree to amend its contract with WCA.
3.The City does not need to amend its contract with WastePro to add customers.
4.The City would add rural collection centers as an option for our residents and maintain pricing similar to County’s.
5.The City cost for curbside service is roughly 33% cheaper than County’s.

Commented [AT23]: To discuss. The City code mirrors the County code here

connect to centralized water and sewer, except in limited circumstances. The unincorporated portions of the four Newberry areas covered under this agreement are located outside the County's Urban Cluster and are designated "Rural/Agriculture" (max. 1 residential unit per 5 acres) under the County's Comprehensive Plan. County Comprehensive Plan policies generally prohibit the extension of centralized water and sewer lines outside of the Urban Cluster and into the Rural/Agriculture areas, except in limited circumstances.

- e. **Land Use and Development.** The Parties acknowledge that development approved by one Party within the Joint Planning Areas may affect other portions of the Joint Planning Areas, including those portions within the jurisdiction of the other Party. As such, the Parties desire consistent and compatible development within the Joint Planning Areas and across the Parties' jurisdictional boundaries.
1. Within 10 calendar days of receiving a complete application for (i) a rezoning, (ii) a comprehensive plan amendment, or (iii) a development approval, the Party receiving the application must notify the other Party of the application and provide a copy of the application and related materials, ~~upon request of the other Party.~~ The Party receiving the application will permit the other Party 30 calendar days from the date the notification was received to submit comments on the application and will introduce those comments into the public record of any hearing for the application.

RECOMMENDED REVISION BY COUNTY STAFF: Delete "upon request from the other party". The notice requirements should be automatic.

COMMENT BY COUNTY STAFF: The County would like to establish a joint understanding with the City of what the planned or expected future land uses in the four joint planning areas would be. This would be one component of the City's plan for annexation for the four areas, as described in the County's comments under Article 5.

Commented [AT24]: Change made above

ARTICLE 8. RELATIONSHIP TO EXISTING LAWS AND STATUTES. In meeting the commitments encompassed in this Agreement, the Parties will comply with the requirements of all applicable State or local law. Furthermore, the County and the City retain the ultimate authority for land use and development decisions within their respective jurisdictions. By executing this Agreement, the County and the City do not purport to abrogate the decision-making responsibility vested in them by law. Nothing in this Agreement constitutes a waiver by either Party of its rights to challenge the action of the other Party under state, federal, or local law, unless specifically waived in this Agreement.

ARTICLE 9. INDEMNIFICATION AND LIABILITY. Each party is solely responsible for the negligent or wrongful acts of its employees, agents, commissions, or officers. Nothing herein constitutes a waiver by either Party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.

ARTICLE 10. DISPUTE RESOLUTION. The Parties agree to resolve any dispute related to the interpretation or performance of this Agreement in the manner described in

this Article.

- a. The County Manager, or designee, and the City Manager, or designee, shall meet within 30 calendar days of notice of the dispute. At this meeting, the Managers, or their designees, shall work towards a resolution of any dispute arising out of the application, interpretation, or enforcement of this Agreement.
- b. If the meeting of the County Manager and City Manager does not result in the resolution of the conflict, then either Party may initiate the following dispute resolution process by providing written notice to the other Party:
 1. After transmittal and receipt of a notice specifying the area or areas of disagreement, the Parties agree to meet at reasonable times and places, as mutually agreed upon, to discuss the issues in conflict.
 2. If discussions among the Parties fail to resolve the dispute within 60 calendar days of the notice described above, the Parties will utilize a mutually agreeable third-party mediator to attempt to resolve the conflict. The costs of such mediator, as well as any associated costs of the conflict resolution, shall be borne equally by the Parties.
 3. If mediation results in an impasse, the Parties may initiate litigation to resolve the conflict. Nothing herein waives or limits a Party's right to litigate until the conclusion of the dispute resolution process if an emergency exists justifying the expedited initiation of litigation.
- c. If any Article of this Agreement provides a specific dispute resolution process, the Parties agree to follow the specific process before proceeding to the general dispute resolution process of this Article.

ARTICLE 11. AMENDMENTS TO THE AGREEMENT. The Parties may not amend, modify, or alter the terms or conditions set forth herein unless the amendment, modification, or alteration is contained in a written document, executed by the Parties with the same formalities as this Agreement between the County and the City.

ARTICLE 12. SEVERABILITY. If any Article, Section, subsection, paragraph, sentence, clause, or phrase of this Agreement is declared illegal, null, or void for any reason, the remaining Articles, Sections, subsections, paragraphs, sentences, clauses, or phrases will continue to remain in full force and effect.

ARTICLE 13. LAW AND VENUE. This Agreement is governed in accordance with the laws of the State of Florida. Venue for any disputes or causes of action arising out of this Agreement is in Alachua County.

ARTICLE 14. NOTICE. Any notice required or allowed to be delivered hereunder must be in writing and is deemed to be delivered when (i) hand-delivered to the official hereinafter designated, or (ii) 3 business days after deposit in the United States mail, postage prepaid, certified mail, return receipt requested, address to the Party at the address set forth below, or such other address as the Party may have specified by written notice to the other Party delivered in accordance herewith, or (iii) the date of actual receipt of the notice,

whichever is earliest. Notice for the Parties must be delivered to the following individuals and addresses:

City: City Manager City
of Newberry
25440 West Newberry Road
Newberry, Florida 32669

City Attorney City
of Newberry
527 E University Ave.
Gainesville, Florida 32601

County: County Manager
Alachua County
12 SE 1st Street
Gainesville, Florida 32601
ATTN: County Manager

County Attorney
Alachua County
12 SE 15 Street
Gainesville, Florida 32601
ATTN: County Attorney

ARTICLE 15. TERMINATION. Either the County or the City may terminate this Agreement with a 180-calendar day written notice.

ARTICLE 16. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, is an original, with all counterparts together constituting one and the same instrument.

ARTICLE 17. CONSTRUCTION. The provisions of this Agreement shall be liberally construed to effectuate the purposes hereof and the powers conferred by this Agreement shall be in addition and supplementary to the powers conferred by any general, local or special law, or by any charter of the Parties. All Parties have participated in the preparation of this Agreement and the provision hereof may not be construed for or against any Party by reason of authorship.

ARTICLE 18. RECORDS. The Parties shall each maintain their own respective records and documents associated with this Agreement in accordance with the requirements for records retention set forth in Chapter 119, Florida Statutes.

ARTICLE 19. NON-WAIVER. The failure of any Party to exercise any right in this

Agreement is not a waiver of the right to later enforce that or any provision of this Agreement.

ARTICLE 20. ATTACHMENTS. All attachments or exhibits to this Agreement are incorporated into and made part of this Agreement by reference.

ARTICLE 21. EXTENSION OF TIME. The County Manager and City Manager may agree, in writing, to extend any timeframes set forth in this Agreement, except that this Article does not authorize the County Manager and City Manager to extend the term of this Agreement.

ARTICLE 22. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the Parties and supersedes all prior written or oral agreements, understandings, or representations.

ARTICLE 23. EFFECTIVE DATE. This Agreement is effective on the date that the last of the Parties formally executes this Agreement.

ARTICLE 24. RECORDATION OF AGREEMENT. The County shall record this Agreement in the Official Records of Alachua County, Florida, within 10 business days after the execution of this Agreement by both parties, and provide a copy of the recorded Agreement to the City Manager.

ARTICLE 25. CONCLUSION OF THE CONFLICT RESOLUTION PROCESS. The intergovernmental conflict resolution process, which gave rise to this Agreement, will conclude upon the complete execution of this Agreement.

In Witness whereof, the Parties hereto have caused this Agreement to be executed on the day and year first written above.

CITY OF NEWBERRY:

ATTEST:

Jordan Marlowe, Mayor

Judy Rice, City Clerk

Mike New, City Manager

APPROVED AS TO FORM AND LEGALITY:

S. Scott Walker, Esq., City Attorney

ALACHUA COUNTY:

Robert Hutchinson, Chair
Alachua County Board of County Commissioners

Michele L. Lieberman, County Manager

APPROVED AS TO FORM AND LEGALITY:

Sylvia E. Torres, County Attorney

ATTEST:

J.K. “Buddy” Irby, Clerk