



Interoffice Memorandum

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS

January 6, 2014

JAN 06 2015 KH/BS

TO: Mayor Teresa Jacobs
and Board of County Commissioners

FROM: Mark V. Massaro, P. E., Director, Public Works Department

CONTACT PERSON: Mark V. Massaro, P.E., Director
Public Works Department

PHONE NUMBER: (407) 836-7970

A handwritten signature in black ink, appearing to be "MVM", located to the right of the contact information.

SUBJ: Agreement by and between Orange County and Greenway D.R. Horton, Inc. for Traffic Law Enforcement on Private Road – Bella Isles

Section 316.006, Florida Statutes allows counties to exercise traffic law enforcement over private roads if the owner of the private road enters into a written agreement with the County. Prior to entering into such an agreement, the Sheriff's Office must be consulted. Such agreements cannot go into effect until the beginning of the County's fiscal year, unless the Sheriff waives such requirement in writing.

D.R. Horton, Inc., has requested such an agreement for the private roads located within the gated community of Bella Isles. The Sheriff's Office has been involved in the negotiation of the contract and has executed a waiver that will allow this agreement to go into effect upon Board approval.

No relationship disclosure form is provided because this is not a development-related nor is it a procurement-related item. No specific project expenditure report is provided because this is a ministerial item.

Action Requested: Approval of Agreement for Traffic Law Enforcement on Private Roads located in Bella Isles by and between Orange County, Florida, and D.R. Horton, Inc. District 4.

MVM/ray

Attachments

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
JAN 06 2015 KH/BS

AGREEMENT FOR TRAFFIC LAW ENFORCEMENT ON PRIVATE ROADS

This Agreement for enforcement of the traffic laws of the state on private roads located in the gated community of BELLA ISLES is entered into by and between Orange County, Florida (hereinafter "County"), a charter county and political subdivision of the State of Florida, and D.R. HORTON, INC., a Delaware corporation (hereinafter "Owner").

WITNESSETH:

WHEREAS, Owner owns fee simple title to all the private roadways lying within a gated community known as BELLA ISLES (hereinafter "Private Roads") more specifically described in **Exhibit "A"** which is attached hereto and incorporated herein; and

WHEREAS, pursuant to state statute, County does not have traffic law enforcement jurisdiction over Private Roads such as those owned by the Owner; and

WHEREAS, Section 316.006(3)(b), *Florida Statutes*, provides that a county may exercise jurisdiction over any Private Road or roads if the county and the party owning such roads provide by a written agreement approved by the governing board of the county; and

WHEREAS, Section 316.006(3)(b)(2), *Florida Statutes*, further provides that prior to entering into an agreement for enforcement of the traffic laws over Private Road or roads, the governing board of the county shall consult with the Sheriff; and

WHEREAS, the Owner wants the County to enforce the traffic laws upon the Private Roads of said Owner and to comply with Section 34-290, Orange County Code; and

WHEREAS, pursuant to consultations between the parties and the Sheriff of Orange County, Florida (hereinafter "Sheriff"), the County and Sheriff are willing to exercise traffic law enforcement upon the Private Roads; and

WHEREAS, pursuant to Section 30.2905, *Florida Statutes*, the Sheriff operates an off-duty employment program; and

WHEREAS, Section 316.006(3)(b)(2), *Florida Statutes*, provides *inter alia* that no such agreement shall take effect prior to October 1 of the initial year of any agreement unless such provision is waived, in writing, by the Sheriff of the County; and

WHEREAS, the Sheriff has waived this provision as evidenced by **Exhibit “C.”**

NOW, THEREFORE, in consideration of the covenants and conditions herein, County and the Owner hereby agree as follows:

1. **Recitals.** The above recitals are true and correct, and are incorporated herein by reference and form a material part of this Agreement.

2. **Jurisdiction.** County agrees to exercise jurisdiction over enforcement of the traffic laws (including Section 316.2045, *Florida Statutes*, concerning obstruction of streets, regulated by the Orange County Block Party Ordinance) upon the Private Roads pursuant to the terms and conditions expressed in Section 316.006(3)(b), *Florida Statutes*, and subject to the terms and conditions specified in **Exhibit “B.”**

3. **Signage.** The Owner shall establish the speed limit for the Private Roads and shall be responsible for posting the speed limit by appropriate DOT approved signage along said roads.

4. **Authority in Addition to Existing Authority.** The County’s exercise of traffic law enforcement pursuant to this Agreement shall be in addition to that authority presently exercised by County over the Private Roads and nothing herein shall be construed to limit or remove any such authority. The County agrees to continue to provide such police and fire services as are required by law.

5. **Compensation.** The Owner shall compensate the Sheriff for the services performed under this Agreement through the Sheriff’s Office off-duty program, and in the manner specified in **Exhibit “B”** of this Agreement, which is attached hereto and incorporated by reference. Payment for services under this Agreement shall be in accordance with the pay schedule as determined by the Sheriff’s Office.

6. **County to Retain Revenues.** All revenue from the fines, costs, and penalties imposed by the traffic citations issued for violation of traffic laws on the Private Roads shall be apportioned in the manner set forth in applicable statutes.

7. **Liability not Increased.** Neither the existence of this Agreement nor anything contained herein shall give rise to any greater liability on the part of the County or the Sheriff

than that which the County or the Sheriff would ordinarily be subjected to when providing its normal police services.

8. **Indemnification.** To the fullest extent permitted by law, the Owner shall indemnify, defend, and hold the County and the Orange County Sheriff's Office harmless from any loss, cost, damage or expense, including attorneys' fees, for any action arising out of, related to, or stemming from, either directly or indirectly, the maintenance, repair and/or reconstruction of any roads, road drainage, sidewalks or signage. To ensure its ability to fulfill its obligation under this paragraph, the Owner shall maintain General Liability insurance in the minimum amount of One Million dollars (\$1,000,000.00). The Owner shall file current certificates of the required insurance with the County and shall provide thirty (30) day advance written notice to the County of cancellation. Such insurance certificates shall, (a) name the County and Orange County Sheriff's Office as additional insureds, as it relates to maintenance, repair and/or reconstruction of any roads, road drainage, sidewalks or signage, and (b) be issued by companies authorized to do business under the laws of the State of Florida and acceptable to the County. The Orange County Sheriff's Office currently provides insurance coverage for injuries or liability which may occur when a Deputy providing Off Duty services actively takes sworn law enforcement actions. Should the Sheriff's Office provide written notification that it will no longer provide said coverage, the Owner may be required to obtain such insurance.

9. **Road Maintenance.** Neither the existence of this Agreement nor anything contained herein shall impose any obligation or duty upon the County to provide maintenance on and/or drainage of the Private Roads. The maintenance, repair and construction or reconstruction of all Private Roads, drainage and signage within the gated community of BELLA ISLES shall at all times be solely and exclusively the responsibility of the Owner.

10. **Term and Termination.** The term of this Agreement shall be for one (1) year, commencing on the date of the execution by the last of the two parties signing hereto, and this Agreement shall thereafter automatically continue for successive one year terms unless terminated by any party or by default by the Owner as to any material provision of this Agreement including a default relating to insurance in Paragraph 8 above. The parties may elect to terminate this Agreement, and such termination, by the parties, shall be made by thirty (30) days written notice to the other parties; provided, however, payments are made by the Owner in accordance with Paragraph 5 of this Agreement. The provisions of Paragraph 8 herein shall survive the termination of this Agreement.

11. **Entire Agreement.** This Agreement, including all exhibits attached hereto, constitutes the entire understanding and agreement between the parties and may not be changed, altered, or otherwise modified except when reduced to writing and executed in the same manner with approval by the County's Board of County Commissioners.

12. **Notice.** All notices to be given shall be in writing and sent by certified mail, return receipt requested, to the following addresses:

As to County: Orange County Administrator
201 South Rosalind Avenue, 5th Floor
Orlando, Florida 32801

Copy to: Orange County Attorney's Office
201 S. Rosalind Avenue, 3rd Floor
Orlando, Florida 32801

As to Sheriff: Orange County Sheriff's Office
P.O. Box 1440
Orlando, Florida 32802-1440

As to the Owner: Bella Isles Homeowners Association, Inc.
c/o D.R. Horton, Inc.
5850 T.G. Lee Boulevard, Suite 600
Orlando, Florida 32822

13. **Assignment.** It is acknowledged and understood that Owner anticipates assigning ownership of the roads described herein to a homeowner's association at a future date. At such time, Owner shall also assign this Agreement and shall notify County Sheriff's Office of such assignment. The homeowner's association shall thereafter have all duties and responsibilities provided herein.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK;
SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this Traffic Law Enforcement Agreement for Owner on the dates indicated below.



County:

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

BY: *Teresa Jacobs*
Teresa Jacobs, County Mayor

ATTEST: Martha O. Haynie, Orange County Comptroller
As Clerk of the Board of County Commissioners

By: *Katie Smith*
Katie Smith Deputy Clerk

DATE: JAN 06 2015

Owner:

D.R. HORTON, INC., a Delaware corporation

BY: *Wesley G. Ingraham*
Wesley G. Ingraham
(Insert name of individual signing)

DATE: 11/11/14

WITNESS:
Nicole Divenzo
Nicole Divenzo
(Print Name)

Michael M. McGarrity
Michael M. McGarrity
(Print Name)

EXHIBIT "A"

A portion of Lots 59 and 60, Munger Land Co. Subdivision of Section 9, Township 24 South, Range 28 East, as recorded in Plat Book E, Page 22 of the Public Records of Orange County, Florida; said lands being more particularly described as follows:

Commence at the Southeast corner of said Lot 60; thence South $88^{\circ}56'28''$ West, a distance of 45.00 feet along the South line of Lot 60 to the West line of the East 45.00 feet of Lot 60 and the Point of Beginning; thence continue South $88^{\circ}56'28''$ West along the South line of Lot 60, a distance of 15.00 feet; thence leaving said South line run North $00^{\circ}18'56''$ West along a line being 60.00 feet West of and parallel to the East line of Lot 60, a distance of 100.01'; thence run South $88^{\circ}56'28''$ West along the North line of the South 100.00 feet of Lot 60, a distance of 225.02 feet; thence leaving said line run South $00^{\circ}18'56''$ East, a distance of 100.01 feet to the South line of Lot 60; thence along the South line of said Lots 60 and 59 run South $88^{\circ}56'28''$ West, a distance of 318.85 feet to the East line of the West 60.00 feet of Lot 59; thence run North $00^{\circ}28'24''$ West along said East line, a distance of 60.00 feet to the North line of the South 60.00 feet of Lot 59; thence run South $88^{\circ}56'28''$ West along said North line, a distance of 60.00 feet to the West line of Lot 59; Thence run North $00^{\circ}28'24''$ West along said West line, a distance of 576.72 feet to the South line of the North 30.00 feet of Lot 59; thence North $88^{\circ}56'36''$ along the South line of the North 30.00 feet of Lots 59 and 60, a distance of 620.62 feet to the West line of the East 45.00 feet of said Lot 60; thence South $00^{\circ}18'56''$ East along said West line, a distance of 636.72 feet to the Point of Beginning.

EXHIBIT "B"

D.R. HORTON, INC., a Delaware corporation, shall obtain traffic law enforcement by means of employing deputies through the Sheriff's off-duty program.

If a resident of BELLA ISLES wishes to make a traffic complaint, or to request a traffic law enforcement detail, he or she shall contact the Owner for further action. If a resident of BELLA ISLES contacts the Sheriff's Office directly with such a complaint or request, he or she will be directed to the Owner.

EXHIBIT "C"

Sheriff's Letter to County Mayor

[See Next Page]



Sheriff Jerry L. Demings
ORANGE COUNTY SHERIFF'S OFFICE
INTEROFFICE MEMORANDUM

July 1, 2014

TO: Mayor Teresa Jacobs
Board of County Commissioners

FROM: Sheriff Jerry L. Demings

SUBJECT: Bella Isles gated community

I understand Orange County will enter into an agreement with D.R. HORTON, INC. for the Bella Isles gated community for traffic control and enforcement pursuant to Section 316.006(3)(b), F.S. The agreement will allow the Bella Isles Homeowners' Association to employ deputies through this agency's off-duty employment program to enforce traffic laws within the subdivision.

As you know, Section 316.006(3)(b), F.S., reads in part: "No such agreement shall take effect prior to October 1st, the beginning of the county fiscal year, unless this requirement is waived in writing by the Sheriff." Please be informed I hereby waive the October 1st requirement.

If you have any questions, please do not hesitate to contact me. Thank you for your assistance in this matter.

A handwritten signature in black ink, appearing to be "J.L.D.", written over a horizontal line.

J.L.D.

JLD/km

c: Off-Duty Services
Dorothy Burk, Sr. Assistant General Counsel