




Interoffice Memorandum

APPROVED BY ORANGE
COUNTY BOARD OF COUNTY
COMMISSIONERS

BCC Mtg. Date: Jun. 28, 2016

June 6, 2016

TO: Mayor Teresa Jacobs
And the 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

SUBJ: Agreement by and between Orange County, Vizcaya Master Homeowners' Association, Inc., and Vizcaya Heights Multicondominium Association, Inc. for Traffic Law Enforcement on Private Roads

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.

Vizcaya Master Homeowners' Association, Inc. and Vizcaya Heights Multicondominium Association, Inc. have requested such an agreement for the private roads located within the gated community of Vizcaya Phase 1 and Phase 2, Vizcaya Townhomes, and Vizcaya Condominium Phase 1 through Phase 9. The Sheriff's Office has been involved with 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 neither a development-related nor a procurement-related item. No specific project expenditure report is provided as this is a ministerial item.

Action Requested: Approval and execution of Agreement for Traffic Law Enforcement on Private Roads located in the gated community of Vizcaya by and between Orange County, Florida, Vizcaya Master Homeowners' Association, Inc., and Vizcaya Heights Multicondominium Association, Inc. District 1.

MVM/mk

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 Vizcaya is entered into by and between Orange County, Florida, (hereinafter "County") a charter county and political subdivision of the State of Florida, and Vizcaya Master Homeowners' Association, Inc., and Vizcaya Heights Multicondominium Association, Inc. (hereinafter collectively referred as "Owner") Florida corporations, organized under the laws of the State of Florida.

WITNESSETH:

WHEREAS, Owners owns fee simple title to all the private roadways lying within a gated community known as Vizcaya (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 Owners; 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), *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 Owners hereby agree as follows:

1. 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 Owners 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 Owners 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 Owners shall maintain General Liability insurance in the minimum amount of One Million dollars (\$1,000,000.00). The Owners 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 Owners 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 Vizcaya shall at all times be solely and exclusively the responsibility of the Owners.

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 Owners 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 Owners 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 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, FL 32802-1440

As to the Owner: Vizcaya Master Homeowners'
Association, Inc.
8500 The Esplanade
Orlando, FL 32836

As to the Owner: Vizcaya Heights Multicondominium
Association, Inc.
8700 The Esplanade
Orlando, FL 32836

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IN WITNESS WHEREOF, the parties have executed this Traffic Law Enforcement Agreement for Vizcaya Master Homeowners' Association, Inc., and Vizcaya Heights Multicondominium Association, Inc., on the dates indicated below.



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

BY: *Teresa Jacobs*
Teresa Jacobs, County Mayor
Date: 6.28.16

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

By: *Katie Smith*
Deputy Clerk

Print Name: Katie Smith

Date: JUN 28 2016

Vizcaya Master Homeowners'
Association, Inc., a Florida corporation

BY: *Ray Easler*
Ray Easler, President

DATE: 5-9-2016

Vizcaya Heights Multicondominium
Association, Inc., a Florida corporation

BY: *Alan Taretz*
Alan Taretz, President

DATE: 5-9-2016

WITNESS:

Migdalia Otew
Migdalia Otew
(Print Name)

Tammy Lewis
Tammy Lewis
(Print Name)

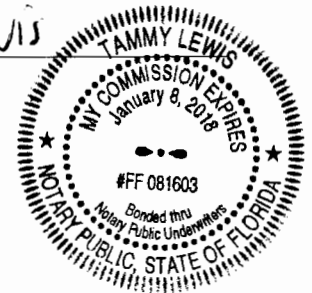


Exhibit "A"

Vizcaya Legal Description

Description:

That Part of Section 34 and 35, Township 23 South, Range 28 East, Orange County, Florida described as follows:

Commence at the Northwest corner of the Northeast $\frac{1}{4}$ of said Section 35 and run $S00^{\circ}25'21''W$ along the West line of said Northeast $\frac{1}{4}$ for a distance of 666.11 feet to the Northwest corner of the South $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 35; thence run $S62^{\circ}33'09''W$ for a distance of 848.45 feet to the POINT OF BEGINNING; thence run $S00^{\circ}25'21''W$ for a distance of 4281.62 feet to a point of the South line of the Southwest $\frac{1}{4}$ of said Section 35, said point lying $N89^{\circ}36'36''W$ a distance of 750.00 feet from the Southeast corner of said Southwest $\frac{1}{4}$; thence run $N89^{\circ}36'36''W$ along said South line for a distance of 1897.24 feet to the Southwest corner of said Section 35; thence run $N89^{\circ}36'36''W$ for a distance of 1985.43 feet to the Southeast corner of the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of aforesaid Section 34; thence run $N00^{\circ}09'29''W$ for a distance of 1994.27 feet to the Northeast corner of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 34; thence run $N89^{\circ}52'23''W$ along the North line of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 34 for a distance of 508.72 feet; thence run $N00^{\circ}00'00''E$ for a distance of 1643.37 feet to the Southwest corner of lands described in Official Records Book 4653, Page 672 of the Public Records of Orange County, Florida; thence run $N78^{\circ}39'03''E$ along the South line of said lands for a distance of 220.74 feet to a point on the Southerly line of lands described in Official Records Book 4596, Page 2382 of said Public Records, said point also being on a curve concave Northeasterly having a radius of 295.00 feet, a central angle of $39^{\circ}25'33''$ and a chord bearing of $S53^{\circ}33'56''E$; thence run Southeasterly along the arc of said curve and said Southerly line for a distance of 202.99 feet to the point of tangency; thence run $S73^{\circ}16'43''E$ along said Southerly line for a distance of 270.00 feet to the point of curvature of a curve concave Southwesterly, having a radius of 227.78 feet and a central angle of $47^{\circ}24'19''$; thence run Southeasterly along the arc of said curve and said Southerly line for a distance of 188.46 feet to the point of tangency; thence run $S25^{\circ}52'24''E$ along said Southerly line for a distance of 170.00 feet to the point of curvature of a curve concave Northeasterly having a radius of 350.00 feet and a central angle of $76^{\circ}18'52''$; thence run Southeasterly along the arc of said curve and said Southerly line for a distance of 466.18 feet to a point of reverse curvature of a curve concave Southwesterly, having a radius of 950.00 feet and a central angle of $55^{\circ}43'37''$; thence run Southeasterly along the arc of said curve and said Southerly line for a distance of 923.99 feet to a point of non-tangency; thence run $N43^{\circ}32'21''E$ along said Southerly line and radial to said curve for a distance of 698.71 feet; thence run $N62^{\circ}33'09''E$ for a distance of 2089.82 feet to the POINT OF BEGINNING.

EXHIBIT "B"

The Owners, Vizcaya Master Homeowners' Association, Inc. and Vizcaya Heights Multicondominium Association, Inc., shall obtain traffic law enforcement by means of employing deputies through the Sheriff's off-duty program.

If a resident of Vizcaya 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 Vizcaya 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]



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

May 10, 2016

TO: Mayor Teresa Jacobs
Board of County Commissioners

FROM: Sheriff Jerry L. Demings

SUBJECT: Vizcaya Gated Community

I understand Orange County will enter into an agreement with Vizcaya Master Homeowners' Association, Inc. and Vizcaya Heights Multicondominium Association, Inc. for the Vizcaya gated community for traffic control and enforcement pursuant to Section 316.006(3)(b), F.S. The agreement will allow the Vizcaya Master Homeowners' Association, Inc. and Vizcaya Heights Multicondominium Association, Inc. 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.

acting Sheriff
U.S. Office
J.L.D. 5/11/16

JLD/km

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