

LOCAL GOVERNMENT COMPREHENSIVE PLANNING CERTIFICATION

PROGRAM AGREEMENT

THIS LOCAL GOVERNMENT COMPREHENSIVE PLANNING CERTIFICATION PROGRAM AGREEMENT (hereinafter referred to as this “Agreement”) is entered into by and between the Florida Department of Community Affairs (hereinafter referred to as the “Department”) and the City of Orlando, Florida (hereinafter referred to as the “City”).

WITNESSETH:

WHEREAS, pursuant to Section 163.3246, Florida Statutes, the Legislature authorized the Department to undertake the Local Government Comprehensive Planning Certification Program (hereinafter referred to as the “Certification Program”); and

WHEREAS, pursuant to the Certification Program, the Department may designate up to eight local governments, in whole or in part, as Certified Communities in each fiscal year; and

WHEREAS, to be eligible for designation as a Certified Community, a local government must demonstrate a record of effective adoption, implementation, and enforcement of its comprehensive plan, an exceptional level of planning expertise, and a commitment to further exemplary planning practices; and

WHEREAS, the Department solicited applications for participation in the Certification Program from all local governments in Florida; and

WHEREAS, on or about January 6, 2003, the City submitted a written application for designation as a Certified Community; and

WHEREAS, on or about May 19, 2003, upon request from the Department, the City submitted additional information in support of its application for designation as a Certified Community; and

WHEREAS, the Secretary of the Department of Community Affairs reviewed the application and additional information and determined that the City meets the criteria for designation as a Certified Community; and

WHEREAS, based on the City having demonstrated compliance with the eligibility requirements of the Certification Program, the Department must enter into a written agreement with the City to designate it as a Certified Community; and

WHEREAS, the purpose of this Agreement is to designate the City as a Certified Community, to certify the geographic area where the City commits to direct growth pursuant to certain objectives set forth herein, and where the Department agrees that there will be less state and regional oversight of the City's comprehensive plan amendment process.

NOW, THEREFORE, in consideration of the undertakings contained herein and the benefits to accrue to the parties, the receipt and sufficiency of which are hereby acknowledged, the City and Department agree as follows:

SECTION 1. Designation as a Certified Community. The City of Orlando, Florida, is hereby designated as a Certified Community pursuant to Section 163.3246, Florida Statutes. The City's designation as a Certified Community (hereinafter referred to as the "Designation") shall be contingent upon the terms set forth herein.

SECTION 2. Basis for Designation. The Department designates the City as a Certified Community based upon the Application received January 6, 2003, and the

additional information received May 19, 2003, which materials are attached hereto as Exhibit “A”, respectively and are incorporated by this reference as if fully set forth herein.

SECTION 3. Certification Boundary. The City’s Certified Community designation shall be effective within the corporate limits of the City of Orlando, Florida (hereinafter referred to as the “Certification Area”) as of the effective date of this Agreement. The boundaries of the City limits are depicted on Exhibit “B”, which is attached hereto and incorporated by this reference as if fully set forth herein. Changes to the Certification Area boundary shall only be accomplished by comprehensive plan amendment and shall be subject to review by the Department prior to adoption by the City pursuant to Section 10B herein. Notwithstanding this requirement, the Parties hereto agree that parcels located within the Orlando-Orange County Joint Planning Area for which the City adopts conceptual future land use designations (or annexes and then adopts official future land use designations) shall be presumptive candidates for inclusion within the Certification Area. The Parties shall amend this Agreement on an annual basis in conjunction with the annual reporting requirement set forth herein in order to identify any changes to the Certification Area boundary map. In the event of a conflict between the Certification Area identified in the City’s adopted comprehensive plan and Exhibit “B” attached hereto, the former shall control.

SECTION 4. Annual Capital Improvement Plan Update. The City shall annually update its Capital Improvement Plan consistent with its Comprehensive Plan and Chapter 163, Part II, Florida Statutes, and shall demonstrate same as needed.

SECTION 5. Visioning Plan. The visioning plan required by Section 163.3246(5)(d), Florida Statutes, is set forth as the City's Vision Statement in Exhibit "C", which is attached hereto and incorporated by this reference as if fully set forth herein.

SECTION 6. Baseline Conditions and Community Development Goals. The City and the Department have identified certain Baseline Conditions and Community Development Goals in the Certification Area as set forth in Exhibit "D", attached hereto and incorporated herein by this reference. The City shall annually measure these Baseline Conditions in the Certification Area and report same to the Department for purposes of gauging progress toward achieving the stated Community Development Goals.

SECTION 7. Work Program. The City has identified a work program in Exhibit "E", attached hereto and incorporated herein by reference, setting forth specific planning strategies and projects that shall be undertaken to achieve improvement in the Baseline Conditions identified in Exhibit "D." Notwithstanding the incorporation of this Work Program, the City may undertake additional projects it deems necessary to achieving the objectives of this Agreement without prior approval of the Department.

SECTION 8. City Commitments. In order to improve the City's exemplary success and dedication to growth management and comprehensive plan implementation, the City commits to complete the following not later than eighteen (18) months from the effective date of this Agreement:

A. Land Development Code. The City shall review its adopted Land Development Code to identify any land development regulations that restrict

compact development. If any such regulations are found, the City shall draft amendments to reduce restrictions to compact development. Any amendment to the Land Development Code shall be presented to the Municipal Planning Board and City Council through the normal public hearing process prescribed by law.

B. Alternative Design Codes. The City further agrees to review and amend, as necessary, existing alternative design codes or adopt new alternative design codes to encourage desirable densities and intensities of use and patterns of compact development.

C. Public Participation. The City shall develop and implement a program to increase public participation in comprehensive planning and land use decisionmaking. This program shall include outreach to neighborhood and civic associations through community planning initiatives.

D. Joint Processes for School Coordination. The City shall demonstrate that the Intergovernmental Coordination Element of its adopted comprehensive plan includes a joint process for coordination between the Orange County School Board and the City, pursuant to Section 163.3177(6)(h)2, Florida Statutes.

E. Extrajurisdictional Effects. The City shall develop a method for addressing the extrajurisdictional effects of development within the Certification Area. This method shall be integrated by amendment into the Intergovernmental Coordination Element of the City's Comprehensive Plan.

F. Coordination with Water Management Districts.

1. The City shall consult and include the relevant Water Management District(s) in the preparation and review of any ordinance for adoption in the City's Land Development Code if the purpose of any such ordinance is to encourage conservation of water resources and promote the use of reclaimed water.

2. The City agrees that it shall continue to participate in the East Central Florida Water Supply Planning Initiative, MyRegion.org, the water supply work group for east central Florida (or the successor to any of these efforts), regional water supply workshops, and other training or workshops related to water supply planning.

3. The City shall provide the relevant Water Management Districts with a copy of any annual report prepared for the Department pursuant to Section 13 of this Agreement, within ten (10) days of its submittal to the Department. The report shall include a full analysis of the current capacity and the District-permitted volume of the potable water utility, the amount of water currently being used, and the amount of water needed to serve proposed developments approved during the year as well as other approved developments not yet under construction.

SECTION 9. Department's Commitments. In order to assist the City in successfully implementing the designation, the Department agrees to take the following actions:

A. Assist the City in identifying funding which may be utilized in implementing this Agreement.

B. Assist the City in coordinating with other local governments, state agencies, and Federal agencies in the implementation of this Agreement.

C. To the greatest extent practicable, provide technical assistance and encourage other state agencies to provide technical assistance in the implementation of this Agreement.

D. The Department shall encourage state agencies to timely respond to requests for technical assistance.

SECTION 10. Comprehensive Plan Amendments.

A. Plan Amendments Not Subject to Regional and State Review. Pursuant to Section 163.3246(9)(a), Florida Statutes, the City shall adopt all comprehensive plan amendments associated with the Certification Area in the manner described in Sections 163.3184 and 163.3187, Florida Statutes, except that state and regional agency review is eliminated. The Department may not issue any Objections, Recommendations, and Comments Report or a Notice of Intent on such comprehensive plan amendments; however, affected persons, as defined in Section 163.3184(1)(a), Florida Statutes, may file a petition for administrative review pursuant to the requirements of Section 163.3187(3)(a) to challenge the compliance of an adopted plan amendment within thirty (30) days of adoption of the amendment. An adopted plan amendment that is not subject to a Notice of Intent as set forth immediately above shall not become effective until thirty-one (31) days after adoption. If challenged within thirty (30) days after adoption, the amendment shall not become effective until the state land planning agency or the Administration Commission issues a final order determining that the amendment is “in compliance”.

B. Plan Amendments Subject to Regional and State Review. The following comprehensive plan amendments shall continue to be subject to full state and regional review under Sections 163.3184 and 163.3189, Florida Statutes:

1. Plan amendments that change the boundary of the Certification Area;
2. Plan amendments that propose a rural land stewardship area, pursuant to Section 163.3177(11)(d), Florida Statutes;
3. Plan amendments that propose an optional sector plan, pursuant to Section 163.3245, Florida Statutes;
4. Plan amendments that propose a school facilities element;
5. Plan amendments that update a comprehensive plan based on an evaluation and appraisal report;
6. Plan amendments that impact lands outside the Certification Area;
7. Plan amendments that implement new statutory requirements that require specific comprehensive plan amendments;
8. Plan amendments that increase hurricane evacuation times or increase the need for shelter capacity on lands within the coastal high hazard area;
9. Plan amendments that implement the water supply planning requirements pursuant to Section 163.3177(6)(c), Florida Statutes; and
10. Plan amendments for proposed DRIs and plan amendments to existing DRIs undergoing substantial deviation review pursuant to s. 380.06(19), Florida Statutes.

C. Twice-A-Year Amendment Cycles. The City may amend its comprehensive plan no more than two (2) times during a calendar year, subject to certain exceptions in Section 163.3187(1), Florida Statutes. Plan amendments that are exempt from state and regional review pursuant to Section 10A of this Agreement and plan amendments that are not exempt from state and regional review pursuant to Section 10B of this Agreement may be proposed and transmitted to the Department at the same time and may be part of one amendment cycle, provided however, the City shall not adopt amendments from Sections 10A and 10B herein in the same ordinance. Instead, the City shall segregate amendments from the respective sections into separate ordinance(s) in order to clearly identify amendments subject to a compliance determination by the Department from those that are not subject to such determination.

D. Process for Submitting Plan Amendments to Department. The City shall submit all comprehensive plan amendments to the Department with a cover letter that specifically identifies those plan amendments that are exempt from the Department's review. In such cases in which the City transmits multiple individual amendments that can be clearly and legally separated and distinguished for the purpose of determining whether to review the proposed amendment, and the Department elects to review several or a portion of the amendments and the City chooses to immediately adopt the remaining amendments not reviewed, the amendments immediately adopted and any reviewed amendments that the local government subsequently adopts together constitute one amendment cycle in accordance with Section 163.3187(1), Florida Statutes.

E. Technical Assistance. In order to achieve effective intergovernmental coordination, the City may seek the technical assistance of state and regional agencies in

the review of comprehensive plan amendments and may request comments from state and regional review agencies. The Department shall encourage such agencies to timely respond to such requests with the requested review and comments. Such requests or the provision of such comments, however, shall not be construed as a waiver of any provision of Section 163.3246, Florida Statutes, or any term of this Agreement.

SECTION 11. Developments of Regional Impact (DRIs) and Florida Quality Developments (FQDs). DRIs and FQDs within the Certified Area shall not be exempt from the review processes described in Sections 380.06 and 380.061, Florida Statutes.

SECTION 12. Criteria for Evaluating Success of Certification. The criteria for evaluating the success of the Designation are as follows:

A. Progress made toward achieving the City's Commitments as set forth in Section 8 of this Agreement, as detailed in the annual report to be submitted by the City to the Department pursuant to Section 163.3246(5)(1), Florida Statutes.

B. Progress made toward improving the Baseline Conditions and achieving the Community Development Goals set forth in Exhibit "D" by implementing the City's Work Program set forth in Exhibit "E". The parties acknowledge that the Certification Program is an experimental project and not all strategies, tools, techniques, and the like undertaken by the City in accordance with this Agreement may be successful in ultimately achieving the Community Development Goals of this Agreement. Accordingly, the Department and the City shall examine changes in the Baseline Conditions in an effort to determine the efficacy of particular planning policies included in the Work Program. The parties may amend this Agreement from time to time to delete

portions of the Work Program that are not advancing the goals of this Agreement and may replace same with other tasks and strategies as may be warranted from time to time. So long as the City undertakes the tasks and adopts the strategies set forth in the Work Program, the mere failure of one or more tasks to significantly improve the numeric results of the Baseline Conditions shall not be the sole basis for the Department terminating this Agreement. The City and the Department shall from time to time review the conditions set forth in Exhibit “D” to gauge their effectiveness as measurements of the progress toward achieving the goals of this Agreement and revise the same as mutually agreed.

C. The City’s adoption and implementation of comprehensive plan amendments consistent with the applicable requirements of Chapter 163, Part II, Florida Statutes, and 9J-5, Florida Administrative Code.

SECTION 13. Monitoring/Reports. Within 45 days of the end of each calendar year, the City shall be required to provide the Department an annual report of the plan amendments adopted during the year, and the progress of the local government in meeting the terms and conditions of this Agreement. Prior to the deadline for the annual report, the City shall hold a public hearing soliciting public input on the progress of the local government in satisfying the terms of this Agreement.

SECTION 14. Effective Date; Duration of Designation. The effective date of this Agreement and the designation of the City as a Certified Community shall be the date this Agreement is last executed by either the City or the Department. The designation shall be effective for a period of ten (10) years from the effective date of this Agreement, unless revoked or renewed.

SECTION 15. Renewal of Designation. The Department may renew the Designation as provided by law.

SECTION 16. Termination of Agreement.

A. Termination by Department. The Department may revoke the Designation and terminate this Agreement by written notice to the City if the Department determines that the City is not substantially complying with the terms of this Agreement, provided however, so long as the City undertakes the tasks and adopts the strategies set forth in the Work Program, the mere failure of one or more tasks to significantly improve the numeric results of the Baseline Conditions shall not be the sole basis for the Department terminating this Agreement. The Department may also revoke the Designation and terminate this Agreement if the City fails to timely adopt an Evaluation and Appraisal Report; fails to adopt an Evaluation and Appraisal Report that is found sufficient; or fails to timely adopt amendments to implement its Evaluation and Appraisal Report that are found “in compliance.” Termination shall be effective twenty-one (21) days after receipt of notice of same by the City. Notice of termination shall state the basis for removing the Designation. Prior to revoking the Designation and terminating this Agreement, the Department shall, except in egregious circumstances or a gross violation of this Agreement, provide written notice of intent to revoke the Designation and terminate this Agreement to the City specifying the following: (1) the City’s failure(s) to meet the terms of this Agreement; (2) the action required to avoid revocation; and (3) a date, not less than ninety (90) days from the notice of intent to revoke designation, by which the action to avoid revocation must be taken. Notices of intent and revocation shall be provided by hand delivery, express mail, or certified mail, return receipt requested,

directed to the Mayor, City of Orlando, 400 South Orange Avenue, Orlando, Florida 32801, with copies by regular mail to the City Attorney and the City Planning Director at the same address, or to such other persons/address as the City may hereafter designate in writing. Revocation by the Department shall constitute final agency action subject to challenge under Section 120.569, Florida Statutes.

B. Termination by City. The City may terminate this Agreement and effect the removal of the Designation by providing written notice of termination to the Secretary of the Department at the following address: William E. Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, or such other person/address as the Department may hereafter designate in writing. Notice shall be by hand delivery, express mail, or certified mail, return receipt requested. Termination of this Agreement by the City shall be effective twenty-one (21) days after the Department receives notice of termination of this Agreement or at such other time as mutually agreed by the parties.

C. Notice of Termination/Revocation to Agencies. The party that issues a notice of termination of this Agreement shall provide copies of the notice to the Secretary of the Department of Environmental Protection, the Secretary of Transportation, the Commissioner of Agriculture, the Executive Director of the Florida Wildlife Commission, the Director of the SJRWMD and the SFWMD, and the Executive Director of the East Central Florida Regional Planning Council.

SECTION 17. Certification of Understanding and Voluntary Execution. The parties and/or their authorized representatives each certify that they have read and understand the terms and conditions of this Agreement and it is voluntarily executed for

the purpose of implementing the Local Government Comprehensive Planning Certification Program as set forth in Section 163.3246, Florida Statutes.

SECTION 18. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties, their heirs, successors and assigns.

SECTION 19. Scope of Authority. This Agreement affects the rights and obligations of the parties under the Local Government Comprehensive Planning Certification Program under Section 163.3246, Florida Statutes. Except as provided in said statute, this Agreement is not intended to determine or influence the authority or decisions of any other regional, state or federal government or agency in the issuance of any permits or approvals which might be required by law for any activity allowed or envisioned by this Agreement.

SECTION 20. Entire Agreement; Amendments. This document contains the entire and exclusive understanding and agreement of the parties but may be modified from time to time by an instrument in writing signed by the parties hereto.

SECTION 21. Changes in Law. Nothing in this Agreement shall be construed to relieve either party from adhering to the law, and in the event of change in any statute or administrative regulation inconsistent with this Agreement, the statute or regulation shall take precedence.

SECTION 22. Construction of Agreement. All parties to this Agreement are deemed to have participated in its drafting. In the event of any ambiguity in the terms of this Agreement, the parties agree that such ambiguity shall be construed without regard to which of the parties drafted the provision in question.

