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## Hillsborough-Orange Interlocal Land Management Agreement Central Orange Coordinated Area

THIS AGREEMENT, made and entered into this 15 day of Dec, 2009, by and between the COUNTY OF ORANGE, a political subdivision of the State of North Carolina, and the TOWN OF HILLSBOROUGH, a municipal corporation duly created and existing under the laws of North Carolina.

### WITNESSETH:

In consideration of the public benefits expected to flow from the cooperative efforts of the parties in establishing a coordinated and comprehensive system of planning within their respective areas of public concern, the parties to this Agreement hereby mutually agree as follows:

#### ARTICLE I. PURPOSE, DEFINITIONS, EFFECTIVE DATE

##### Section 1.1 Purpose of the Agreement

The purpose of this Agreement is to establish a method of coordinated and comprehensive planning in the Central Orange Coordinated Area, as defined herein.

##### Section 1.2 Definitions

- A. Central Orange Coordinated Area. The area displayed on the attached map labeled as Exhibit A.
- B. Hillsborough Jurisdiction. Areas that are either within the Town Limits of Hillsborough, or within Hillsborough's Extraterritorial Area. The Town of Hillsborough is responsible for adopting and administering land use regulations within these areas. The area under Hillsborough's Jurisdiction may be amended over time either as annexation occurs, or as changes are made to the Town's Extraterritorial Area boundary. On the attached Exhibit A, areas within Hillsborough's jurisdiction are shown in shades of gray.
- C. Orange County Jurisdiction. All areas included in the attached map labeled as Exhibit A which are not within Hillsborough's Jurisdiction as defined above. Orange County is responsible for adopting and arranging for administration of land use regulations in this area.
- D. Hillsborough Urban Services Area. An area, shown on the attached map labeled as Exhibit A, which includes properties that are currently within the Hillsborough Jurisdiction, and also areas in the Orange County Jurisdiction that are expected to

develop according to municipal standards, within which it is anticipated that municipal services will be provided, and within which property is expected to be annexed into the Town Limits of Hillsborough as development occurs. It is not expected that Hillsborough will extend water and sewer service outside of this Urban Services Area except for reasons of public health, safety, and general welfare.

- E. Hillsborough Urbanizing Area. A portion of the Hillsborough Urban Services Area, as shown on the attached map labeled as Exhibit A, but outside the area designated as "Hillsborough Jurisdiction," within which Hillsborough development standards will be applied as described in this Agreement. Property is expected to be annexed into the Town Limits of Hillsborough as development occurs. (Shown in the color blue on Exhibit A.)
- F. Orange County Urbanizing Area. A portion of the Hillsborough Urban Services area, as shown on the attached map labeled as Exhibit A, but outside the area designated as "Hillsborough Jurisdiction" and outside the area labeled "Hillsborough Urbanizing Area," within which County development standards will be applied as described in this Agreement. Annexation is possible. Public utilities may be extended as feasible. (Shown in the color orange on Exhibit A.)
- G. Existing Water Service Area Outside Urban Services Area. An area shown on the attached map labeled as Exhibit A which currently is served by Hillsborough's municipal water system, but which is outside the boundary of the Hillsborough Urban Services Area, and for which it is not intended that other municipal services will be provided, and for which annexation is not intended.
- H. Notification Area. All areas included within the Central Orange Coordinated Area boundary as shown on the attached map labeled Exhibit A, but which are not located within any of the areas defined in paragraphs E through H above. (Shown in white on Exhibit A.) There will be no annexation of property within the Notification Area.
- I. Central Orange Coordinated Area Land Use Plan. A land use plan to be adopted by the parties to this agreement subsequent to enactment of this agreement for the areas on Exhibit A shown in blue, orange; and white (all land within the Central Orange Coordinated Area except that which is within Hillsborough's jurisdiction), and as may be amended from time to time.

### Section 1.3 Effective Date and Duration

- A. This Agreement shall become effective upon signatures of the parties.
- B. This Agreement, including any Appendix hereto, shall remain in effect until terminated by mutual agreement or by withdrawal of either party. Subject to

termination provisions of this Agreement, annexation provisions of this Agreement shall be valid for not more than 20 years and may thereafter be renewed. A party may not withdraw until it holds a public hearing on the proposed withdrawal with thirty (30) days notification of the hearing, followed by action and written notice to the other party not sooner than thirty (30) days following the closing of the public hearing. The withdrawal shall be effective one (1) year following receipt by the other party of the written notice.

- C. Upon execution of this Agreement, the parties agree that each will take, in a timely manner, all steps (including but not limited to preparation and adoption of Zoning Maps and all required land use ordinance amendments) required to cause this Agreement to become effective, and will notify the other party with those steps have been taken.

## ARTICLE 2. ACTIONS SUBSEQUENT TO EXECUTION OF AGREEMENT

The parties to this agreement shall initiate work to complete the following, subsequent to execution of this agreement:

### Section 2.1. Adoption of Joint Land Use Plan

- A. Hillsborough shall adopt a Land Use Plan designating future land use for the Hillsborough Urbanizing Area and the Orange County Urbanizing Area (areas shown in blue and orange in Exhibit A), inviting comments from the Orange County Board of Commissioners.
- B. Upon receipt of the adoption described in Section 2.1.A, the Orange County Board of Commissioners shall consider endorsing the land use designations adopted by Hillsborough, adding land use designations for the Notification Area (area shown in white on Exhibit A).
- C. Both parties, Hillsborough and Orange County shall then either (1) Each adopt the composite land use plan if deemed to be acceptable; or (2) If one or both parties desire changes to be made to the recommendations, the parties shall arrange for negotiation and agreement on such changes followed by joint approval.

### Section 2.2. Adjustment of Hillsborough Extraterritorial Jurisdiction

- A. Hillsborough shall prepare a request to submit to Orange County, offering to relinquish existing Extraterritorial Jurisdiction as part of County action to adjust the ETJ boundary as shown on Exhibit A, and requesting extension of Extraterritorial Jurisdiction as shown on Exhibit A.

- B. Upon receipt of the request described in Section 2.1.A, Orange County shall take action to amend the Hillsborough Extraterritorial Jurisdiction boundary, as shown in Exhibit A.

### Section 2.3. Adoption of Zoning and Subdivision Regulations

- A. Following the land use designations of the jointly adopted Land Use Plan described in Section 2.1 above, Hillsborough shall adopt zoning and subdivision regulations (including amendments to the Zoning Map) for application to ETJ areas, and recommend Orange County adoption of zoning and subdivision regulations (including amendments to the Zoning Map) for the Hillsborough Urbanizing Area and the Orange County Urbanizing Area (areas shaded blue and orange on Exhibit A).
- B. Upon receipt of the actions described in Section 2.3.A and following the land use designations of the jointly adopted Land Use Plan described in Section 2.1 above, Orange County shall take action to amend zoning and subdivision regulations (including amendments to the Zoning Map) for application to the Hillsborough Urbanizing Area, the Orange County Urbanizing Area, and the Notification Area (areas shaded blue, orange and white on Exhibit A), including areas for which Hillsborough Extraterritorial Jurisdiction has been rescinded.

## ARTICLE 3. ADOPTION, ADMINISTRATION AND AMENDMENT OF STANDARDS

### Section 3.1. Standards Within the Hillsborough Urbanizing Area (shown in blue on Exhibit A)

- A. Hillsborough shall prepare a Zoning Map for that portion of the Urban Services Area that lies within the Hillsborough Urbanizing Area and shall recommend its adoption by Orange County. Upon approval and adoption of this Zoning Map by Orange County as prescribed in Subsection B of this Section, this shall become part of the Orange County Zoning Ordinance. The Zoning Map shall be prepared using zoning districts which correspond to the text of the Hillsborough Zoning Ordinance.
- B. Upon completion of the Zoning Map referred to in Section 3.1A, Orange County shall amend its Zoning Atlas in accordance with said Map. Orange County shall also adopt by reference the Hillsborough Zoning Ordinance and Subdivision Regulations and make those provisions applicable to the Hillsborough Urbanizing Area.

Section 3.2. Standards Within the Orange County Urbanizing Area (shown in orange on Exhibit A)

Within the Orange County Urbanizing Area, the Orange County Zoning Ordinance (including Zoning Atlas) and Subdivision Regulations that are in effect on the effective date of this Agreement shall remain in effect unless amended in accordance with Section 3.9 of this Agreement.

Section 3.3. Standards Within the Notification Area (shown in white on Exhibit A)

Within the Notification Area, the Orange County Zoning Ordinance (including Zoning Atlas) and Subdivision Regulations that are in effect on the effective date of this Agreement shall remain in effect unless amended in accordance with Section 3.9 of this Agreement.

Section 3.4. Permit Administration within the Hillsborough Urbanizing Area (shown in blue on Exhibit A)

A. Except as otherwise provided in Sections 3.5 and 3.6, the Town of Hillsborough shall perform all functions related to the administration of the ordinances referenced in Section 3.1B. Subject to the remainder of this Section, Hillsborough shall administer the referenced ordinances just as if the land were located within the Town's planning jurisdiction. Administration shall include, but not be limited to, the following:

1. Receipt and processing of applications;
2. Consideration by applicable advisory and permit-issuing boards;
3. Issuance of any required permits and certifications;
4. Review and approval of required site/construction plans;
5. Conducting necessary site/building inspections;
6. Enforcement of all standards;
7. Any other acts or things necessary to administer the Ordinance;

and shall ensure that a developer complies with all applicable ordinance requirements and the terms and conditions of any permit issued by the Town. The Town may also charge fees for processing applications, conducting site/construction plan reviews, and carrying out site/building inspections in accordance with fee schedules applicable within its planning jurisdiction.

B. Whenever Hillsborough receives an application for a development permit as defined in this Agreement relating to land within the Hillsborough Urbanizing Area, it shall forward copies of the application to Orange County for review. Hillsborough shall establish timetables to ensure that Orange County has an opportunity to make recommendations regarding such applications within the framework of the County's regularly scheduled meeting dates. To the extent possible, the timetables of the County and the Town shall provide for

simultaneous review to expedite application processing, as described in Exhibit B, an existing Courtesy Review agreement; provided, however, the Town may not vote to issue or deny a permit until it has received the recommendations of Orange County or until the expiration of sixty (60) days after Orange County has received the application, whichever comes first.

Section 3.5. Permit Administration Within the Orange County Urbanizing Area (shown in orange on Exhibit A)

- A. Except as otherwise provided in Section 3.8 and the remaining provisions of this Section, Orange County shall perform all functions related to the administration of the ordinances referenced in Section 3.2.
- B. Whenever Orange County receives an application for a development permit as described in the "Courtesy Review Agreement" attached as Exhibit B, relating to land located within the Orange County Urbanizing Area, it shall forward copies of the application to Hillsborough for review. The County shall establish timetables to ensure that Hillsborough has an opportunity to make recommendations regarding such applications within the framework of Hillsborough's regularly scheduled meeting dates. To the extent possible, the timetables of the County and the Town shall provide for simultaneous review to expedite application processing; provided, however, the County may not vote to issue or deny a permit until it has received the recommendations of Hillsborough or until the expiration of sixty (60) days after Hillsborough has received the application, whichever comes first.

{{Note: covered below in 3.6.B}}

Section 3.6. Permit Administration Within the Notification Area (shown in white on Exhibit A)

- A. Except as otherwise provided in Section 3.8 and the remaining provisions of this Section, Orange County shall perform all functions related to the administration of the ordinances referenced in Section 3.2.
- B. Whenever Orange County receives an application for a development permit as described in the "Courtesy Review Agreement" attached as Exhibit B, relating to land located within the Notification Area, it shall forward copies of the application to Hillsborough for informational purposes.

Section 3.7 Enforcement Remedies

- A. Permit revocation, if necessary and authorized by ordinance, shall be handled by the same individual or board authorized to issue the original permit.

- B. Within those portions of the Hillsborough Urbanizing Area where the ordinances specified in Section 3.1B are administered by Hillsborough, enforcement efforts through the use of civil penalties, criminal penalties or injunctive relief shall be initiated by Hillsborough. Hillsborough shall have the duty to defend at its own expense and shall indemnify and hold harmless, to the extent that it can legally do so, Orange County, its Board of Commissioners, its advisory boards, its staff and all members of its boards and staffs, in their official and individual capacities, from any and all claims, actions, proceedings, expenses, damages or liabilities, including attorneys' fees and court costs, resulting from the Town's administration of the ordinances specified in Section 3.1B.
- C. Orange County shall notify Hillsborough and Hillsborough shall notify the County as soon as practicable thereafter of any such claim, action or proceeding.

### Section 3.8 Land Use Plan Amendments

The process for amending the Joint Land Use Plan shall be the same as the process for initially adopting the plan, as spelled out in Section 2.1.

### Section 3.9 Ordinance and Zoning Map Amendments

- A. Proposed amendments to the Zoning Ordinance or Zoning Map applicable to properties within the Hillsborough Urbanizing Area shall be initiated by or referred to Hillsborough. No such amendment may become effective until after it has been adopted by both Orange County and the Town of Hillsborough, following a joint public hearing by both governing bodies. In reviewing and taking action on such proposed amendments, the adopted Joint Land Use Plan shall be considered in good faith as a guide to decision-making.
- B. Proposed amendments to the Zoning Ordinance or Zoning Map applicable to properties within the Orange County Urbanizing Area shall be initiated by or referred to Orange County and adopted in accordance with the procedures set forth in County ordinances. . No such amendment may become effective until after it has been adopted by both Orange County and the Town of Hillsborough, following a joint public hearing by both governing bodies. In reviewing and taking action on such proposed amendments, the adopted Joint Land Use Plan shall be considered in good faith as a guide to decision-making.
- C. Whenever Hillsborough proposes to amend the text of its Zoning Ordinance or Subdivision Regulations, Hillsborough shall deliver a copy of the full text of the proposed amendment to Orange County not later than thirty (30) days before the date of the public hearing on any such amendment. However, with the written consent of the Orange County Manager or his/her designee, this thirty (30) day period may be reduced to not less than ten (10) days. Unless Orange County files a written objection on or before the date of the public hearing on the proposed ordinance amendment, then adoption of the amendment by Hillsborough shall

automatically effect a corresponding amendment to the ordinance adopted by reference by Orange County as provided in Section 3.1. If Hillsborough adopts an amendment despite Orange County's objection, then it shall refer such amendment to Orange County with a request that the County make corresponding changes expeditiously so that Hillsborough may continue to enforce within its portion of the Urbanizing Area the same standards that it enforces within its own planning jurisdiction. In the event of objection by Orange County as provided herein, no such amendment shall be effective within the Hillsborough Urbanizing Area until it is adopted by Orange County. Amendments shall be made in consideration of and consistent with the Joint Land Use Plan.

- D. Orange County may not unilaterally amend the text of its zoning or subdivision ordinances applicable to the Urbanizing Areas (i.e., those ordinances adopted by reference pursuant to Section 3.1B). Amendments to the ordinances referenced in Section 3.1B by Orange County may be accomplished only pursuant to Subsection C above (including adoption by Orange County following a request to do so by Hillsborough). Any petitions or requests to amend these ordinances received by the County or initiated by the County shall be referred to Hillsborough.
- E. Proposed amendments to the text of this Agreement shall not become effective until approved by Hillsborough and Orange County.

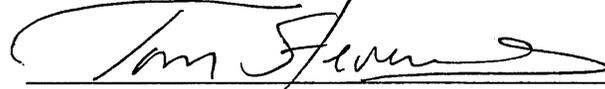
#### ARTICLE 4. LIMITATIONS ON ANNEXATIONS

Except pursuant to the written consent of both parties to this Agreement, Hillsborough may not annex land outside of the Urbanizing Area boundaries (whether by voluntary or involuntary annexation or any other method authorized by law), nor shall any party seek special legislation accomplishing such annexation.

THIS AGREEMENT entered into this 15 day of Dec, 2009.

  
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Chair, Orange County Board of Commissioners

Attest:

  
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Mayor, Town of Hillsborough

Attest:

