

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
APR 10 2012 *lf/cms*

INTERLOCAL AGREEMENT

**SEMINOLE COUNTY, FLORIDA
&
ORANGE COUNTY, FLORIDA**

**AQUATIC VEGETATION CONTROL IN
LAKES BURKETT & MARTHA**

THIS AGREEMENT is made and entered into as of the date of last execution below, by and between **SEMINOLE COUNTY**, a charter county and political subdivision of the State of Florida, ("Seminole") whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida, 32771, and **ORANGE COUNTY**, a charter county and political subdivision of the State of Florida, ("Orange") whose address is 201 South Rosalind Avenue, Orlando, Florida, 32801.

WITNESSETH:

WHEREAS, pursuant to the Florida Interlocal Cooperation Act, Chapter 163, Florida Statutes, local governments are encouraged to make efficient use of their respective powers, resources and capabilities by enabling them to cooperate on the basis of mutual advantage and to provide services in a manner that will accord best with geographic and other factors influencing the needs of local communities; and

WHEREAS, Orange and Seminole (collectively, the "Counties") are concerned and interested in the timely and adequate provision of aquatic vegetation control to Lake Burkett, located within the political boundaries of both Counties, and Lake Martha within the political boundaries of Orange; and

CERTIFIED COPY
MARYANNE MORSE
CLERK OF CIRCUIT COURT
SEMINOLE COUNTY, FLORIDA
BY *[Signature]*
DEPUTY CLERK

WHEREAS, Lakes Burkett and Martha (collectively, the “Lakes”) have similar aquatic vegetation conditions and are connected via a navigable canal which yields an essential need for inter-related lake management and aquatic vegetation control measures to secure optimal aquatic conditions in the Lakes; and

WHEREAS, the provision of aquatic vegetation control to the Lakes will specially benefit the lakefront properties on the Lakes; and

WHEREAS, it is the intent of both Counties to establish municipal service benefit units (“MSBU”) within their respective jurisdictions to fund the provision of such lake management and aquatic vegetation control on the Lakes; and

WHEREAS, the majority of the lakefront parcels on the Lakes lie within the boundaries of Orange and the Counties have determined that their respective resources will be most efficiently used through mutual cooperation in the manner set forth in this Agreement; and

NOW THEREFORE, in consideration of mutual understandings and agreements set forth herein, the Counties agree as follows:

Section 1. Recitals. The recitals above are true and correct and form a material part of this Interlocal Agreement.

Section 2. Purpose. The purpose of this Interlocal Agreement is to provide for certain terms and conditions for the mutual funding by both Counties of, and the performance by Orange of services related to, certain aquatic vegetation control on the Lakes for the special benefit of properties fronting on such Lakes.

Section 3. Term. This Interlocal Agreement shall commence and become effective upon the date of last execution of this Interlocal Agreement by the parties below. This Interlocal

Agreement shall automatically be renewed thereafter for successive periods not to exceed one (1 year) each, unless earlier terminated as provided herein.

Section 4. Seminole County Obligations.

(a) To the extent that MSBU funds are collected and available to SEMINOLE for such purpose, SEMINOLE shall be responsible for funding twenty percent (20%) of the annual actual costs of full-lake *Hydrilla verticillata* (Hydrilla) management by chemical, mechanical or biological methods, or any combination of these alternatives, associated with the Lakes. Actual costs shall include the cost of: (i) the chemicals necessary for herbicide application, (ii) biological intervention (triploid grass carp stocking), (iii) grass carp barrier maintenance, and (iv) all labor and equipment costs associated with performing services listed in Section 4 (a)(i, ii, iii).

(b) In advance of lake treatments requiring procurement of herbicide product, SEMINOLE shall be granted an opportunity to direct purchase herbicide chemicals. SEMINOLE is responsible for providing notification of its herbicide purchase decision to ORANGE within thirty (30) days of receipt of such notification. If SEMINOLE defers purchase to ORANGE, then ORANGE will include herbicide reimbursement in its invoice to SEMINOLE.

(c) The annual budgeted amount established by SEMINOLE shall serve as the maximum amount of actual cost SEMINOLE will be required to contribute towards full-lake Hydrilla control in the Lakes in any one fiscal year.

(d) SEMINOLE shall be responsible for all other aquatic plant management needs within its jurisdictional boundary.

(e) SEMINOLE shall be responsible for: (a) coordinating MSBU communication and assessment activities related to lakefront properties located within Seminole County, (b) conducting an on-site lake evaluation of the Lakes at least once each fiscal year, (c) participating

at least once a year with ORANGE in formulating annual Hydrilla management and budget plans for the Lakes, and (d) participating in public meetings scheduled to include owners of lakefront property on Lake Burkett.

Section 5. Orange County Obligations.

(a) To the extent that MSBU funds are collected and made available to ORANGE for such purpose, ORANGE shall be responsible for funding eighty percent (80%) of the annual actual costs for full lake Hydrilla management by chemical (herbicide application), biological, or mechanical means, or any combination of these alternatives. Actual costs shall include the cost of: (i) chemicals necessary for herbicide application (both initial and follow-up treatments), (ii) biological intervention (triploid grass carp stocking), (iii) grass carp barrier maintenance, and (iv) all labor and equipment costs associated with performing services listed in Section 5 (a) (i, ii, iii).

(b) ORANGE shall be responsible for all other aquatic plant management needs within its jurisdictional boundary.

(c) The annual budgeted amount established by ORANGE shall serve as the maximum amount of actual cost ORANGE will be required to contribute towards aquatic plant control in the Lakes in any one fiscal year. The amount of work programmed for any one year and reflected by the actual costs shall be determined by the combined annual budgeted amounts of ORANGE and SEMINOLE.

(d) To the extent MSBU funds are available for such purpose, ORANGE shall be responsible for providing all labor, equipment and chemicals necessary to conduct lake inspection, herbicide applications, triploid grass carp stocking, coordinate triploid grass carp barrier installation, maintenance and monitoring associated with the provisions of Hydrilla control in the Lakes.

(e) ORANGE shall be responsible for: (a) coordinating MSBU communication and assessment activities related to lakefront properties located within Orange County, (b) participating at least once a year with SEMINOLE in formulating annual lake management and budget plans for the Lakes, (c) providing routine notification to SEMINOLE of Hydrilla control treatment and lake inspection activities and results, and (d) participating in public meetings scheduled to include owners of lakefront property on the Lakes.

(f) ORANGE will be responsible for providing sixty (60) days advance notification to SEMINOLE of anticipated herbicide product cost and for providing SEMINOLE with the opportunity to direct purchase the herbicide product required as per cost share percentage.

Section 6. Billing and Payment.

(a) ORANGE shall submit a request to SEMINOLE within sixty (60) days of any planned or conducted Hydrilla treatment or series of treatments. The request shall include an itemized original invoice properly dated, describing services rendered or to be rendered, the actual costs associated with the services provided, and all other information required by this Agreement.

(b) ORANGE agrees to calculate, and SEMINOLE agrees to pay twenty percent (20%) of, ORANGE county employee labor costs for herbicide application and barrier maintenance using ORANGE's "charge-back methodology" which is a semi-loaded rate (currently a 1.4165 multiplier applied to employee hourly rates). Supervisory, managerial and/or contracted labor cost of either COUNTY is excluded from reimbursement terms authorized by this agreement.

(c) ORANGE agrees to calculate, and SEMINOLE agrees to pay twenty percent (20%) of, equipment rates based upon the then current FEMA rates.

- (d) ORANGE invoices shall be sent to SEMINOLE at:

Seminole County Finance
Seminole County Board of County Commissioners
Post Office Drawer Q
Sanford, Florida 32772-0869

- (e) A duplicate copy shall be sent to:
MSBU Program, Department of Fiscal Services
Seminole County Services Building
1101 East First Street
Sanford, Florida 32771

(f) Payment shall be made after review and approval by SEMINOLE (which shall not be unreasonably withheld) within thirty (30) days of receipt of invoice. Payment made payable to ORANGE shall be sent to:

Orange County Environmental Protection Department
Attn: Lake Management, Lake Martha-Burkett
800 Mercy Drive, Suite 4
Orlando, Florida 32808

(g) For planned treatments that require significant pre-orders of herbicide that may exceed ORANGE MSBU funds ORANGE shall have the right to invoice SEMINOLE, and receive advance payment or herbicide product from SEMINOLE. SEMINOLE shall have the right to issue pre-payment to ORANGE or to provide product obtained by direct purchase.

(h) In the event of a disagreement over the services to be rendered or the actual costs thereof, the rendering of services by ORANGE for which payment from SEMINOLE would otherwise be contemplated shall cease until agreement is reached between the parties and the agreed upon actual costs are paid to ORANGE. This section shall not be interpreted to prevent ORANGE or SEMINOLE from rendering such necessary lake maintenance services on the Lakes in their respective boundaries during such period of disagreement as are deemed urgent by either County and as are funded solely through their respective County funds.

Section 7. Termination. This Interlocal Agreement may be terminated by either County without cause, upon written notice delivered to the other County not less than ninety (90) days prior to stated termination date.

However, any obligation under this Agreement incurred prior to the termination date shall survive the termination and be performed or paid, as the case may be. In the event of termination, SEMINOLE shall pay any remaining outstanding invoices from ORANGE for services rendered prior to the effective date of such termination. After such termination, the Counties shall have no obligation to perform aquatic plant control on the Lakes as contemplated by this Agreement. However, after such termination, the Counties shall have the right, but no obligation under this Agreement, to continue aquatic plant control on the Lakes in their respective boundaries.

Section 8. Indemnification. Neither party to this Agreement, its officers, employees and agents shall be deemed to assume any liability for the acts, omissions and negligence of the other party, its officers, employees and agents.

Section 9. Assignments. Neither party to this Agreement shall assign this Agreement, nor any interest arising herein, without the written consent of the other.

Section 10. Notices. Whenever either County desires to give notice unto the other, notice shall be sent to the following addresses:

SEMINOLE COUNTY:

MSBU Program Manager
Seminole County Services Building
1101 East First Street
Sanford, Florida 32771

ORANGE COUNTY:

Environmental Program Supervisor
Environmental Protection Division
800 Mercy Drive, Suite 4
Orlando, Florida 32803

Either County may change, by written notice as provided herein, the addresses or persons for receipt of notices.

Section 11. Compliance With Laws And Regulations. In providing all services pursuant to this Agreement, the Counties shall abide by all statutes, ordinances, rules, and regulations pertaining to, or regulating the provisions of, such services, including those now in effect and hereafter adopted.

Section 12. Amendment and Waiver. Neither this Interlocal Agreement nor any portion of it may be modified or waived orally. The provisions of this Agreement may be amended or waived only pursuant to an instrument in writing approved by the respective Boards of County Commissioners of ORANGE and SEMINOLE and jointly executed by such Counties. Either County shall have the right, but not the obligation, to waive any right or rights or conditions intended for the benefit of such County without being deemed to have waived any other rights. Such waiver shall be valid only if expressly granted in writing as set forth above.

Section 13. Third Party Beneficiary. This Interlocal Agreement is binding upon and solely for the benefit of the Counties and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party. Nothing in this Interlocal Agreement is intended or shall be construed to confer upon or give any person, corporation or governmental entity or agency, other than the Counties, any right, remedy or claim under or by reason of this Interlocal Agreement or any provisions hereof.

Section 14. Governing Law. This Interlocal Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, the Counties have executed this Interlocal Agreement as of the dates of last execution written below.

ORANGE COUNTY, FLORIDA,
By: Board of County Commissioners

By: *Teresa Jacobs*
Teresa Jacobs
Orange County Mayor

Date: 4.11.12

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

By: *Martha O. Haynie*
Deputy Clerk

Date: APR 11 2012
CESD-C-02



ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

BY: *Brenda Carey*
BRENDA CAREY, Chairman

Mayanne Morse
MAYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

As authorized for execution
By the Board of County Commissioners
at their 1/10, 2012
regular meeting.

For the use and reliance
of Seminole only.

Approved as to form and
Legal sufficiency.

[Signature]
County Attorney