

**INTERLOCAL AGREEMENT
BETWEEN SEMINOLE COUNTY AND CITY OF LAKE MARY
RELATING TO ADMINISTRATION OF THE CITY'S SHARE
OF FUNDS UNDER THE CENT FOR SEMINOLE LOCAL SALES SURTAX
FOR THE CITY'S TRANSPORTATION IMPROVEMENT PROJECTS**

THIS INTERLOCAL AGREEMENT, is made and entered into this 15th day of MAR., 2002, by and between **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771 (hereafter referred to as the "COUNTY") and the **CITY OF LAKE MARY**, a Florida municipal corporation, whose address is 100 N. Country Club Road, Lake Mary, Florida 32795 (hereafter referred to as "CITY").

WITNESSETH:

WHEREAS, in May and June of 2001, the COUNTY entered into an Interlocal Agreement with the Seminole County School Board and the seven (7) municipalities within Seminole County, which Interlocal Agreement is entitled the "Seminole County Transportation and Education Infrastructure Plan Interlocal Agreement" (the "2001 Interlocal Agreement"), and relates to the improvements to be funded with local government infrastructure sales surtax proceeds and the distribution of revenues to fund the improvements, as approved by the voters in a referendum conducted on September 4, 2001; and

WHEREAS, the CITY is a party to the 2001 Interlocal Agreement, and is bound by the terms of the 2001 Interlocal Agreement and by the applicable provisions of State law; and

WHEREAS, the CITY's Transportation Improvement Projects are, pursuant to the 2001 Interlocal Agreement, to be implemented by the CITY, which implementation shall

include any and all phases and aspects of the Projects from planning and design through construction and operation; and

WHEREAS, the CITY's share of the revenues collected from the local government infrastructure sales surtax constitutes funds of the CITY, pursuant to the 2001 Interlocal Agreement; and

WHEREAS, the COUNTY and the CITY desire to cooperate with regard to accomplishing the City Transportation Improvement Projects for the benefit of the citizens of COUNTY and the CITY and require a mechanism to provide funds from the local government infrastructure sales surtax consistent with the terms of the 2001 Interlocal Agreement which are, have been, or will be on deposit with the COUNTY, and which have been or will be incrementally transferred to the CITY so that the CITY can effectively implement the CITY Transportation Improvement Projects; and

WHEREAS, the CITY's Transportation Improvement Projects and share of revenues as set forth in the 2001 Interlocal Agreement is attached hereto as Exhibit "A" to this Agreement; and

WHEREAS, this Interlocal Agreement serves a public purpose and is authorized pursuant to the provisions of *Chapters 125, 163, and 166, Florida Statutes*, and other applicable law,

NOW, THEREFORE, in consideration of the promises, covenants and commitments contained herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged as to both parties, the parties agree as follows to the funding of CITY Transportation Improvement Projects by

the local government infrastructure sales surtax proceeds and the implementation of the Transportation Improvement Projects by the CITY.

Section 1. Recitals. The above recitals are true and correct and form a material part of this Interlocal Agreement upon which the parties have relied.

Section 2. Term. This Interlocal Agreement shall become effective upon approval by the Governing Bodies of the COUNTY and the CITY, and shall remain in effect through contract close out between the CITY and all of its contractors relative to the CITY Transportation Improvement Projects, or through the conclusion of disbursement and expenditure of the full CITY share of revenues, whichever occurs later.

Section 3. Disbursement of Funds by the County.

(a) The total financial obligation of the COUNTY under this Interlocal Agreement is that the COUNTY shall reimburse the CITY for legitimate and documented expenses as expressed in the CITY's contractual agreements with respective road improvement contractors, consultants, materials vendors, or other contractors for the CITY Transportation Improvement Projects consistent with the terms of this Interlocal Agreement, and subject to the availability of funds from the CITY share of revenues. Said funds shall be solely and exclusively derived from the CITY's share of revenues from the infrastructure sales surtax, including interest income applicable to the CITY's share of revenues while on deposit with the COUNTY. These funds shall be utilized, consistent with *Section 212.055, Florida Statutes (2001)*, for the purposes of the CITY Transportation Improvement Projects. The funds shall not be used for collateral programs or projects, and not for programs or projects which may be

accomplished simultaneously with, in conjunction with, or as a result of CITY Transportation Improvement Projects. Intersection improvements, however, to roads intersecting the Projects may be accomplished and shall be deemed eligible for funding pursuant to this Interlocal Agreement. Further, this exclusion is intended to disallow expenditures for CITY staff time and labor charges unless such costs are recorded as capitalized costs of the CITY Transportation Improvement Projects to the fixed asset accounts of the CITY as reported in the CITY's annual audited financial statements, and to disallow expenditures which pertain or relate to work not directly related to the CITY Transportation Improvement Projects. In the event that the CITY is entitled to any development commitments for or related to the CITY Transportation Improvement Projects, it shall use such funds for directly related costs for the projects not reimbursed under this Agreement. The CITY may advance fund the CITY Transportation Improvement Projects prior to the availability of funding as set forth in this Interlocal Agreement. In such event, invoices or other appropriate contract documents shall be reviewed and approved by the County Engineering Division to determine whether the reimbursement is consistent with the terms and conditions of this Interlocal Agreement.

(b) Upon initial award of the engineering design agreement, award of the construction contract, authorization to initiate acquisition activities, or agreement between the CITY and a contractor for contract amendments to any contract for each of the capital projects as identified in Exhibit "A", the CITY shall be eligible to receive an advance of up to one hundred percent (100%) of the agreement, contract award amount, or acquisition authorization. The eligibility to receive advances shall be subject to the CITY's affirmation that it will record receipts and disbursement of advances in a

separate interest bearing account. These advances shall be limited by the availability of funds from the CITY share of revenues. If adequate funds are unavailable, the CITY may either submit for future reimbursements as outlined in *Section 5(b)* or may request that the advance be incrementally forwarded as funds from the CITY share of revenues become available.

(c) Upon demonstration through a comprehensive, phased multi-year schedule that other CITY funding sources will be used throughout the life of the infrastructure sales tax levy to advance the overall program of CITY transportation projects set forth in Exhibit "A", the CITY shall be eligible to request that the advances referenced in Section 3(b) of this Agreement shall be increased to one hundred (100%) per cent of the CITY's share of the infrastructure sales tax revenues for the duration of the term of this Agreement. In making such a request, the CITY shall agree to submission by the CITY's financial officer of quarterly reports to the COUNTY in such format as may reasonably be required by the COUNTY.

(d) Should an audit reveal that any funds distributed pursuant to this agreement were expended or applied for purposes or services other than as authorized by the 2001 Interlocal Agreement or this agreement, then the CITY shall promptly, from funds other than those distributed pursuant to this agreement, reimburse the COUNTY the amount the audit determined to be improperly spent or applied.

Section 4. Plenary Status of City Transportation Improvement Projects.
For all purposes, the CITY Transportation Improvement Projects as described in the attached Exhibit "A" shall be solely and exclusively projects of the CITY. The CITY shall determine the typical sections, design standards, right-of-way limits, and all related and

similar matters for the Projects consistent with State law and the terms of this Interlocal Agreement. However, the Projects shall be consistent with the purposes, terms, and conditions set forth in the 2001 Interlocal Agreement. The parties desire to cooperate in the successful implementation of the Projects, but the COUNTY's actions pursuant to this Interlocal Agreement and all other matters that the COUNTY may accomplish relative to the Projects shall be for the COUNTY's purposes, and not the CITY's. The COUNTY shall not be deemed a partner or co-venturer as to the Projects or any portion or part of the Projects. The CITY shall implement the Projects through the use of in-house or contractual services with regard to design, permitting, value engineering, right-of-way acquisition, construction, maintenance of access and traffic, landscaping, and construction engineering and inspection as well as any and all related services and activities in any way associated with the Projects.

Section 5. City's Duties. In addition to all other covenants, obligations, duties and responsibilities set forth in this Interlocal Agreement, during the course of this Agreement, the CITY shall:

(a) Award, enter, administer and supervise all design, planning, surveying, appraising, environmental auditing and remediation, negotiating, value engineering, right-of-way acquisition, legal activities, condemnation, permitting, construction, landscaping inspection, access and traffic maintenance, and any and all construction and project related contracts necessary in any way to accomplish the ultimate construction of the CITY Transportation Improvement Projects in accordance with the plans and contract documents.

(b) Review and approve all payment requests submitted for labor, materials, or services used in the implementation of the CITY Transportation Improvement Projects. Invoices or other appropriate documentation for reimbursement or advances shall be submitted to the COUNTY's Engineering Division, in a format specified by the COUNTY.

(c) Obtain any and all necessary lien waivers or releases in connection with payment requests or disbursements.

(d) Furnish to the COUNTY a full and final accounting of all costs, disbursements and receipts in accordance with generally accepted accounting and auditing principles.

(e) Obtain any and all local, regional, State, and Federal permits necessary for the CITY Transportation Improvement Projects.

(f) Obtain "as built" surveys by a Florida licensed land surveyor for the CITY Transportation Improvement Projects.

(g) Make any and all timely and proper payments of accurate and payable valid invoices received from any and all contractors or subcontractors.

(h) Submit schedules and status reports for the CITY Transportation Improvement Projects two (2) times per year in such formats as may be mutually agreed upon.

Section 6. **COUNTY's Duties.** During the course of this Interlocal Agreement, the COUNTY shall:

(a) Review copies of invoices or payment requests and disbursements records delivered by the CITY to the COUNTY, and notify the CITY within fifteen (15) business days of any objections to the requests or disbursements.

(b) Subject to the review period, the not-to-exceed amount, and the terms and conditions set forth in this Agreement, advance funds to the CITY or reimburse the CITY for the actual authorized and payable costs as set forth in the CITY's contractual agreements with respective road improvement contractors, consultants, materials vendors, or other contractors for the CITY Transportation Improvement Projects consistent with the terms of this Interlocal Agreement through construction completion of each of the CITY Transportation Improvement Projects. Payments of invoices, payment requests, and disbursement records not objected to by the COUNTY shall be made within twenty (20) calendar days of receipt by the COUNTY of the invoice from the CITY indicating amounts payable by the CITY to contractors or subcontractors working on the Projects.

(c) Cooperate with the CITY in the review of any matters relating to the Projects.

(d) Serve as administrator of the 2001 Seminole County Transportation and Education Infrastructure Plan Interlocal Agreement as set forth in that Agreement, including, but not limited to, providing for interpretations, reasonable enforcement and implementation, coordination of overall program reporting, and determinations of fund availability as may be required.

Section 7. Remedies. Each party shall have any and all remedies as permitted by law. The parties agree, however, to provide for positive dialogue and

communications if disputes or disagreements arise as to the interpretation or implementation of this Interlocal Agreement and agree to comply with the alternative dispute resolution processes set forth in any Interlocal agreement relating to said subject.

Section 8. Force Majeure. In the event any party hereunder fails to satisfy a requirement imposed in a timely manner, due to a hurricane, flood, tornado, or other Act of God or force majeure then said party shall not be in default hereunder.

Section 9. Binding Effect. This Interlocal Agreement shall be binding upon and inure to the benefit of the parties hereto and the successors in interest, transferees and assigns of the parties.

Section 10. Assignment. This Interlocal Agreement shall not be assigned by either party with the prior written approval of the other.

Section 11. Public Records. The parties shall allow public access to all documents, papers, letters or other materials which have been made or received by the parties in conjunction with this Interlocal Agreement or the CITY Transportation Improvement Projects.

Section 12. Records and Audits. The parties shall maintain any and all records, documents, papers, and other evidence pertaining to the work performed under this Interlocal Agreement. Such records shall be available at reasonable times and places during the term of this Interlocal Agreement and for so long as such records are maintained thereafter. Records shall be maintained in accordance with State law, including but not limited to *Chapter 119, Florida Statutes*, and generally accepted

accounting and auditing principles. Financial statements usable for fiscal year end purposes shall be provided annually to the COUNTY.

Section 13. Notices.

(a) Whenever either party desires to give notice to the other, notice may be sent to:

For the COUNTY: **County Manager**
Seminole County Services Building
1101 East First Street
Sanford, Florida 32771

With copies to: **Public Works Director**
Reflections Plaza
520 Lake Mary Boulevard
Suite 200
Sanford, Florida 32773

For the CITY: **City Manager**
100 N. Country Club Road
Lake Mary, Florida 32795

(b) Either of the parties may change, by written notice as provided herein, the addresses or persons for receipt of notices or receipt of invoices. All notices shall be effective upon receipt.

Section 14. Liability. Neither party assumes any responsibility or liability for the acts or omissions of the other party. The parties recognize that the COUNTY assumes no operational level duties or responsibilities with respect to and that the CITY assumes total responsibility for the planning, design, construction, maintenance, use and all other aspects of the CITY Transportation Improvement Projects funded hereunder. The parties do not intend for this agreement or the 2001 Interlocal Agreement to provide benefits to or create any rights in third parties.

Section 15. Compliance with Laws and Regulations. In performing under this Interlocal Agreement, the parties shall abide by all laws, statutes, ordinances, rules, and regulations pertaining to, or regulating the performance required by this Agreement. Any violation of such laws, statutes, ordinances, rules, or regulations shall constitute a material breach of this Interlocal Agreement, and shall entitle the non-violating party to terminate this Interlocal Agreement immediately upon delivery of written notice of termination to the violating party, provided that a written notice of violation and a reasonable opportunity to cure has been first given.

Section 16. Headings. All sections and description headings in this Interlocal Agreement are inserted for convenience only, and shall not affect the construction or interpretation of this Agreement.

Section 17. Entire Agreement. This Interlocal Agreement constitutes the entire agreement of the parties with respect to the subject matter of this Agreement, and may not be modified or amended except by a written instrument equal in dignity to this Agreement, and executed by the parties to be bound by the amendment to the Agreement.

Section 18. Counterparts. This Interlocal Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, but all counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first written above.

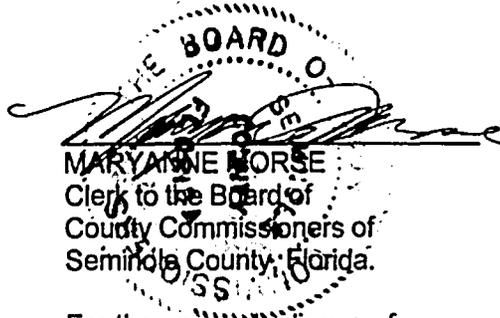


CITY OF LAKE MARY

By: _____
THOMAS C. GREENE, Mayor

Date: 2-21-02

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA



By: _____
DARYL G. MCLAIN, Chairman

Date: 03/01/02

For the use and reliance of Seminole County only. Approved as to form and legal sufficiency.

As authorized for execution by the Board of County Commissioners at its Feb. 12, 2002, regular meeting.

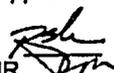
County Attorney

1131102
Attachment: Exhibit A
F:\CalUsers\Casi01\Agreements\Lake Mary Interlocal (2nd gen sales tax).doc

EXHIBIT A
Cent For Seminole Local Sales Surtax

LAKE MARY		
Transportation Projects	Proposed Scope	Preliminary Cost Estimate
Sand Pond Road; Skyline Drive	East of Greenwood Boulevard to Emma Oaks Trail; urban road improvements with closed drainage.	\$4.076 M
Evansdale Road / Pine Tree Road	Sidewalk and drainage improvements.	\$.622 M
PROJECTS TOTAL		\$4.698 M
City Revenue Share relating to funding of the above projects.	Per Section 2(d) and Exhibit D of the 2001 Transportation and Education Infrastructure Plan Interlocal Agreement.	.87916159%
<p>Per Section 2(e) of the 2001 Transportation and Education Infrastructure Plan Interlocal Agreement, if any local government successfully appeals the results of the 2000 Census figures as published by the Census Bureau, the distribution shall be recalculated to reflect the adjustments made in the 2000 Census results by the Census Bureau. Any such change shall be effective at the start of the distribution year following the adjustment. In conjunction with County issuance of such recalculation, an update to this Exhibit shall be entered into the public record.</p>		
Projects may be added or deleted pursuant to the provisions of Section 3 (a) of the 2001 Transportation and Education Infrastructure Plan Interlocal Agreement. In conjunction with County approval of such project change(s), an update to this Exhibit shall be entered into the public record.	Scopes may be expanded, reduced, or otherwise altered pursuant to the provisions of Section 3(b) of the 2001 Transportation and Education Infrastructure Plan Interlocal Agreement. In conjunction with County concurrence in such scope change(s), an update to this Exhibit shall be entered into the public record.	Costs are provided as estimates only. Changes to costs do not require a formal update to this Exhibit to be issued, unless a project or scope revision is also involved.

This Exhibit For The City Of Lake Mary Valid As Of February 21, 2002.

Sem. Co. Review/Approval Initials: DPW CM OR BCC CHAIR	
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