

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Seminole County and City of Winter Springs Interlocal Agreement for  
Maintenance of Landscaping, Hardscaping and Street Lighting  
(State Road 434 Access Management Project)

**DEPARTMENT:** Public Works **DIVISION:** Engineering

**AUTHORIZED BY:** W. Gary Johnson, P.E., Director **CONTACT:** Brett Blackadar, P.E. **EXT.** 5702  
Jerry McCollum, P.E., County Engineer

**Agenda Date** 03/23/04 **Regular**  **Consent**  **Work Session**  **Briefing**   
**Public Hearing – 1:30**  **Public Hearing – 7:00**

**MOTION/RECOMMENDATION:**

Approve and authorize the Chairman to execute the Interlocal Agreement with Winter Springs for additional construction funding and maintenance of landscaping, hardscaping and street lighting for access management improvements and roadway resurfacing of State Road 434 from U.S. Highway 17-92 to State Road 419 (FPN No.'s 404676-1-58-01 and 407160-1-58-01).

**BACKGROUND:**

A Local Agency Program (LAP) agreement with Florida Department of Transportation (FDOT) has already provided a total of \$3,824,000.00 to fund construction of access management improvements and roadway resurfacing along State Road 434 from U.S. Highway 17-92 to State Road 419 (designed by TEI Engineers & Planners under PS-565-00/BJC). The funds needed for the low construction bid (APAC under CC-1121-03/AJR, which is on the concurrent Purchasing Division agenda for this meeting) and CEI Contract (AB/WCG under PS-5146-03/AJP) are \$3,764,424.90. In order to provide a 10% contingency for the project, Winter Springs has agreed to provide up to \$320,000.00 in additional construction funds for the project from their allocation of the 2001 Renewed Sales Tax funding as part of the proposed Interlocal Agreement.

**Reviewed by:** \_\_\_\_\_  
**Co Atty:** SA  
**DFS:** \_\_\_\_\_  
**Other:** \_\_\_\_\_  
**DCM:** SA  
**CM:** SA  
**File No.** CPWE01

This funding is reflected in a related Budget Amendment presented under the Fiscal Services agenda and the attached updated Exhibit of City Sales Tax projects to be administratively issued following Board approval of the proposed Agreement. In addition, the proposed Interlocal Agreement requires that the City of Winter Springs maintain the landscaping, hardscaping and street lighting in the project corridor after construction is complete.

District 2 – Commissioner Morris

Attachments: Interlocal Agreement  
Updated Exhibit A Winter Springs Local Sales Surtax

**SEMINOLE COUNTY AND CITY OF WINTER SPRINGS  
INTERLOCAL AGREEMENT FOR  
MAINTENANCE OF LANDSCAPING, HARDSCAPING, AND STREETLIGHTING  
(SR 434 ACCESS MANAGEMENT PROGRAM)**

**THIS INTERLOCAL AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2004, 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, hereinafter referred to as the "COUNTY", and the CITY OF WINTER SPRINGS, a Florida municipal corporation, whose address is 1126 East State Road 434, Winter Springs, Florida 32708, hereinafter referred to as the "CITY".

**WITNESSETH:**

**WHEREAS**, the COUNTY has entered into a Local Agency Program Agreement with the State of Florida, Department of Transportation ("FDOT"), a copy of which is attached hereto and incorporated herein by this reference (the "LAP Agreement"), to design and construct access management improvements to State Road 434 from US 17-92 to State Road 419 (the "Project"); and

**WHEREAS**, part of the Project involves coordination with the CITY regarding landscaping in the right of way; and

**WHEREAS**, the landscaping, once installed, will require maintenance; and

**WHEREAS**, the Project also includes installation of lighting fixtures along the roadway, which fixtures, once installed, will also require maintenance; and

**WHEREAS**, the Project also includes installation of hardscape features including stamped asphalt, which improvements, once installed, will also require maintenance; and

**WHEREAS**, the CITY has agreed to perform the required maintenance of the landscaping, hardscaping and lighting fixtures; and

**WHEREAS**, the parties have previously entered into that certain interlocal agreement regarding administration of the CITY's share of the voter approved local option sales surtax dated February 12, 2002 (the "2002 Sales Tax Interlocal"); and

**WHEREAS**, the CITY has agreed to use a portion of the proceeds of the voter approved local option sales surtax allocated to the CITY for CITY Transportation Improvement Projects to fund the construction of the Project; and

**WHEREAS**, the parties wish to amend the 2002 Sales Tax Interlocal accordingly; and

**WHEREAS**, this Agreement provides a public benefit, furthers a public purpose, serves the public interest and is consistent with the provisions of Chapters 125, 163 and 166, Florida Statutes, and other applicable law.

**NOW, THEREFORE**, in consideration of the premises and the promises, covenants, agreements 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.

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

**Section 2. Term.** This Agreement shall become effective upon approval by the governing bodies of the COUNTY and the CITY and shall remain in effect for an initial term of four (4) years and thereafter until terminated in accordance with Section 7 hereof.

**Section 3. COUNTY's Duties.** The COUNTY's obligations under this agreement consist of completion of the design and construction of the Project in accordance with the LAP

Agreement, FDOT requirements and the landscaping plans prepared by TEI Engineers and Planners, Inc. and dated September 22, 2003, which by this reference are incorporated herein. The COUNTY has no other obligations to the CITY. This agreement is not intended to create any third party rights in the CITY regarding agreements mentioned herein to which the CITY is not a party.

**Section 4. CITY's Duties.** In addition to all other covenants, obligations, duties and responsibilities set forth herein, during the course of this Agreement the CITY shall, at its expense and in accordance with Exhibit "L" of the LAP Agreement, maintain all landscaping planted as part of the Project. CITY may use its own forces or a contractor to perform the required landscape maintenance. In addition, the CITY shall, at its expense and in accordance with Exhibit "RL" of the LAP Agreement, perform maintenance upon the lighting fixtures installed as part of the Project.

**Section 5. The LAP Agreement.** The CITY shall, at all times, perform its services in strict accordance with the terms and conditions of the LAP Agreement. All obligations of the COUNTY running to FDOT under the LAP Agreement shall become obligations of the CITY to the COUNTY under this agreement. In the event of any conflict between this agreement and the LAP Agreement the more stringent provision shall control. For purposes of this paragraph, more stringent means, for example and not by way of limitation, shorter time to take an action or refrain from acting, being obligated to continue performing for a longer time, establishing a longer time for audit or records retention, or providing greater access to records. The CITY shall not knowingly act or fail to act if such action or failure to act would place the COUNTY in breach of any of the terms of the LAP Agreement.

**Section 6. Amendment to the 2002 Sales Tax Interlocal.** The 2002 Sales Tax Interlocal is hereby amended to authorize the COUNTY to use up to **\$320,000** of the funds

allocated by that agreement to CITY Transportation Improvements to pay for construction of the Project as defined herein.

**Section 7. Remedies.** Each party shall have any and all remedies as permitted by law; provided, however, that the parties agree to provide for positive dialogue and communications if disputes or disagreements arise as to the interpretation or implementation of this Agreement and agree to comply with the alternative dispute resolution processes set forth in any interlocal agreement relating to said subject.

**Section 8. Termination.** Unless terminated in accordance with this Section, this Agreement shall automatically renew on an annual basis. After the initial term, either party may terminate this agreement upon six (6) months written notice.

**Section 9. 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, but shall fulfill such requirement as soon thereafter as may be practicable.

**Section 10. Binding Effect.** This 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. This Agreement shall not be deemed to pledge the full faith and credit of the COUNTY.

**Section 11. Assignment.** The Agreement may not be assigned by either party without the prior written approval of the other party. Funding by a special tax or assessment district or unit shall not affect the CITY's continuing obligations under this Agreement.

**Section 12. Public Records.** The parties shall allow public access to all documents, papers, letters or other materials which have been made or received in conjunction with this Agreement, subject to exceptions to public records laws as set forth in the Florida Statutes and with records retention accomplished in accordance with Florida law.

**Section 13. Records and Audits.** The parties shall each maintain in their respective places of business any and all books, documents, papers and other evidence pertaining to work performed pursuant to this Agreement. Such records shall be available at all reasonable times during the term of this Agreement and for so long as such records are maintained thereafter. Records shall be maintained in accordance with Florida law and generally accepted accounting and auditing principles. Each party shall allow public access to all documents, paper, letter or other materials made or received in conjunction with this project.

**Section 14. Notice/Designated Contact for Approval.**

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

for the COUNTY: COUNTY Engineer  
Reflections Plaza  
520 West Lake Mary Boulevard, Suite 200  
Sanford, FL 32773

with copies to: COUNTY Manager  
Seminole County Services Building  
1101 East First Street  
Sanford, FL 32771

for the CITY: CITY Manager  
City of Winter Springs  
1126 East State Road 434  
Winter Springs, FL 32708

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

**Section 15. Indemnification.** The CITY hereby agrees, to the maximum extent authorized by law, to indemnify, defend and hold the COUNTY harmless from and against any and all costs, damages, expenses, losses, claims, injuries, lawsuits and liabilities arising or resulting from or in connection with the CITY's or its officers', employees', agents', successors' or assigns' actions or activities relating in any way to the CITY's performance of this

Agreement, and any and all claims and actions brought by third parties resulting from or arising in connection with said actions. Nothing herein shall be construed to waive any provision of statutory or constitutional law regarding sovereign immunity, including but not limited to F.S. Section 768.28.

**Section 16. Conflict of Interest.** The COUNTY and the CITY agree that neither will engage in any action that would create a conflict of interest in the performance of its obligations pursuant to this Agreement, nor violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government.

**Section 17. Dispute Resolution.** The parties shall attempt to resolve any and all disputes hereunder through a collaborative and mutually acceptable informal process. In the event that formal dispute resolution processes become necessary, the parties recognize that such matters will be subject to the processes and procedures set forth in the agreement entitled "Interlocal Agreement On Mediation And Intergovernmental Coordination," dated January 24, 1995.

**Section 18. Governing Law/Attorneys' Fees.** This Agreement shall be construed and interpreted according to the laws of the Florida. In the event of litigation between the parties arising from or pertaining to this Agreement, the prevailing party shall be entitled to recover reasonable trial and appellate attorneys' fees and costs.

**Section 19. Construction of Agreement.** This Agreement shall not be constructed more strictly against one party as the draftsman, because both the COUNTY and the CITY have contributed materially to the preparation hereof.

**Section 20. Compliance with Laws and Regulations.** In providing all services pursuant to this Agreement, the parties 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. Any violation of said statutes, ordinances, rules, or regulations shall constitute a material breach of this Agreement, and shall entitle the non-violating party to terminate this Agreement immediately upon delivery of written notice of termination to the violating party.

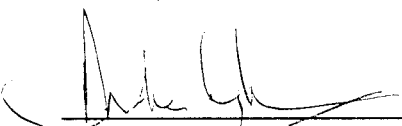
**Section 21. Counterparts.** This Agreement may be executed in multiple counterparts, each of which, when executed and delivered, shall be an original, but all counterparts shall together constitute one and the same instrument.

**Section 22. Headings.** All sections and descriptive headings in this Agreement are inserted for convenience only, and shall not affect the construction or interpretation hereof.

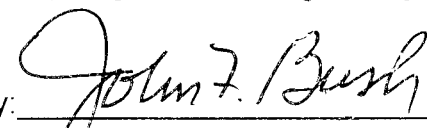
**Section 23. Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and may not be modified or amended except by the authorized signatures of both parties on a document of equal dignity herewith.

**IN WITNESS WHEREOF**, the parties hereto have and made and executed this Agreement for the purposes herein stated on the date first above written.

**ATTEST:**

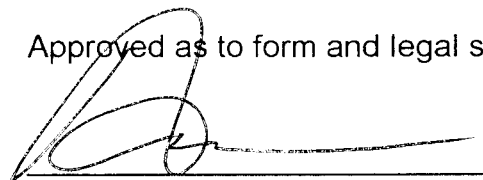
  
\_\_\_\_\_  
**ANDREA LORENZO-LUACES**  
City Clerk

**CITY OF WINTER SPRINGS**

By:   
\_\_\_\_\_  
**JOHN F. BUSH, MAYOR**

Date: February 26, 2004

Approved as to form and legal sufficiency.

  
\_\_\_\_\_  
Anthony A. Garganese  
City Attorney

**BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA**

**ATTEST:**

\_\_\_\_\_  
**MARYANNE MORSE**  
Clerk to the Board of  
County Commissioners of  
Seminole County, Florida.

By: \_\_\_\_\_  
DARYL G. MCLAIN, Chairman

Date: \_\_\_\_\_

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

**As authorized for execution by the Board Seminole  
of County Commissioners at its \_\_\_\_\_,  
2004, regular meeting**

  
\_\_\_\_\_  
County Attorney

**EXHIBIT A**  
**Cent For Seminole Local Sales Surtax**

<b>WINTER SPRINGS</b>			
<b>Transportation Projects</b>	<b>Proposed Scope</b>	<b>Preliminary Cost Estimate</b>	
<b>Town Center Collectors</b>	Hickory Grove; Spine Road	\$1.7 M	
<b>Traffic Signal Installations</b>		\$.9 M	
<b>Moss Road</b>	Reconstruction	\$1.3 M	
<b>SR 419/SR 434</b>	Intersection improvements	\$.2 M	
<b>Arterial Lighting</b>	SR 434; SR 419; Tuskawilla Road	\$.959 M	
<b>New Sidewalks</b>		\$.5 M	
<b>SR 434</b> (Includes Village Walk)	Reconstruction; Intersection improvements <u>Access Management Program; funding for use by Seminole County per Section 6 in the related Interlocal Agreement of March, 2004</u>	\$1.5-180 M \$.320M	
<b>Residential Road Reconstruction &amp; Traffic Calming</b>		\$1.6 M	
<b>Ranchlands Dirt Road Alternative Surface Treatment</b>		\$1.4 M	
<b>Fisher Road</b>	Improvements	\$.725 M	
<b>Winter Springs Boulevard</b>	Reconstruction; Turn Lanes	\$1.8 M	
<b>Bahama Road</b>	Improvements	\$.4 M	
<b>PROJECTS TOTAL</b>		<b>\$12.984 M*</b>	
<b>City Revenue Share</b> relating to funding of the above projects.	Per Section 2(d) and Exhibit D of the 2001 Transportation and Education Infrastructure Plan Interlocal Agreement.	<i>Distribution Year 1</i>	2.429702603%
		<i>Beginning Distribution Year 2</i>	2.367834687%
<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> <p><i>*Projects Total reflected is slightly higher than updated revenue share projection of \$12.683M \$12.942M.</i></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 Winter Springs Valid As Of March 23, 2004.  
Documentation relating to the Exhibit Update, including an underlined and strike-through version, may be found under Item \_\_\_\_\_ of the 3/23/2004 BCC Agenda in County Commission Records.

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