Item # 22

SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT: Chapman Lakes Homeowners Association, Inc. Traffic Enforcement Agreement

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

AUTHORIZED BY: for W. Gary Johnson, P.E., Director **CONTACT:** Melonie C. Barrington, P.E. **EXT.** 5676
County Traffic Engineer

Agenda Date 05/24/05 **Regular** ☐ **Consent** ☒ **Work Session** ☐ **Briefing** ☐
Public Hearing – 1:30 ☐ **Public Hearing – 7:00** ☐

MOTION/RECOMMENDATION:

Approve and authorize the Chairman to execute the Traffic Enforcement Agreement between Seminole County, the Seminole County Sheriff's Office, and Chapman Lakes Homeowners Association, Inc.

Commissioner Dallari - District 1 **(Melonie Barrington, P.E.)**

BACKGROUND:

Traffic Engineering has received a request to execute a Traffic Enforcement Agreement from the Chapman Lakes Homeowners Association, Inc., for the purpose of authorizing the Seminole County Sheriff's Office to enforce the regulatory signs within their subdivision.

All necessary signing improvements have been made, and the appropriate contractual agreement has been provided with the necessary signatures from the Sheriff and the Homeowners' Association President.

Traffic Engineering recommends approval.

Attachment: Agreement

Reviewed by:
DFS:
Co Atty: AHS
Other:
DCM:
CM:
File No. CPWTE01

SEMINOLE COUNTY, SEMINOLE COUNTY SHERIFF'S OFFICE AND CHAPMAN LAKES HOMEOWNERS ASSOCIATION, INC.
TRAFFIC ENFORCEMENT AGREEMENT

THIS AGREEMENT is made and entered this _____ day of _____, 2005, 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 "COUNTY"; the SEMINOLE COUNTY SHERIFF'S OFFICE, a constitutional office of the State of Florida, whose address is Public Safety Building, 100 Bush Boulevard, Sanford, Florida 32773, hereinafter referred to as "SHERIFF" (which shall also include the Sheriff's deputies whenever acting on behalf of the Seminole County Sheriff's Office), and CHAPMAN LAKES HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, whose address is 2180 W SR 434, Longwood, Florida, 32779, hereinafter referred to as "ASSOCIATION."

W I T N E S S E T H:

WHEREAS, the COUNTY may exercise jurisdiction, to the extent of a public purpose, over any private road or roads located in the unincorporated area under written agreement as authorized by *Section 316.006(3)(b), Florida Statutes*; and

WHEREAS, the SHERIFF is empowered to enforce the State Uniform Traffic Control provisions in Seminole County pursuant to *Section 30.15, Florida Statutes;* and

WHEREAS, the ASSOCIATION wishes to preserve the subject private roads of its subdivision as private roads that remain under the control of the ASSOCIATION without any transfer of jurisdiction, ownership, use or any other rights to the public other than

limited statutory jurisdiction accepted by the public authorities who are parties to this Agreement to enforce the State Uniform Traffic Control provisions; and

WHEREAS, the COUNTY, SHERIFF and ASSOCIATION, in the interest of the public's health, safety, morals and welfare, desire to establish terms and conditions for the assumption of a jurisdiction limited to the public purpose of enforcing the State Uniform Traffic Control provisions on the private roads owned or controlled by the ASSOCIATION; and

WHEREAS, this Agreement is authorized pursuant to the provisions of *Chapters 30, 125, 163* and *316*, *Florida Statutes*, as well as other applicable law.

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

SECTION 1. PURPOSE. The purpose of this Agreement is to establish the terms and conditions under which the COUNTY will assume a limited jurisdiction for the public purpose of complying with *Section 316.006(3)(b), Florida Statutes,* and the SHERIFF will provide State Uniform Traffic Control enforcement over the private roads under the ownership or control of the ASSOCIATION.

SECTION 2. TERM. This Agreement shall become effective upon execution by all parties, and shall run through the day before that date in the next calendar year and shall automatically be renewed thereafter for successive periods not to exceed one (1) year each, unless earlier terminated as provided herein.

SECTION 3. PRIVATE ROADS. The COUNTY shall assume jurisdiction over and the SHERIFF shall enforce the State Uniform Traffic Control provisions over the private

roads under the ownership or control of the ASSOCIATION (the "Roads") on the attached Exhibit "A", which is incorporated by reference into this Agreement, except that neither the COUNTY nor SHERIFF shall have any responsibility for designing, installing, maintaining or removing signage, striping, paving or any other physical features, objects or materials. The ASSOCIATION warrants that it is the sole owner of the Roads identified in Exhibit "A", or that it has, to the extent of the purposes of this Agreement, control of such Roads by written authorization signed by the owner(s) of the title to such Roads or parts thereof. The ASSOCIATION shall be responsible for complying with *Section 316.0747, Florida Statutes,* regarding the installation of traffic control devices in or about the Roads.

SECTION 4. SHERIFF'S RESPONSIBILITIES.

(a) The SHERIFF shall be solely responsible for traffic control and enforcement of the State Uniform Traffic Control provisions on the Roads identified on the attached Exhibit "A".

(b) The SHERIFF shall be solely responsible for the means and methods of enforcement including the scheduling of patrols and the use of radar or other methods of enforcement. The ASSOCIATION may provide input relating to desired scheduling of patrols, all subject to the SHERIFF's sole determinations as to time and frequency of patrols and the use of radars.

(c) The SHERIFF is authorized by the ASSOCIATION to perform random or routine patrols of the Roads for general law enforcement purposes in addition to traffic enforcement.

SECTION 5. COMPENSATION.

(a) The ASSOCIATION, by payment of an hourly rate, shall reimburse the SHERIFF for all actual costs resulting to the SHERIFF from the provision of extended traffic enforcement services on the Roads. "Extended traffic enforcement services" shall mean the presence or activities of the Sheriff on the Roads:

(1) in excess of four (4) hours in a week when at the written request of the ASSOCIATION for specific schedules or activities, such as requesting radar and speed enforcement; or

(2) for special enforcement details or operations.

(b) For the initial term of this Agreement, the ASSOCIATION shall pay the SHERIFF the sum of THIRTY-FIVE AND 60/100 DOLLARS ($35.60) per deputy-hour as compensation for the actual costs of extended traffic enforcement services. No reimbursement shall be required for services by SHERIFF's deputies who are on routine or random patrol, except when such services are part of extended traffic enforcement services.

(c) The hourly rate for provision of extended traffic enforcement services provided by the SHERIFF shall be adjusted annually on or after October 1st of each successive term of this Agreement to accurately reflect the actual hourly costs of all deputies' activities contemplated by this Agreement. If SHERIFF's actual hourly costs increase, the COUNTY may, and the SHERIFF shall provide the ASSOCIATION with thirty (30) days' written notice of the increased rate to be charged under this Section.

SECTION 6. PAYMENT AND BILLING.

(a) The SHERIFF shall render to the ASSOCIATION, at the close of each calendar month in which extended traffic enforcement services have been rendered, an itemized invoice describing both the billable and non-billable services rendered, the average hourly cost of the billable services, and any other information required by this Agreement.

(b) Payment by the ASSOCIATION shall be made within thirty (30) days of receipt of the SHERIFF'S invoice.

SECTION 7. INDEMNIFICATION.

(a) The ASSOCIATION shall, at all times hereafter, indemnify, hold harmless and defend COUNTY and SHERIFF, their commissioners, officers, agents, servants and employees, individually and collectively, from and against any damages, losses and causes of action arising out of any and all errors, omissions, defaults or negligent acts of ASSOCIATION, its officers, directors, agents, servants or employees in the performance of its duties and obligations under this Agreement or the services provided by the COUNTY and the SHERIFF pursuant to this Agreement unless such liability arises from the negligence of either the COUNTY or SHERIFF or misconduct by their agents or employees provided that the agent or employee is acting within the scope of their agency or employment.

(b) For purpose of liability, the COUNTY and the SHERIFF are protected by sovereign immunity in accordance with State law. This Agreement shall not constitute a waiver of immunity by such parties nor the ASSOCIATION's consent to such parties'

waiver thereof as to any matter to which such immunity would apply, except to the limited extent set forth in *Section 768.28, Florida Statutes*.

SECTION 8. INSURANCE.

(a) ASSOCIATION shall provide, pay for, and maintain in force at all times during the term of this Agreement such General Liability Insurance and Property Damage Insurance as will provide to COUNTY and the SHERIFF the protection contained in the foregoing Indemnification provision.

(b) Policies shall be issued only by companies authorized by certificates of authority issued to the companies by the Department of Insurance of the State of Florida to conduct business in the State of Florida and which maintain a Best's Rating of "A" or better and a Financial Size Category of "VII" or better according to the A.M. Best Company.

(c) ASSOCIATION shall protect COUNTY and the SHERIFF by specifically naming "SEMINOLE COUNTY, a political subdivision of the State of Florida" and the "SEMINOLE COUNTY SHERIFF'S OFFICE, a constitutional office of the State of Florida" as additional insured under such policies. Such policies shall contain, as a minimum, the following provisions, coverages and policy limits of liability:

General Liability Insurance. The ASSOCIATION shall carry limits of not less than ONE MILLION AND NO/100 DOLLARS ($1,000,000.00) for injuries, including accidental or wrongful death to any one person, and, subject to the same limit for each person, in an amount not less than TWO MILLION AND NO/100 DOLLARS ($2,000,000.00) on account of any one (1) occurrence.

(d) Prior to commencement of services hereunder, ASSOCIATION shall furnish to COUNTY and the SHERIFF a certificate of insurance evidencing the insurance required under this Agreement. Said certificate shall name and list COUNTY and SHERIFF as certificate holders and as additional insured under such policies.

(e) The policies and certificate of insurance shall additionally contain and list endorsements from the company that is issuing the policies: (i.) that said company meets the requirements set forth in Section 8(b) of this Agreement, (ii.) that any cancellation or any material change in the policies adversely affecting the interests of COUNTY or the SHERIFF in such insurance shall not be effective until thirty (30) days after written notice thereof to COUNTY and the SHERIFF, and (iii.) that the Association agrees to indemnify, hold harmless and defend COUNTY and SHERIFF, their commissioners, officers, agents, servants and employees, individually or collectively, in accordance with Section 7 of this Agreement. COUNTY or the SHERIFF may require a certified copy of such policies to be delivered by ASSOCIATION at any time.

(f) If, during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall:

(1) lose its Certificate of Authority or

(2) fail to maintain the Best's Rating and Financial Size Category, ASSOCIATION shall, as soon as ASSOCIATION has knowledge of any such circumstance, immediately notify COUNTY and the SHERIFF and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as ASSOCIATION

has replaced the unacceptable insurer with an insurer acceptable to COUNTY and the SHERIFF, ASSOCIATION shall be deemed to be in default of this Agreement.

(g) The maintenance of the insurance coverage set forth herein shall not be construed to limit ASSOCIATION's liability under the provisions of Section 7 of this Agreement.

(h) ASSOCIATION agrees to insert the substance of this clause, including this subsection (h), in all contracts and subcontracts hereunder, if any.

SECTION 9. TERMINATION OR ASSIGNMENT. This Agreement may be terminated by any one of the parties at any time, with or without cause, upon not less than thirty (30) days' written notice delivered to each of the other parties, or immediately, at the option of the COUNTY or the SHERIFF, in the event any of the terms, covenants or conditions of this Agreement have been violated by ASSOCIATION. None of the parties shall assign this Agreement, or any interest arising herein, without the written consent of the other parties.

SECTION 10. REPRESENTATIONS. The undersigned persons signing on behalf of a party each represent that (s)he is the designated officer or general partner acting for that party; that this document has been reviewed and duly approved for execution by all necessary general partners, officers or directors of the named entity for which (s)he purports to sign with all the formalities required by law for such named entity to enter into a binding agreement; and that the respective entity has likewise authorized the undersigned to bind said entity to the terms and conditions contained herein. Said formalities of law include, without limitation, any need for a supermajority vote of the

homeowners' association membership if such is required by its charter, bylaws or otherwise.

SECTION 11. INDEPENDENT CONTRACTOR. The relationship of the ASSOCIATION to the COUNTY or SHERIFF is that of independent contractor and not that of employee. No statement contained in this Agreement shall be construed so as to find the ASSOCIATION an employee of the COUNTY or SHERIFF, and the ASSOCIATION shall be entitled to none of the rights, privileges or benefits of COUNTY or SHERIFF employees.

SECTION 12. EMPLOYEE STATUS. Persons employed by the ASSOCIATION in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to the COUNTY's or SHERIFF's officers and employees either by operation of law or by the COUNTY or SHERIFF.

SECTION 13. ENTIRE AGREEMENT.

(a) It is understood and agreed that the entire Agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof.

(b) Any alterations, amendments, deletions, or waivers of the provisions of this Agreement except the annual actual cost adjustment set forth in Section 5(c) of this Agreement shall be valid only when expressed in writing and duly signed by all of the parties.

SECTION 14. NOTICES. Whenever any one of the parties desires to give notice unto the others, notice may be sent to:

FOR COUNTY

Board of County Commissioners
Seminole County Services Building
1101 East First Street
Sanford, Florida 32771

FOR SHERIFF

Director, Patrol Division
Public Safety Building
100 Bush Boulevard
Sanford, Florida 32773

FOR ASSOCIATION

Ms. Hollie Hood, President,
Chapman Lakes Homeowners Association
2203 Wembley Drive
Oviedo, Florida 32765

Any of the parties may change, by written notice as provided herein, its address or person for receipt of notices. ASSOCIATION may amend Exhibit "A" from time to time by giving written notice containing the complete diagram of private roads under ASSOCIATION's ownership or control, as amended, to both COUNTY and SHERIFF.

SECTION 15. PUBLIC RECORDS LAW. The parties acknowledge the obligations set forth in *Chapter 119, Florida Statutes*, to release public records to members of the public upon request. The parties acknowledge that the COUNTY and SHERIFF are required to comply with *Chapter 119, Florida Statutes*, in the handling of the materials created under this Agreement and that said statute controls over the terms of this Agreement.

SECTION 16. CONFLICT OF INTEREST.

(a) The ASSOCIATION agrees that it will not engage in any action that would create a conflict of interest in the performance of its obligations pursuant to this Agreement with the COUNTY or SHERIFF or which would violate or cause others to violate the provisions of *Part III, Chapter 112, Florida Statutes,* relating to ethics in government.

(b) The ASSOCIATION hereby certifies that no officer, agent or employee of the COUNTY or SHERIFF has any material interest (as defined in *Section 112.312(15), Florida Statutes,* as over 5% of the total assets or capital stock) either directly or indirectly, in the ASSOCIATION, and that no such person shall have any such interest during the term of this Agreement.

(c) [This subsection is intentionally omitted.]

(d) The ASSOCIATION shall have the continuing duty to report to the COUNTY any information that indicates a possible violation of this Section.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

WITNESSES:

Earl Lynn Fitzke

Ann Bennett

SEMINOLE COUNTY SHERIFF'S OFFICE

By: _____
DONALD F. ESLINGER, Sheriff

Date: 4/28/05

ATTEST:

Janet Nagle
JANET NAGLE, Secretary

(CORPORATE SEAL)

Seal

CHAPMAN LAKES HOMEOWNERS ASSOCIATION, INC.

By: Hollie Hood
HOLLIE HOOD, President

Date: 5 April 2005

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By:_____
CARLTON D. HENLEY, Chairman

Date:_____

_____
MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

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

_____
County Attorney

As authorized for execution by the Board of County Commissioners at its _____, 2005, regular meeting

AHS:dre
03/18/05
Attachment
Exhibit A - List of Roads
P:\USERS\DEDGE\MY DOCUMENTS\AGT\TRAFFIC ENFORCEMENT AGREEMENT CHAPMAN LAKES .DOC

Chapman Lakes

S I T E P L A N

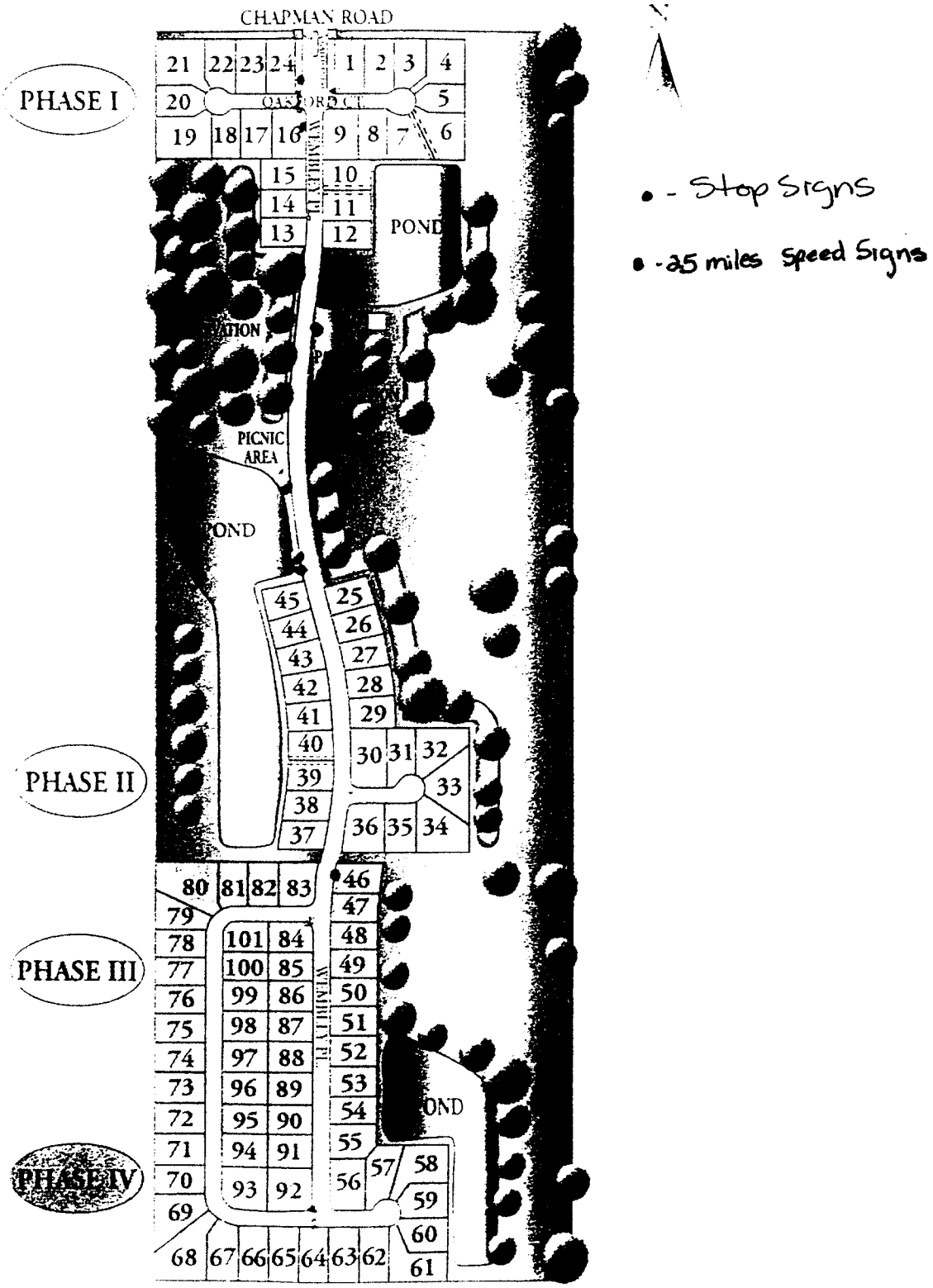

EXHIBIT A

Rutenberg Homes.