

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Agreement with the State Attorney's Office relating to Professional Services in Connection with Prosecution of County Ordinances Involving Incarceration

DEPARTMENT: Fiscal Services **DIVISION:** Administration

AUTHORIZED BY: Lisa H. Spriggs *LS* **CONTACT:** _____ **EXT.** 7172

Agenda Date <u>7/27/04</u> Regular <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Work Session <input type="checkbox"/> Briefing <input type="checkbox"/> Public Hearing – 1:30 <input type="checkbox"/> Public Hearing – 7:00 <input type="checkbox"/>

MOTION/RECOMMENDATION:

Approval and authorization for the Chairman to execute the following agreement between Seminole County and the State Attorney for Professional Services

BACKGROUND:

Pursuant to SB 2962 in the implementation of Revision 7 to Article V of the Florida Constitution, effective July 1, 2004, Florida Statutes Section 28.34(1) has been amended to provide that the State Attorney offices shall contract with counties to recover the full cost of services rendered on an hourly basis for prosecuting violations of a County's ordinances, punishable by incarceration and not ancillary to a State charge.

The State Attorney agrees to act as the County Prosecutor at the County Court level for County ordinances in the County Court of the 18th Judicial Circuit Court for Seminole County. Under this agreement the State Attorney will not handle appeals unless agreed upon between the County and the State Attorney on a case by case basis. The State Attorney will continue to prosecute other County ordinances that are ancillary to a State charge under his regular duties as State Attorney.

In performance of this agreement, the State Attorney will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The State Attorney shall be solely responsible for the means, method, techniques, sequences and procedures utilized by the State Attorney in the full performance of this agreement and have full authority to resolve all such cases as the State Attorney deems appropriate, provided however, that resolutions or settlement agreements involving monetary restitution, payment of fines or forgiveness thereof shall be subject to approval by the County.

This agreement is in effect from July 1, 2004 through June 30, 2005.

Reviewed by:
Co Atty: _____
DFS: _____
Other: _____
DCM: <i>LS</i>
CM: <i>LS</i>
File No. <u>CFSA00</u>

**AGREEMENT BETWEEN SEMINOLE COUNTY AND THE
STATE ATTORNEY FOR PROFESSIONAL SERVICES**

THIS 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 1101 E. First Street, Sanford, Florida 32771, hereinafter referred to as the "COUNTY," and **THE OFFICE OF THE STATE ATTORNEY FOR THE 18TH JUDICIAL CIRCUIT**, whose address is 100 E. First Street, Sanford, Florida 32771, hereinafter referred to as the "STATE ATTORNEY".

W I T N E S S E T H:

WHEREAS, the STATE ATTORNEY prosecutes COUNTY ordinances under the authority of the State of Florida; and

WHEREAS, Section 28.34(1), Florida Statutes, has been amended effective July 1, 2004, to provide that a State Attorney prosecuting violations of a County's ordinances punishable by incarceration and not ancillary to a State charge shall contract with counties to recover the full cost of services rendered on an hourly basis; and

WHEREAS, the COUNTY desires to contract with the STATE ATTORNEY to prosecute the COUNTY's ordinances that are punishable by incarceration and are not ancillary to a State charge,

NOW, THEREFORE, the COUNTY and STATE ATTORNEY agree as follows:

Section 1. Term. This Agreement shall take effect on July 1, 2004, and continue through June 30, 2005.

Section 2. Scope of Services. STATE ATTORNEY agrees to act as the County Prosecutor at the County Court level for COUNTY ordinances that are punishable by incarceration and not ancillary to a State charge in the County Court of the 18th Judicial Circuit Court for

Seminole County, Florida. Under this Agreement, the STATE ATTORNEY will not handle appeals unless agreed upon between the COUNTY and the STATE ATTORNEY on a case by case basis. In serving as the County Prosecutor, the STATE ATTORNEY shall have the power to prosecute COUNTY ordinances as authorized by law. It is understood that the STATE ATTORNEY will continue to prosecute other COUNTY ordinances that are ancillary to a State charge under his regular duties as STATE ATTORNEY.

Section 3. STATE ATTORNEY'S Fees. The STATE ATTORNEY'S legal fees will be reimbursed by the COUNTY on an hourly basis for services rendered at a rate of FIFTY AND NO/100 DOLLARS (\$50.00) per hour. It is agreed that for COUNTY ordinance cases that are punishable by incarceration and not ancillary to a State charge, fees shall be billed by the STATE ATTORNEY to COUNTY on a quarterly basis as follows:

(a) Cases that plea at initial appearance where the STATE ATTORNEY has not filed a criminal information - NO CHARGE.

(b) Cases that are resolved by plea subsequent to the STATE ATTORNEY having filed a criminal information - ONE HUNDRED AND NO/100 DOLLARS (\$100.00) (two (2) hours).

(c) Cases that are resolved by trial FOUR HUNDRED AND NO/100 DOLLARS (\$400.00) (eight (8) hours).

(d) Appellate proceedings - Subject to negotiation on a case by case basis.

Section 4. Independent Contractor. In the performance of this Agreement, the STATE ATTORNEY will be acting in the capacity of an

independent contractor and not as an agent, employee, partner, joint venture, or associate of the COUNTY. The STATE ATTORNEY shall be solely responsible for the means, method, techniques, sequences, and procedures utilized by the STATE ATTORNEY in the full performance of this Agreement and shall have full authority to resolve all such cases as the STATE ATTORNEY deems appropriate; provided, however, that resolutions or settlement agreements involving monetary restitution, payment of fines or forgiveness thereof shall be subject to approval by the COUNTY.

Section 5. Expenses. The COUNTY shall be responsible for all filing fees and cost assessments provided for by statute. The STATE ATTORNEY shall seek reimbursement from the COUNTY to the extent allowable by law.

Section 6. Entire Agreement. This Agreement constitutes the entire agreement between the COUNTY and the STATE ATTORNEY. Any modifications, amendments, or alterations shall be in writing and executed by both parties to becoming effective. Either party may terminate this Agreement by providing thirty (30) days written notice to the other party.

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

ATTEST:

OFFICE OF THE STATE ATTORNEY
EIGHTEENTH JUDICIAL CIRCUIT

Witness

By: _____
NORMAN R. WOLFINGER
State Attorney

Witness

Date: _____

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 Seminole County only.

Approved as to form and
legal sufficiency.

As authorized for execution
by the Board of County Commissioners
at their _____, 20_____
regular meeting.

County Attorney
AWS/lpk
6/25/04
agt w/SAO for prosecution of ordinances