

ROADWAY TRANSFER AGREEMENT
NE 13TH AVENUE ROAD SEGMENT

THIS ROADWAY TRANSFER AGREEMENT (“Agreement”) is made and entered into between Okeechobee County (“the County”), a political subdivision of the State of Florida whose address is 304 NW 2nd Street, Okeechobee, FL 34972, and the City of Okeechobee (“the City”), a municipal corporation organized and existing under the laws of the State of Florida whose address is 55 SE 3rd Avenue, Okeechobee, FL 34974, hereinafter collectively referred to as the “Parties”.

W I T N E S S E T H

WHEREAS, Section 163.01, Florida Statutes, authorizes the exercise by agreement between two or more public agencies of any power common to them; and

WHEREAS, Section 163.01(17), Florida Statutes, provides in relevant part, that "in any agreement entered into... any public agency... may, in its discretion, grant, sell, donate, dedicate, lease or otherwise convey, title, easements or use rights in real property, including tax-reverted real property, title to which is in such public agency ... to any other public agency... Any public agency... is authorized to grant such interests in real property or use rights without consideration when in its discretion it is determined to be in the public interest. Real property and interests in real property granted or conveyed to such public agency... shall be for the public purposes contemplated in the interlocal agreement ..."; and

WHEREAS, the County is authorized by Section 125.01(1)(p), Florida Statutes, to enter into agreements with other governmental agencies within or outside the boundaries of the County for the joint performance, or performance by one unit on behalf of the other, of any of either agency's authorized functions; and

WHEREAS, Section 125.0101, Florida Statutes, authorizes counties and municipalities to contract with each other for provision of road maintenance and other services; and

WHEREAS, Section 335.0415(3), Florida Statutes, provides that "Public roads may be transferred between jurisdictions only by mutual agreement of the affected governmental entities."; and

WHEREAS, this Agreement is authorized by the aforementioned Florida Statutes and other applicable law; and

WHEREAS, at present, jurisdiction over a segment of the unbuilt NE 13th Avenue, a public road right-of-way, running from North Park Street/State Road 70 to NE 5th Street (the “Road Segment”) is split between the County and the City, with the western portion of the Road Segment under the jurisdiction of the City, and the eastern portion of the Road Segment under the jurisdiction of the County; and

WHEREAS, the owner of parcels within the City adjacent to the Road Segment have applied to the City for development approvals, which approvals would necessitate the construction of a roadway within the Road Segment; and

WHEREAS, the County and the City have determined that it is in the best interests of the Parties to enter into this Agreement to transfer, from the County to the City, jurisdiction over and liability for maintenance of the eastern portion of the Road Segment presently under the jurisdiction of the County.

NOW THEREFORE, in consideration of the premises, mutual covenants, and representations contained herein, constituting good and valuable consideration, the County and the City agree as follows:

Section 1. Recitals. The recitals set forth above are incorporated herein by reference and made a part of this Agreement.

Section 2. Transfer of Road Segment. The County hereby grants, transfers, and conveys to the City, and the City hereby accepts, all of the County's right, title, interest in, jurisdiction over, and liability for maintenance of, the Road Segment and any improvements thereon and appurtenances thereto.

Section 3. Effective Date, Term, and Termination. This Agreement and any subsequent amendment hereto shall be effective upon signing by both of the parties and recording with the Okeechobee County Clerk of the Circuit Court as provided by Section 163.01(11), Florida Statutes. This Agreement shall not terminate without the mutual express written Agreement of the County and City.

Section 4. Indemnification/Sovereign Immunity. Except as otherwise specifically provided in the Agreement, neither party shall be liable for the negligent or wrongful acts of the other party in the performance of this Agreement. Nothing in this Section is intended to serve as a waiver of each of the Parties' respective sovereign immunity.

Section 5. Notices. Any notice, demand, request, or other instrument which may be or is required to be given or delivered under this Agreement shall be deemed to be delivered (i) whether or not actually received, five (5) days after being deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested; (ii) when received (or when receipt is refused) if delivered personally or sent by a nationally-recognized overnight courier, all charges prepaid, at the addresses of County and City as set forth in this paragraph; or (iii) via electronic mail at the address provided below. Such addresses may be changed by written notice to the other party in accordance with this paragraph.

<u>County:</u> Okeechobee County Attn: County Administrator 304 NW 2nd Street Okeechobee, Florida 34972 broyce@okeechobeecountyfl.gov	<u>City:</u> City of Okeechobee Attn: City Administrator 55 SE 3rd Avenue Okeechobee, FL 34974 gritter@cityofokeechobee.com
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Section 6. Public Records.

- A. Pursuant to section 119.0701, Florida Statutes, the County and the City shall:
- Retain all records in accordance with Chapter 119.

- ii. Keep and maintain public records required in order to perform the Agreement's requirements.
 - iii. Upon request from the City or County custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in State Statute or as otherwise provided by law.
 - iv. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements and are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement.
 - v. If the County or City, in their respective sole discretion, requests a copy of all public records in possession of the other party, the County or City shall duplicate and provide to the records, at no cost, all public records in possession within a reasonable amount of time and in a format that is accessible.
- B. Pursuant to Section 119.0701(2)(a), Fla. Stat., **IF THE COUNTY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COUNTY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT:**
LANE GAMIOTEA, CMC, CITY CLERK
863-763-3372, EXT. 9814
LGAMIOTEA@CITYOFOKEECHOBEE.COM
55 SE 3RD AVENUE, ROOM 100
OKEECHOBEE, FL 34974.
- C. Pursuant to Section 119.0701(2)(a), Fla. Stat., **IF THE CITY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CITY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS AT:**
COUNTY ADMINISTRATOR
863-763-6441, EXT. 1
PUBLICRECORDS@OKEECHOBEECOUNTYFL.GOV
304 NW 2ND STREET, ROOM 123,
OKEECHOBEE, FL 34972.

Section 7. Third Parties. The parties hereto do not intend, nor shall this Agreement be construed to grant any rights, privileges, or interest to any third party.

Section 8. Entire Agreement. This Agreement, including attachments hereto, if any, constitutes the entire agreement between the City and the County concerning the matters addressed herein. No change will be valid, unless made by supplemental written agreement, executed and approved by the parties.

Section 9. Headings. The section headings are inserted herein for convenience and reference only, and in no way define, limit or otherwise describe the scope or intent of any provisions hereof.

Section 10. Severability. Should any section or any part of any section of this Agreement be rendered void, invalid, or unenforceable by any court of law, for any reason, such determination shall not render void, invalid, or unenforceable any other section or any part of any section in this Agreement.

Section 11. No Construction against Preparer. This Agreement has been prepared jointly by the County and the City and their respective professional advisors. The County, City and their respective professional advisors believe that this Agreement expresses their agreement and that it should not be interpreted in favor of either the County or City or against the County or City merely because of their respective efforts in preparing it.

Section 12. Governing Law. The validity and interpretation of this Agreement shall be governed by the laws of the State of Florida, and venue shall be in the Nineteenth Judicial Circuit in Okeechobee County, Florida. Each party waives any defense of improper or inconvenient venue as to the stated court and consents to personal jurisdiction in the stated court.

Section 13. Amendment. No amendment, modification or alteration of the terms hereof shall be binding unless the same be in writing, dated concurrent or subsequent to the date hereof and duly executed by the parties hereto.

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their duly authorized representatives.

APPROVED the _____ day of _____ 202____, by the Okeechobee County Board of County Commissioners.

Okeechobee County, a political subdivision of the State of Florida

Attest: By: _____
David Hazellief, Chairman
Board of County Commissioners

Jerald D. Bryant, Clerk of the Circuit Court
and Comptroller

Approved as to Form and Legality for
Okeechobee County:

Wade Vose, County Attorney

APPROVED the _____ day of _____ 202____, by the Okeechobee City Council.

City of Okeechobee, Florida, a municipal corporation of the State of Florida

Attest: By: _____
Dowling R. Watford, Jr., Mayor

Lane Gamiotea, CMC, City Clerk

Approved as to Form and Legality for
Okeechobee City:

John J. Fumero, City Attorney