

#### Interoffice Memorandum

February 1, 2017

TO:	Mayor Teresa Jacobs And the Board of County Commissioners		
FROM:	Mark V. Massaro, P.E., Director, Public Works Department		
CONTACT PERSON:		Mark V. Massaro, P.E., Director Public Works Department	
PHONE NUMBER:		(407) 836-7970	

# SUBJ:Agreement by and between Orange County and Windermere Chase<br/>Homeowners Association, Inc. for Traffic Law Enforcement on Private<br/>Roads – Windermere Chase Phase 1 and Phase 2

Section 316.006, Florida Statutes allows counties to exercise traffic law enforcement over private roads if the owner of the private road enters into a written agreement with the County. Prior to entering into such an agreement, the Sheriff's Office must be consulted. Such agreements cannot go into effect until the beginning of the County's fiscal year, unless the Sheriff waives such requirement in writing.

Windermere Chase Homeowners Association, Inc. has requested such an agreement for the private roads located within the gated community of Windermere Chase Phase 1 and Phase 2. The Sheriff's Office has been involved with the negotiation of the contract and has executed a waiver that will allow this agreement to go into effect upon Board approval.

No relationship disclosure form is provided because this is neither a development-related nor a procurement-related item. No specific project expenditure report is provided because this is a ministerial item.

Action Requested:

Approval and execution of Agreement for Traffic Law Enforcement on Private Roads located in the gated community of Windermere Chase Phase 1 and Windermere Chase Phase 2 by and between Orange County, Florida and Windermere Chase Homeowners Association, Inc. District 1.

MVM/mk

BCC Mtg. Date: February 21, 2017

## AGREEMENT FOR TRAFFIC LAW ENFORCEMENT ON PRIVATE ROADS

This Agreement for enforcement of the traffic laws of the state on private roads located in the gated community of **Windermere Chase** is entered into by and between Orange County, Florida, (hereinafter "County") a charter county and political subdivision of the State of Florida, and **Windermere Chase Homeowners Association, Inc.,** (hereinafter "Owner") a Florida corporation, organized under the laws of the State of Florida.

#### WITNESSETH:

WHEREAS, Owner owns fee simple title to all the private roadways lying within a gated community known as Windermere Chase (hereinafter "Private Roads") more specifically described in Exhibit "A" which is attached hereto and incorporated herein; and

WHEREAS, pursuant to state statute, County does not have traffic law enforcement jurisdiction over Private Roads such as those owned by the Owner; and

WHEREAS, Section 316.006(3)(b), *Florida Statutes*, provides that a county may exercise jurisdiction over any Private Road or roads if the county and the party owning such roads provide by a written agreement approved by the governing board of the county; and

WHEREAS, Section 316.006(3)(b)(2), *Florida Statutes*, further provides that prior to entering into an agreement for enforcement of the traffic laws over Private Road or roads, the governing board of the county shall consult with the Sheriff; and

WHEREAS, the Owner wants the County to enforce the traffic laws upon the Private Roads of said Owner and to comply with Section 34-290, Orange County Code; and

WHEREAS, pursuant to consultations between the parties and the Sheriff of Orange County, Florida (hereinafter "Sheriff"), the County and Sheriff are willing to exercise traffic law enforcement upon the Private Roads; and

WHEREAS, pursuant to Section 30.2905, *Florida Statutes*, the Sheriff operates an offduty employment program; and

WHEREAS, Section 316.006(3)(b)(2), *Florida Statutes*, provides *inter alia* that no such agreement shall take effect prior to October 1 of the initial year of any agreement unless such provision is waived, in writing, by the Sheriff of the County; and

WHEREAS, the Sheriff has waived this provision as evidenced by Exhibit "C."

**NOW, THEREFORE**, in consideration of the covenants and conditions herein, County and the Owner hereby agree as follows:

1. The above recitals are true and correct, and are incorporated herein by reference and form a material part of this Agreement.

2. Jurisdiction. County agrees to exercise jurisdiction over enforcement of the traffic laws (including Section 316.2045, *Florida Statutes*, concerning obstruction of streets, regulated by the Orange County Block Party Ordinance) upon the Private Roads pursuant to the terms and conditions expressed in Section 316.006(3)(b), *Florida Statutes*, and subject to the terms and conditions specified in **Exhibit "B."** 

3. *Signage.* The Owner shall establish the speed limit for the Private Roads and shall be responsible for posting the speed limit by appropriate DOT approved signage along said roads.

4. *Authority in Addition to Existing Authority*. The County's exercise of traffic law enforcement pursuant to this Agreement shall be in addition to that authority presently exercised by County over the Private Roads and nothing herein shall be construed to limit or remove any such authority. The County agrees to continue to provide such police and fire services as are required by law.

5. *Compensation*. The Owner shall compensate the Sheriff for the services performed under this Agreement through the Sheriff's Office off-duty program, and in the manner specified in Exhibit "B" of this Agreement, which is attached hereto and incorporated by reference. Payment for services under this Agreement shall be in accordance with the pay schedule as determined by the Sheriff's Office.

6. *County to Retain Revenues*. All revenue from the fines, costs, and penalties imposed by the traffic citations issued for violation of traffic laws on the Private Roads shall be apportioned in the manner set forth in applicable statutes.

7. *Liability not Increased.* Neither the existence of this Agreement nor anything contained herein shall give rise to any greater liability on the part of the County or the Sheriff than that which the County or the Sheriff would ordinarily be subjected to when providing its normal police services.

8. Indemnification. To the fullest extent permitted by law, the Owner shall indemnify, defend, and hold the County and the Orange County Sheriff's Office harmless from any loss, cost, damage or expense, including attorneys' fees, for any action arising out of, related to, or stemming from, either directly or indirectly, the maintenance, repair and/or reconstruction of any roads, road drainage, sidewalks or signage. To ensure its ability to fulfill its obligation under this paragraph, the Owner shall maintain General Liability insurance in the minimum amount of One Million dollars (\$1,000,000.00). The Owner shall file current certificates of the required insurance with the County and shall provide thirty (30) day advance written notice to the County of cancellation. Such insurance certificates shall, (a) name the County and Orange County Sheriff's Office as additional insureds, as it relates to maintenance, repair and/or reconstruction of any roads, road drainage, sidewalks or signage, and (b) be issued by companies

authorized to do business under the laws of the State of Florida and acceptable to the County. The Orange County Sheriff's Office currently provides insurance coverage for injuries or liability which may occur when a Deputy providing Off Duty services actively takes sworn law enforcement actions. Should the Sheriff's Office provide written notification that it will no longer provide said coverage, the Owner may be required to obtain such insurance.

9. **Road Maintenance**. Neither the existence of this Agreement nor anything contained herein shall impose any obligation or duty upon the County to provide maintenance on and/or drainage of the Private Roads. The maintenance, repair and construction or reconstruction of all Private Roads, drainage and signage within the gated community of **Windermere Chase** shall at all times be solely and exclusively the responsibility of the Owner.

10. **Term and Termination**. The term of this Agreement shall be for one (1) year, commencing on the date of the execution by the last of the two parties signing hereto, and this Agreement shall thereafter automatically continue for successive one year terms unless terminated by any party or by default by the Owner as to any material provision of this Agreement including a default relating to insurance in Paragraph 8 above. The parties may elect to terminate this Agreement, and such termination, by the parties, shall be made by thirty (30) days written notice to the other parties; provided, however, payments are made by the Owner in accordance with Paragraph 5 of this Agreement. The provisions of Paragraph 8 herein shall survive the termination of this Agreement.

11. *Entire Agreement*. This Agreement, including all exhibits attached hereto, constitutes the entire understanding and agreement between the parties and may not be changed, altered, or otherwise modified except when reduced to writing and executed in the same manner with approval by the Board of County Commissioners.

12. *Notice*. All notices to be given shall be in writing and sent by certified mail, return receipt requested, to the following addresses:

As to County:	Orange County Administrator 201 South Rosalind Avenue, 5th Floor Orlando, Florida 32801
Copy to:	Orange County Attorney's Office 201 S. Rosalind Avenue, 3rd Floor Orlando, Florida 32801
As to Sheriff:	Orange County Sheriff's Office P.O. Box 1440 Orlando, Florida 32802-1440
As to the Owner:	Windermere Chase Homeowners Association, Inc. c/o Specialty Management Co. 882 Jackson Avenue Winter Park, FL 32789

IN WITNESS WHEREOF, the parties have executed this Traffic Law Enforcement Agreement for **Windermere Chase Homeowners Association, Inc.**, on the dates indicated below.

Date:

ORANGE COUNTY, FLORIDA By: Board of County Commissioners

2.21.17

BY Teresa Jacobs, County Mayor

ATTEST: Phil Diamond, CPA, Orange County Comptroller As Clerk of the Board of County Commissioners

By: Deputy Clerk FEB<sup>2</sup> DATE:

THE COUNTY CONTACT OF

Windermere Chase Homeowners Association, Inc., a Florida corporation

BY: // n

Mike Sasso, President Windermere Chase HOA,Inc. DATE: 282017

WITNESS:

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KFureyTran:Agrcnt:Templates:Agreement-for-Traffic-Law-Enforcement-on-Private-Roads 5-1-14 FINAL

IN WITNESS WHEREOF, the parties have executed this Traffic Law Enforcement Agreement for Windermere Chase Homeowners Association, Inc., on the dates indicated below.

ORANGE COUNTY, FLORIDA By: Board of County Commissioners R١

Terosa Jacobs, County Mayor Date: 2.21.17

ATTEST: Phil Diamond, CPA, Orange County Comptroller As Clerk of the Board of County Commissioners

By: DATE:



Windermere Chase Homeowners Association, Inc., a Florida corporation

BY: ///.

Mike Sasso, President Windermere Chase HOA,Inc. DATE: **2/8/2017** 

WITNESS: Print

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KFureyTran:Agrcnt:Templates:Agreement-for-Traffic-Law-Enforcement-on-Private-Roads 5-1-14 FINAL

### EXHIBIT "A"

To be reviewed by Public Works (legal description on 8 ½ x 11 paper attached 4 pages)

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A portion of the North ½ of Section 32, Township 22 South, Range 28 East, Orange County, Florida being more particularly described as follows:

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Begin at the Southwest corner of the Northeast 1/2 of Section 32, Township 22 South, Range 28 East; thence South 89°54'07" West along the South line of the Northwest 1/2 of said Section 32, a distance of 302.72 feet; thence North 00°25'01" West, 705.61 feet; thence North 01°00'26" West, 209.32 feet; thence North 89°50'00" East, 305.74 feet; thence North 00°21'46" West, along the West line of the Northeast 1/4 of said Section 32, a distance of 917.88 feet, thence North 89°32'17" East along a line 843.2 feet South of and parallel with the North line of the Northeast 1/2 of said Section 32, a distance of 585.36 feet to a point on the arc of a non-tangent curve (radial line through said point bears North 46°39'30" East); thence Southeasterly along the arc of said nontangent curve being concave to the Northeast, having a radius of 912.51 feet, a central angle of 07°07'11", an arc distance of 113.39 feet (the last course described being coincident with the Southwesterly right-of-way line of State Road 408 as shown on the Orlando-Orange County Expressway Authority Right-of-way Map); thence South 00°18'12" East along the East line of the West 1/2 of the Northwest 1/2 of the Northeast 1/2 of said Section 32, a distance of 418.99 feet; thence North 89°43'11" East along the South line of the Northwest 1/2 of the Northeast 1/2 of said Section 32, a distance of 191.42 feet; thence South 00°16'49" East, 132.00 feet; thence South 02°00'37" West, 50.04 feet; thence North 89°43'11" East, 117.00 feet; thence South 00°16'49" East, 285.00 feet; thence North 89°43'11" East, 28.77 feet; thence South 00°16'49" East, 119.74 feet; thence South 89°43'11" West, 125.00 feet to a point on the arc of a nontangent curve (radial line through said point bears South 81°44'53" West); thence Southerly along the arc of said non-tangent curve, being concave to the West, having a radius of 125.00 feet, a central angle of 07°58'18", an arc distance of 17.39 feet; thence South 00°16'49" East, 99.67 feet; thence Southeasterly along the arc of a tangent curve, being concave to the Northeast, having a radius of 10.00 feet, a central angle of 90°00'00", an arc distance of 15.71 feet; thence North 89°43'11" East, 67.37 feet; thence South 00°16'49" East, 177.00 feet; thence South 89°43'10" West, 412.00 feet; thence South 00°42'10" West, 240.00 feet (the last two (2) courses described being coincident with the North and West boundary of the lands described in Official Records: Book 4326, page 1696); thence South 89°43'10" West along the South line of the North 5.7 feet of Lot 16, Block E, of "Replat of Part of Blocks O, P, T, U, & Y and all of Block X, Map of Gotha" according to the plat thereof as recorded in Plat Book R, page 55, of the Public Records of Orange County, Florida, 478.20 feet; thence North 00°21'46" West, 1130.71 feet; thence South 89°43'11" West, 60.00 feet; thence South 00°21'46" East along the West line of the Northeast 1/4 of said Section 32, a distance of 1338.17 feet to the point of beginning (the last three (3) courses described being coincident with the East, North, and West right-of-way of Seventh Avenue as shown on said replat in Plat Book R, page 55).

Said lands lying in Orange County, Florida containing 34.461 acres, more or less.

A 1/4 EXHIBIT

A portion of the North ½ of Section 32, Township 22 South, Range 28 East, Orange County, Florida being more particularly described as follows:

Begin at the Southwest corner of the Northeast 1/2 of Section 32, Township 22 South, Range 28 East; thence South 89°54'07" West along the South line of the Northwest 1/2 of said Section 32, a distance of 302.72 feet; thence North 00°25'01" West, 705.61 feet; thence North 01°00'26" West, 209.32 feet; thence North 89°50'00" East, 305.74 feet; thence North 00°21'46" West, along the West line of the Northeast 1/2 of said Section 32, a distance of 917,88 feet; thence North 89°32'17" East along a line 843.2 feet South of and parallel with the North line of the Northeast 1/2 of said Section 32, a distance of 585.36 feet to a point on the arc of a non-tangent curve (radial line through said point bears North 46°39'30" East); thence Southeasterly along the arc of said nontangent curve being concave to the Northeast, having a radius of 912.51 feet, a central angle of 07°07'11", an arc distance of 113.39 feet (the last course described being coincident with the Southwesterly right-of-way line of State Road 408 as shown on the Orlando-Orange County Expressway Authority Right-of-way Map); thence South 00°18'12" East along the East line of the West ½ of the Northwest ½ of the Northeast ¼ of said Section 32, a distance of 418.99 feet; thence North 89°43'11" East along the South line of the Northwest 1/2 of the Northeast 1/2 of said Section 32, a distance of 908.52 feet to a point on the arc of a non-tangent curve (radial line through said point bears North 72°32'25" East); thence Southeasterly along the arc of said non-tangent curve being concave to the Northeast, having a radius of 922.51 feet, a central angle of 15°22'36", an arc distance of 247.58 feet; thence South 41°25'41" East, 112.47 feet to a point on the arc of a non-tangent curve (radial line through said point bears North 50°09'48" East); thence Southeasterly along the arc of said non-tangent curve being concave to the Northeast, having a radius of 912.51 feet, a central angle of 18°59'06", an arc distance of 302.36 feet (the last three (3) courses described being coincident with the Southwesterly right-of-way of said State Road 408); thence South 00°17'37" East along the East line of Block E and the West right-of-way line of the Atlantic Coast Line Railroad Right-of-way as shown on "Replat of Blocks O, P, T, U, & Y, and all of Block X, Map of Gotha", according to the plat thereof as recorded in Plat Book R, page 55, Public Records of Orange County, Florida, 624.79 feet; thence South 89°43'10" West, along the South line of the North 5.7 feet of Lot 16, Block E, of said Replat in Plat Book R, page 55, a distance of 896.65 feet; thence North 00°42'10" East, 240.00 feet; thence South 89°43'10" West, 544 50 feet; thence South 00°42'10" West; 240.00 feet (the last three (3) courses described being coincident with the Easterly, Northerly, and Westerly boundary of the lands described in O.R. Book 4326, page 1696) thence South 89°43'10" West, along the South line of the North 5.7 feet of Lot 16, Block E, of said Replat in Plat Book R, page 55, a distance of 478.20 feet; thence North 00°21'46" West, 1130.71 feet; thence South 89°43'11" West, 60.00 feet; thence South 00°21'46" East along the West line of the Northeast 1/4 of said Section 32, a distance of 1338.17 feet to the point of beginning (the last three (3) courses described being coincident with

EXHIBIT

A 2/4

the East, North, and West right-of-way of Seventh Avenue as shown on said Replat in Plat Book R, page 55).

Said lands lying in Orange County, Florida containing 57,803 acres, more or less.

#### LESS AND EXCEPT THE FOLLOWING TWO PARCELS:

#### First "Less and Except" parcel:

A portion of the Northeast 1/4 of Section 32, Township 22 South, Range 28 East, Orange County, Florida being more particularly described as follows:

Commence at the Southwest corner of the Northeast ¼ of Section 32, Township 22 South, Range 28 East; thence North 00°21'46" West along the West line of the Northeast ¼ of said Section 32, a distance of 751.43 feet; thence North 89°43'11" East, 541.75 feet to the point of beginning; thence continue North 89°43'11" East, 190.51 feet; thence South 00°16'49" East, 139.56 feet; thence South 89°43'11" West, 158.54 feet; thence Northwesterly along the arc of a tangent curve, being concave to the Northeast, having a radius of 10.00 feet, a central angle of 90°14'09", an arc distance of 15.75 feet to a point of reverse curvature; thence Northerly along the arc of said reverse curve, being concave to the West, having a radius of 125.00 feet, a central angle of 27°20'49", an arc distance of 59.66 feet to a point of reverse curvature; thence Northerly along the arc of said reverse curve, being concave to the East, having a radius of 75.00 feet, a central angle of 27°06'40", an arc distance of 35.49 feet; thence North 00°16'49" West, 37.86 feet to the point of beginning.

Said lands lying in Orange County, Florida, containing 0.579 acres more or less.

#### Second "Less and Except" Parcel:

A portion of the North ½ of Section 32, Township 22 South, Range 28 East, Orange County, Florida being more particularly described as follows:

Begin at the Southwest corner of the Northeast ¼ of Section 32, Township 22 South, Range 28 East; thence South 89°54'07" West along the South line of the Northwest ¼ of said Section 32, a distance of 302.72 feet; thence North 00°25'01" West, 705.61 feet; thence North 01°00'26" West, 209.32 feet; thence North 89°50'00" East, 305.74 feet; thence North 00°21'46" West, along the West line of the Northeast ¼ of said Section 32, a distance of 917.88 feet; thence North 89°32'17" East along a line 843.2

EXHIBIT

A 3/4

feet South of and parallel with the North line of the Northeast 1/4 of said Section 32, a distance of 585.36 feet to a point on the arc of a non-tangent curve (radial line through said point bears North 46°39'30" East); thence Southeasterly along the arc of said nontangent curve being concave to the Northeast, having a radius of 912.51 feet, a central angle of 07°07'11", an arc distance of 113.39 feet (the last course described being coincident with the Southwesterly right-of-way line of State Road 408 as shown on the Orlando-Orange County Expressway Authority Right-of-way Map); thence South 00°18'12" East along the East line of the West ½ of the Northwest ½ of the Northeast ¼ of said Section 32, a distance of 418.99 feet; thence North 89°43'11" East along the South line of the Northwest 1/2 of the Northeast 1/2 of said Section 32, a distance of 191.42 feet: thence South 00°16'49" East, 132.00 feet; thence South 02°00'37" West, 50.04 feet; thence North 89°43'11" East, 117.00 feet; thence South 00°16'49" East, 285.00 feet; thence North 89°43'11" East, 28.77 feet; thence South 00°16'49" East, 119.74 feet; thence South 89°43'11" West, 125.00 feet to a point on the arc of a nontangent curve (radial line through said point bears South 81\*44'53" West); thence Southerly along the arc of said non-tangent curve, being concave to the West, having a radius of 125.00 feet, a central angle of 07°58'18", an arc distance of 17.39 feet, thence South 00°16'49" East, 99.67 feet; thence Southeasterly along the arc of a tangent curve, being concave to the Northeast, having a radius of 10.00 feet, a central angle of 90°00'00", an arc distance of 15.71 feet; thence North 89°43'11" East, 67.37 feet; thence South 00°16'49" East, 177.00 feet, thence South 89°43'10" West, 412.00 feet; thence South 00°42'10" West, 240.00 feet (the last two (2) courses described being coincident with the North and West boundary of the lands described in Official Records Book 4326, page 1696); thence South 89°43'10" West along the South line of the North 5.7 feet of Lot 16, Block E, of "Replat of Part of Blocks O, P, T, U, & Y and all of Block X, Map of Gotha" according to the plat thereof as recorded in Plat Book R, page 55, of the Public Records of Orange County, Florida, 478.20 feet; thence North 00°21'46" West, 1130.71 feet; thence South 89°43'11" West, 60.00 feet; thence South 00°21'46" East along the West line of the Northeast 1/4 of said Section 32, a distance of 1338.17 feet to the point of beginning (the last three (3) courses described being coincident with the East, North, and West right-of-way of Seventh Avenue as shown on said Replat in Plat Book R, page 55).

Said lands lying in Orange County, Florida containing 34.461 acres, more or less.

EXHIBIT A 4/4



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#### EXHIBIT "B"

The Windermere Chase Homeowners Association, Inc., shall traffic law enforcement by means of employing deputies through the Sheriff's off-duty program.

If a resident of **Windermere Chase** wishes to make a traffic complaint, or to request a traffic law enforcement detail, he or she shall contact the Owner for further action. If a resident of **Windermere Chase** contacts the Sheriff's Office directly with such a complaint or request, he or she will be directed to the Owner.

## EXHIBIT "C"

[Sheriff's Letter to County Mayor]

EXHIBIT "C"

[Sheriff's Letter to County Mayor]

Sheriff Jerry L. Demings

October 12, 2016

TO: Mayor Teresa Jacobs Board of County Commissioners

FROM: Sheriff Jerry L. Demings

SUBJECT Windermere Chase Gated Community

ORANGE C

I understand Orange County will enter into an agreement with Windermere Chase Homeowners Association, Inc. gated community for traffic control and enforcement pursuant to Section 316.006(3)(b), F.S. The agreement will allow the Windermere Chase Homeowners Association to employ deputies through this agency's off-duty employment program to enforce traffic laws within the subdivision.

As you know, Section 316.006(3)(b), F.S., reads in part: "No such agreement shall take effect prior to October 1<sup>st</sup>, the beginning of the county fiscal year, unless this requirement is waived in writing by the Sheriff." Please be informed I hereby waive the October 1<sup>st</sup> requirement.

If you have any questions, please do not hesitate to contact me. Thank you for your assistance in this matter.



JLD/km

c: Off-Duty Services Dorothy Burk, Sr. Assistant General Counsel