

MOORE BASS & BIBLER
1007-7700 13-13
JANE/MOORE, BASS
FAX 850/681-2349
FROM Paula 2349
PHONE 891-8554

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT (the "Agreement") dated as of this 1 day of July, 1997, is entered into by and between the **CITY OF TALLAHASSEE, FLORIDA**, a municipal corporation created and existing under the laws of the State of Florida, acting by and through its City Commission (the "City") and **PINEY-Z COMMUNITY DEVELOPMENT DISTRICT**, a local unit of special purpose government organized and existing under the laws of the State of Florida (the "District").

PRELIMINARY STATEMENT

A. The District is a community development district duly organized, created, established and existing under the provisions of Chapter 190, Florida Statutes, as amended (the "Act"), for the purpose, among other things, of financing and managing the acquisition, construction, maintenance and operation of the major infrastructure within the boundaries of the District.

B. The District exists solely within the municipal corporate boundaries of the City, and in accordance with Section 190.005(2), Florida Statutes, following a public hearing, the City adopted Ordinance No. 97-0-0033AA, creating the District.

C. The District intends on exercising only a portion of its statutory powers in the furtherance of its function, and desires to enter into this Agreement with the City in order to coordinate the provision of services and the construction of infrastructure improvements within the District, the dedication or transfer of such projects to the City or to other parties designated by the City and the limitation on the exercise of the powers of the District to those which are necessary to complete such projects.

D. The City desires to enter into this Agreement for the purpose of setting forth the agreements between the City and the District regarding the scope of projects to be undertaken by the District, the dedication or transfer of such projects to the City or to other parties designated by the City and the limitation on the exercise of the powers of the District to those which are necessary to complete such projects.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual covenant and agreements hereinafter set forth, the parties hereto agree as follows:

SECTION 1. RECITALS. The recitals set forth above are true and correct and are hereby incorporated herein by reference. All exhibits to this Agreement are hereby deemed a part hereof.

SECTION 2. PROJECTS TO BE UNDERTAKEN BY THE DISTRICT. While the District has the statutory authority, pursuant to its Charter and the Act, to undertake, finance, construct, acquire and operate numerous kinds of infrastructure projects, the District recognizes that the City does provide many of such projects and may be in a better position than the District to so

provide such projects. In order to coordinate the efforts of the District and the City in providing the necessary infrastructure improvements to the property situated within the jurisdiction of the District, the District agrees that it shall undertake those kinds of projects (the "District Projects") set forth on Exhibit A attached hereto. To the extent any of the District Projects constitute public roads or utility facilities (including water, wastewater or stormwater facilities), such facilities shall be immediately dedicated to the City upon their completion notwithstanding the fact that the District, through its resources and debt instruments, will pay for such roads.

SECTION 3. VOLUNTARY LIMITATION ON UTILIZATION OF DISTRICT'S POWERS; TERMINATION. (a) In light of the limited scope of the District Projects, the District agrees and covenants with the City that it (i) will exercise only those powers necessary and required to finance and complete the District Projects, (ii) will not utilize its ad valorem taxing powers but specifically reserves its rights and abilities to exercise its condemnation powers, and (iii) will issue no long term debt (ie: debt having a term in excess of one year including allowable renewal terms) with a final maturity date later than December 31, 2020.

(b) The District agrees and covenants that it shall dissolve itself and terminate within thirty (30) days following the retirement of the District's bonds or other debt incurred to finance all or any portion of the costs of the District Project. Upon such termination, the public infrastructure projects which have not previously been dedicated to the City will be so dedicated, and any other property of the District shall be transferred to the City or such other entity as shall be designated by the City.

SECTION 4. UTILITY REBATE AGREEMENT. The City has been operating under a program whereby the developer of planned developments will be entitled to certain onsite utility rebate amounts in exchange for the developer providing certain onsite infrastructure improvements. The District is the first community development district formed within the municipal jurisdiction of the City, and will, through the exercise of its governmental powers, provide for the construction of certain onsite infrastructure improvements consisting of the District Projects which would qualify for the right to receive the City utility rebates, even though the City and the District had previously agreed to share the costs of certain District Projects. The City has agreed to undertake and provide for a greater share of the costs of certain District Projects which costs are to be shared between the City and the District, and in lieu thereof, the District has agreed to, and does hereby agree to, waive the receipt of the City onsite utility rebates. For purposes of this Agreement, the City's share of the Conner Boulevard Project shall be fifty-seven percent (57%) of the revised estimate dated July 7, 1997 by Moore, Bass and Bibler, Inc., which fifty-seven percent (57%) shall not, in any event, exceed the aggregate sum of \$2,540,393.95. The not to exceed amount of \$2,540,393.95 specifically includes all expenditures on costs of the Conner Boulevard Project, including but not limited to construction, inspection, engineering and permitting.

SECTION 5. REPRESENTATIONS OF THE CITY. The City hereby represents to the District that it has the authority to enter into this Agreement.

SECTION 6. REPRESENTATIONS OF THE DISTRICT. The District hereby represents

to the City that it has the authority to enter into this Agreement.

SECTION 7. GOVERNING LAW AND VENUE. This Agreement and all agreements incorporated herein shall be governed by the laws of the State of Florida. Should any legal action be required, pursuant to this Agreement and all agreements incorporated herein, venue shall be in Leon County, Florida.

SECTION 8. NOTICE. Whenever either party desire to give notice unto the other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended at the place last specified by such party, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, the City and the District designate the following as the respective places for giving of notice.

To the City: City of Tallahassee
300 South Adams
City Hall
Tallahassee, Florida 32301
Attention: City Treasurer-Clerk

To the District: Piney Z Community Development District
7118 Beech Ridge Trail
Tallahassee, Florida 32312

SECTION 9. BINDING AUTHORITY. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

SECTION 10. HEADINGS. Headings herein are for the convenience of reference only and shall not be considered on any interpretation of this Agreement.

SECTION 11. EXHIBITS. Each Exhibit referred to in this Interlocal Agreement forms an essential part of this Interlocal Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.

SECTION 12. WAIVER. Failure of the City or District to insist upon strict performance of any covenant or condition of this Agreement, or to execute any right herein contained, shall not be construed as a waiver or relinquishment for the future of any such covenant, condition or right, but the same shall remain in full force and effect.

SECTION 13. LEGAL REPRESENTATION. It is acknowledged that each party to this Agreement had the opportunity to be represented by counsel in the preparation of this Agreement and

accordingly the rule that a contract shall be interpreted strictly against the party preparing same shall not apply herein due to the joint contributions of both parties.

SECTION 14. ATTORNEY'S FEES. In connection with any litigation, including appellate proceedings, arising out of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs, including paralegal expenses, from the other party.

SECTION 15. ENTIRE AGREEMENT. This Agreement sets forth all the promises, covenants, agreements, conditions and understandings between the parties hereto regarding the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, expressed or implied, oral or written regarding the subject matter hereof, except as herein contained.

SECTION 16. PROVISIONS SEVERABLE. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations of the jurisdiction in which the parties do business. If any provision of this Agreement, or the application thereof to any person or circumstance shall, for any reason or to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

SECTION 17. NO THIRD-PARTY BENEFICIARY. This Agreement is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns subject to the express provisions hereof relating to successors and assigns, and no other person shall have any rights, interest or claims hereunder or be entitled to any benefits under or on account of this Agreements as a third-party beneficiary or otherwise.

SECTION 18. CONFLICT. In the event the terms and agreements contained herein conflict with the provisions of any other contract or agreement between the City and the District, the terms and agreements contained herein shall control and prevail.

SECTION 19. REMEDIES. Each party hereto recognizes and agrees that the violation of any term, provision or condition of this Agreement may cause irreparable damage to the other parties which may be difficult to ascertain, and that the award of any sum of damages may not be adequate relief to such parties. Each party, therefore, agrees that, in addition to other remedies available in the event of a breach of this Agreement, any other party shall have a right to equitable relief, including, but not limited to, the remedy of specific performance.

SECTION 20. COUNTERPART SIGNATURES. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement has been executed by the parties as of the first day and date first above written.

CITY OF TALLAHASSEE, FLORIDA

By: 

Scott Maddox, Mayor

ATTEST:



George P. Atkinson
Deputy City Treasurer-Clerk

APPROVED AS TO FORM:



James R. English
City Attorney

PINEY-Z COMMUNITY DEVELOPMENT
DISTRICT

By: 

Chairman, Board of Supervisors

ATTEST:


Ass't Secretary

EXHIBIT A

DISTRICT PROJECTS

Project Description

Streets and Drainage, specifically including, but not limited to, the Connor Boulevard Project

Water and Sewer Utilities