

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
OCT 20 1998 RB/BS

RESOLUTION
of the
ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS
regarding the
LINE OF CREDIT NOTE TO FINANCE BRANCH LIBRARIES
Resolution No. 98-M-49

WHEREAS, the Orange County Library District (the "District") is an independent special district created by the Legislature of the State of Florida to provide library services and facilities to the residents of Orange County (excluding the cities of Maitland and Winter Park), and wishes to finance the acquisition and construction of branch libraries throughout the District, and

WHEREAS, in order to finance the acquisition and construction of the branch libraries, the District will enter into an agreement (the "Loan Agreement") with Nationsbank, N.A. (the "Lender"), to borrow certain funds through the purchase of the District's \$4,000,000 Revenue Line of Credit Note, and

WHEREAS, in order to assure that the District receives the loan from the Lender and that the District may provide the residents of the District with the best possible library services and facilities, the County and the District wish to provide added security to the loan through a covenant to budget and appropriate non-ad valorem funds of the County to payment of the loan in accordance with and limited by the terms of an interlocal agreement.

WHEREAS, On August 4th, 1998, the Governing Board of the District authorized the participation of the District in the commercial paper pool program of the Sunshine State Governmental Financing Commission (the "Commission") to finance the construction of the branch libraries. In connection with that proposed loan, the Board of County Commissioners approved the "Interlocal Agreement Regarding Loan to Finance Branch Libraries" between the Orange County Library District (the "District") and the County (the "Prior Interlocal Agreement") to provided added security to the loan. For reasons unrelated to the District's participation in the Commission's commercial paper pool program, the Commission was unable to obtain a judicial validation of the notes to be issued to provide loan proceeds to the District within the District's time requirements. Therefore, the District, with the consent of the Commission and the County, has elected to withdraw from participation in the Commission's commercial paper pool program. With the consent of the District and the Commission, the County wishes, therefore, to repudiate the Prior Interlocal Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

Section 1. Authorization to Execute Interlocal Agreement.

The Chairman and Clerk are hereby authorized to execute the Interlocal Agreement for Financing of Branch Libraries, substantially in the same form as attached hereto as Exhibit "A".

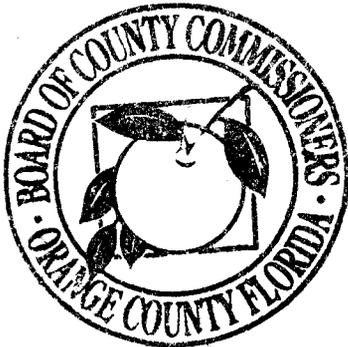
Section 2. Repudiation of Prior Interlocal Agreement.

The Board hereby repudiates the Prior Interlocal Agreement withdraws its prior authorization to the Chairman and Clerk to execute the Prior Interlocal Agreement.

Section 3. Effective Date.

This Resolution shall take effect upon its adoption.

ADOPTED THIS 20th DAY OF OCTOBER, 1998.



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Linda W. Chapin*
Linda W. Chapin
County Chairman

ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By: *Martha O. Haynie*
Deputy Clerk

Exhibit "A"
to
Resolution No. 98-_____

INTERLOCAL AGREEMENT

regarding

LOAN TO FINANCE BRANCH LIBRARIES

Orange County, Florida

Orange County Library District

Approved by the Orange County
Board of County Commissioners
October 20, 1998

Approved by the Orange County Library
District Governing Board
October 20, 1998

INTERLOCAL AGREEMENT
regarding
LOAN TO FINANCE BRANCH LIBRARIES

ORANGE COUNTY, FLORIDA
ORANGE COUNTY LIBRARY DISTRICT

This Interlocal Agreement is made and entered into in triplicate as of the ___ day of ___, 1998, by and among **Orange County, Florida** (the "County"), a charter county and political subdivision existing under the laws and Constitution of the State of Florida and the **Orange County Library District** (the "District"), an independent special district and public agency of the State of Florida.

RECITALS

WHEREAS, the District is an independent special district created by the Legislature of the State of Florida to provide library services and facilities to the residents of Orange County (excluding the cities of Maitland and Winter Park), and wishes to finance the acquisition and construction of branch libraries throughout the District, and

WHEREAS, in order to finance the acquisition and construction of the branch libraries, the District has entered into an agreement (the "Loan Agreement") with Nationsbank, N.A. (the "Lender"), to borrow certain funds through the purchase of the District's \$4,000,000 Revenue Line of Credit Note, and

WHEREAS, in order to assure that the District receives the loan from the Lender and that the District may provide the residents of the District with the best possible library services and facilities, the County and the District wish to provide added security to the loan by entering into this Interlocal Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the County and the District agree as follows:

ARTICLE I
DEFINITIONS; PAYMENT ACCOUNT; ACCOUNT DEFICIENCY

1.1 Definitions. All terms not otherwise expressly defined herein shall have the same meaning as those terms expressly defined in the Loan Agreement, in the form as entered into between the District and the Lender on _____, 1998, and attached hereto as Exhibit "A".

1.2 Payment Account. The District shall establish an account (the "Payment Account") into which it shall deposit, no later than the tenth prior to each Loan Payment Date (or, if such date falls on a banking holiday, the first banking day thereafter), Non-Ad Valorem Revenues sufficient to pay all Loan Payments due under the Loan Agreement on the following Loan Payment Date, to the extent it is obligated to use such Non-Ad Valorem Revenues for Loan Payments under the Loan Agreement. The District, in addition to complying with the preceding provision, may in its sole discretion deposit into the Payment Account any revenues other than Non-Ad Valorem Revenues that are legally available to pay Loan Payments on the Loan Payment Date, but shall be under no obligation to do so. The Payment Account shall be established solely for the purpose of administering the covenant of Orange County expressed below, and shall not be a security for the Loan or Note, provided however, Non-Ad Valorem Revenues deposited therein may secure the Loan or Note under separate provisions of the Loan Agreement.

1.3 Account Deficiency Defined. An Account Deficiency shall occur if and only if, on the day five days prior to the Loan Payment Date (or, if such date falls on a banking holiday, the first banking day thereafter), revenues in the Payment Account are insufficient to pay all Loan Payments due and owing on the Loan Payment Date, and the District immediately notifies the Noteholder and Orange County of the insufficiency and the amount thereof, said amount which shall be deemed the Account Deficiency for the respective Loan Payment Period.

ARTICLE II COVENANT OF ORANGE COUNTY

2.1 Covenant to Budget and Appropriate for Payment Account Deficiencies.

(a) The County hereby covenants that if an Account Deficiency occurs the County shall budget and appropriate from monies derived by the County from sources other than ad valorem taxation and legally available therefor ("Non-Ad Valorem Revenues"), and pay by electronic wire transfer, sufficient moneys to the Payment Account to enable the District to pay the Account Deficiency. The County's covenant herein shall not be or constitute a general obligation or indebtedness of the County as "bonds" within the meaning of any State constitutional, statutory, charter or code provision or limitation and shall not be payable from the general funds of the County, but shall be a special and limited obligation of the County payable solely from legally available non-ad valorem revenues budgeted and appropriated by the County for the payment of Payment Account Deficiencies. Neither the District nor the Noteholder shall ever have the right to require or compel the exercise of the ad valorem taxing power of the County, or taxation in any form on any real or personal property of or in the County, to pay the obligation expressed herein. Provided, however,

that the County reserves the right, in its discretion, to pay its obligations under this Interlocal Agreement with any legally available funds of the County. Notwithstanding anything contained herein, the County does not covenant, and shall not be obligated, to maintain any services or programs, now provided or maintained by the County, which generate Non-Ad Valorem Revenues.

(b) Such covenant to budget and appropriate does not create any lien upon or pledge of such Non-Ad Valorem Revenues, nor does it require the County to levy and collect any particular Non-Ad Valorem Revenues, nor does it give the District or the Noteholder a prior claim on the Non-Ad Valorem Revenues as opposed to claims of general creditors of the County. The covenant to budget and appropriate in its general annual budget for the purposes and in the manner stated herein shall have the effect of making available for the payment of the Account Deficiencies in the manner described herein Non-Ad Valorem Revenues and placing on the County a positive duty to appropriate and budget, by amendment, if necessary, amounts sufficient to meet its obligations hereunder; subject, however, in all respects to the restrictions of Section 129.07, Florida Statutes, which provides, in part, that the board of county commissioners of each county make appropriations for each fiscal year which, in any one year, shall not exceed the amount to be received from taxation or other revenue sources; and subject, further, to the payment of services and programs which are for essential public purposes affecting the health, welfare and safety of the inhabitants of the County or which are legally mandated by applicable law.

2.2 *Limitation of Obligations.* So long as the County budgets and appropriates funds, and pays them to the Payment Account for Payment Account Deficiencies in accordance with the above Section 2.1, the County shall not be deemed in default of this Interlocal Agreement, regardless of whether the District shall be deemed in default of the Loan Agreement, Note or any other instruments or covenants entered into by the District in connection with the Loan or Project.

2.3 *Other Obligations of County.* The County has previously issued obligations and reserves the right to issue additional obligations payable from Non-Ad Valorem Revenues (or any portion thereof), or hereafter create or cause to be created any debt, lien, pledge, assignment, encumbrance or other charge, having priority to, being on a parity with or being subordinate to the obligation of the County to budget and appropriate Non-Ad Valorem Revenues pursuant to this Interlocal Agreement. The covenant to budget and appropriate Non-Ad Valorem Revenues is subject in all respects to the payment of obligations secured by a pledge of such Non-Ad Valorem Revenues hereto fore or hereinafter entered into (including the payment of debt service on bonds and other debt instruments). Neither the covenant nor any other condition or obligation contained herein shall be read to in any way limit or restrict the County's ability to, in its sole discretion and without notice to the District, the Noteholder, or any other affected party, issue future obligations secured by a covenant to budget and appropriate available funds or by any other covenant or pledge.

2.4 *Continuing Obligation of the District.* To the extent the County budgets and appropriates, and pays funds to the Payment Account under Section 2.1, such amounts shall become

debts of the District to the County (subordinate to the District's obligations to the Lender in connection with the Loan) to repay the County from legally available Non-Ad Valorem Revenues of the District. Following the payment of County funds to the Payment Account, the District shall pay to the County any Non-Ad Valorem Revenues legally available to the District over and above those Non-Ad Valorem Revenues due the Noteholder or otherwise encumbered under the Loan Agreement, until such debt of the District is discharged. The District's covenant herein shall not be or constitute a general obligation or indebtedness of the District as "bonds" within the meaning of any State constitutional, statutory, charter or code provision or limitation and shall not be payable from the general funds of the District, but shall be a special and limited obligation of the District payable solely from legally available Non-Ad Valorem revenues budgeted and appropriated by the District for the payment of its obligation contained herein. The County shall never have the right to require or compel the exercise of the ad valorem taxing power of the District, or taxation in any form on any real or personal property of or in the District, to pay the obligation expressed herein. Provided, however, that the District reserves the right, in its discretion, to pay its obligations under this Interlocal Agreement with any legally available funds of the District. Debts of the District incurred under this Section shall earn interest at a rate equal to the monthly participant return rate earned on the Florida State Board of Administration Local Government Surplus Fund Trust Fund.

ARTICLE III PAYMENTS

3.1 *Loan Payments.* In accordance with the terms of the Loan Agreement, on or before the Loan Payment Date, the District shall use the revenues deposited in the Payment Account, including funds paid to the Payment Account by the County (if any) to make all Loan Payments due on the Loan Payment Date.

3.2 *Notice of Payments.* Upon making any Loan Payment from the Payment Account, the District shall immediately provide notice to Orange County of the Loan Payment and any amounts due that the District failed to pay.

ARTICLE IV ENFORCEMENT, REMEDIES, NO WARRANTIES

4.1 *Enforcement and Remedies.* In the event either party fails to perform a material covenant or condition of this Interlocal Agreement, the other party shall be entitled to all remedies available in law and equity that are consistent with the terms hereof. The Noteholder shall have the right, as a third-party beneficiary to this Interlocal Agreement, to enforce the express obligations of either party to this Interlocal Agreement, in accordance with its terms, without the necessity of joining the other party hereto.

4.2 *No Obligation or Warranties as to District or Loan.* The County's obligations

under this Agreement, and its execution hereof, are limited solely to those obligations expressly stated herein. The County shall not be in any way bound or obligated by any covenants, conditions or obligations expressly stated in or implicitly arising from the Loan Agreement or any other instruments, commitments or covenants made in connection with the Loan or Project. The County makes no representations as to the District's ability to pay the Loan, or the creditworthiness or sufficiency of the revenues pledged by the District as security for the Loan.

ARTICLE V
MISCELLANEOUS PROVISIONS

5.1 Validity. After consultation with their respective legal counsel, the County and the District each represents and warrants to the other its respective authority and power under Florida law to enter into this Interlocal Agreement, acknowledges the validity and enforceability of this Interlocal Agreement, and waives any future right of defense based on claim of illegality, invalidity or unenforceability of any nature. The County and the District each hereby represents, warrants and covenants to and with the other (i) that this Interlocal Agreement has been validly approved by its respective governing body at a duly held public meeting, and (ii) that this Interlocal Agreement constitutes a legal, valid and binding contract enforceable against the respective party in accordance with the terms hereof (assuming the due authorization, execution and delivery hereof by the other parties hereto).

5.2 Ambiguities. Both parties have been allowed equal input regarding the terms and wording of this Interlocal Agreement and have had the benefit of consultation with legal counsel prior to its execution, such that all language herein shall be construed equally against the parties, and no language shall be construed strictly against its drafter.

5.3 Headings. The headings or captions of sections or paragraphs used in this Interlocal Agreement are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Interlocal Agreement.

5.4 Severability. The provisions of this Interlocal Agreement are declared by the parties to be severable.

5.5 Governing Law; Venue. This Interlocal Agreement shall be governed by and construed in accordance with laws of the State of Florida. Venue for any action arising out of or related to this Interlocal Agreement shall be in the Circuit Court for the Ninth Judicial Circuit in Orange County, Florida.

5.6 Full Agreement; Filing with Comptroller. This Interlocal Agreement contains the entire agreement of the parties with respect to the Loan. Previous agreements and understandings of the parties with respect to such matters are null and void and of no effect. As required by

Subsection 163.01(11) of Florida Statutes, this Interlocal Agreement and all amendments thereto shall be filed with the Comptroller, as clerk to the Board of County Commissioners.

5.7 Notices. All notices, elections, requests and other communications hereunder shall be in writing and shall be deemed given in the following circumstances: when personally delivered; or three (3) business days after being deposited in the United States Mail, postage prepaid, certified or registered; or the next business day after being deposited with a recognized overnight mail or courier delivery service; or when transmitted by facsimile or telecopy transmission, with receipt acknowledged upon transmission; and addressed as follows (or to such other person or at such other address, of which any party hereto shall give written notice as provided herein):

If to County: Orange County Administrator
Orange County Administration Center
201 South Rosalind Avenue, Fifth Floor
Orlando, Florida 32801-4328
Facsimile: (407)836-7399

With copies to: Orange County Comptroller's Office
Orange County Administration Center
201 South Rosalind Avenue, Fourth Floor
Orlando, Florida 32801-4328
Attention: Finance and Accounting
Facsimile: (407)836-5599

and

Orange County Attorney's Office
Orange County Administration Center
201 South Rosalind Avenue, Fifth Floor
Orlando, Florida 32801-4328
Attention: County Attorney
Facsimile: (407)836-5888

If to District: Orange County Library District
101 East Central Blvd.
Orlando, Florida 32801
Attention: Comptroller
Facsimile: (407) 648-0523

In all cases, notices shall be deemed delivered to a party only upon delivery of copies to the persons indicated above in the same manner as for the party being notified.

WHEREFORE, the County and the District have executed this Interlocal Agreement as of the date and year first above written.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: PROPOSED
Linda W. Chapin
County Chairman

ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By: PROPOSED
Deputy Clerk

(SEAL)

ORANGE COUNTY LIBRARY DISTRICT

By: Governing Board

By: PROPOSED
Chairman

ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Governing Board

By: PROPOSED
Deputy Clerk

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