

**Lee County Board of County Commissioners  
Agenda Item Summary**

**DATE CRITICAL  
Blue Sheet No. 20020273**

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Request approval of settlement offer and authorize the Chairman to execute a Release of All Claims and Release for Property Damage Only with MasTec, Inc. and MasTec North America, as part of the County's receipt of \$10,000 in payment for property damage caused to utilities at Lockett Road and Golden Lake on June 16, 1999.

**WHY ACTION IS NECESSARY:** Board of County Commissioners' approval required for settlement offers and execution of Release of All Claims and Release for Property Damage Only are required to complete the transaction with MasTec, Inc. for their payment.

**WHAT ACTION ACCOMPLISHES:** Releases MasTec, Inc. and its subsidiaries from any further liability to the County for a \$10,000 payment to County due to damages caused to County utilities by Wilde Construction, Inc., a subsidiary of MasTec, Inc..

**2. DEPARTMENTAL CATEGORY:** COMMISSION DISTRICT # **A 12 A** **3. MEETING DATE:** **05-14-2002**

<p><b>4. AGENDA:</b></p> <p><input type="checkbox"/> CONSENT</p> <p><input checked="" type="checkbox"/> ADMINISTRATIVE</p> <p><input type="checkbox"/> APPEALS</p> <p><input type="checkbox"/> PUBLIC</p> <p><input type="checkbox"/> WALK ON</p> <p><b>TIME REQUIRED:</b> 5 Minutes</p>	<p><b>5. REQUIREMENT/PURPOSE:</b> (Specify)</p> <p><input type="checkbox"/> STATUTE</p> <p><input type="checkbox"/> ORDINANCE</p> <p><input type="checkbox"/> ADMIN. CODE</p> <p><input checked="" type="checkbox"/> OTHER Settlement Offer &amp; Execution of Releases</p>	<p><b>6. REQUESTOR OF INFORMATION:</b></p> <p><b>A. COMMISSIONER</b> _____</p> <p><b>B. DEPARTMENT</b> County Attorney</p> <p><b>C. DIVISION</b> General Services</p> <p><b>BY:</b> <u>Scott S. Covert</u> Scott S. Covert, Asst. County Atty</p>
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**7. BACKGROUND:**  
On June 16, 1999, Wilde Construction, Inc., a subsidiary of MasTec, Inc., damaged an 8" gravity main located at Lockett Road and Golden Lake. Lee County Utilities repaired the damaged gravity main at a cost of \$20,720.72. In an effort to bring this matter to a conclusion, MasTec, Inc. has made an offer of \$10,000 to settle the claim and release MasTec, Inc. of any liability.

As part of its agreement to tender \$10,000, MasTec, Inc. has requested the County to execute a Release of All Claims and Release For Property Damage Only in order to close out the matter.

The funds (\$10,000) will be forwarded by MasTec, Inc. upon receipt of the executed Releases.

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	5/15/02	OA 3/21/02	QM 3/21/02	RISK 3/21/02	GC 3/21/02	3-21-02

**10. COMMISSION ACTION:**

APPROVED  
 DENIED  
 DEFERRED 2 WEEKS TO 4/16/02  
 OTHER

ON 4/2/02 ON 04-16-02-  
Deferred to 05-14-02

RECEIVED BY COUNTY ADMIN.	3/20 9:00
COUNTY ADMIN. FORWARDED TO:	3/21 5:00

RELEASE OF ALL CLAIMS

KNOW ALL MEN BY THESE PRESENTS:

That Lee County Board of County Commissioners

Address P.O. Box 398 Ft. Myers, Fl 33902

being of lawful age, for the sole consideration of Ten Thousand dollars and no cents Dollars (\$ 10,000.00 )

to the undersigned in hand paid, receipt whereof is hereby acknowledged, do/does hereby and for my/our/its heirs, executors, administrators, successors and assigns release, acquit and forever discharge:

MasTec, Inc. and MasTec North America and his, her, their, or its agents, servants, successors, heirs, executors, administrators and all other persons, firms, corporations, associations or partnerships of and from any and all claims, actions, causes of action, demands, rights, damages, costs, loss of service, expenses and compensation whatsoever, which the undersigned now has/have or which may hereafter accrue on account of or in any way growing out of any and all known and unknown, foreseen and unforeseen bodily and personal injuries and property damage and the consequences thereof resulting or to result from the accident, casualty or event which occurred on or about the 16th day of June, 20 1999, at or near:

Luckett Road & Golden Lake, Ft. Myers, Fl.

It is understood and agreed that this settlement is the compromise of a doubtful and disputed claim, and that the payment made is not to be construed as an admission of liability on the part of the party or parties hereby released, and that said releasees deny liability therefor and intend merely to avoid litigation and buy their peace.

The undersigned hereby declare(s) and represent(s) that the injuries sustained are or may be permanent and progressive and that recovery therefrom is uncertain and indefinite and in making this Release it is understood and agreed, that the undersigned rely(ies) wholly upon the undersigned's judgment, belief and knowledge of the nature, extent, affect and duration of said injuries and liability therefor and is made without reliance upon any statement or representation of the party or parties hereby released or their representatives or by any physician or surgeon by them employed.

The undersigned further declare(s) and represents(s) that no promise, inducement or agreement not herein expressed has been made to the undersigned, and that this Release contains the entire agreement between the parties hereto, and that the terms of this release are contractual and not a mere recital.

Neither this Release nor any payment pursuant thereto shall be construed as an admission of any liability, such being expressly denied, nor as a waiver by or an estoppel or any or the parties herein released to make claim for any damages which they sustained, their claims and causes of action with respect thereto being expressly reserved.

THE UNDERSIGNED HAS READ THE FOREGOING RELEASE AND FULLY UNDERSTANDS IT.

Signed, sealed and delivered this day of , 20

CAUTION: READ BEFORE SIGNING BELOW

Witness LS
Witness LS
Witness LS

STATE OF
COUNTY OF SS

to me known to be the person(s) named herein and who executed the foregoing Release and that voluntarily executed the same.

My term expires , 20

Notary Public

**Release For Property Damage Only**

I/We Lee County Board of County Commissioners

For myself/ourselves, my/our heirs, executors, administrators, successors and assigns in consideration of the payment of \$10,000.00 do hereby remise, release and forever discharge \_\_\_\_\_

MasTec, Inc. & MasTec North America

and his/her, their heirs, executors, administrators, successors and assigns from and against all claims demands, actions and causes of action for damages when-so-ever and howsoever arising on account of damage to property (including loss of use thereof) arising out of an accident which occurred on or about the

16th day of June 20 1999 at or near Luckett Road & Golden Lake

in the State of Florida

The above sum stated as a consideration of this Release is to be paid as follows:

TO Lee County Board of Commissioners

TO \_\_\_\_\_

IT IS UNDERSTOOD AND AGREED that neither this Release nor any payment made pursuant hereto is to

Be taken as an admission of liability on the part of any person in whose favour this Release is given.

IN WITNESS WHEREOF I/we have signed and sealed this Release at \_\_\_\_\_

in the State of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

IN THE PRESENCE OF

\_\_\_\_\_  
L.S.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

\_\_\_\_\_  
L.S.

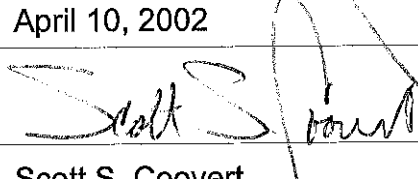
\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

**MEMORANDUM  
FROM THE  
OFFICE OF COUNTY ATTORNEY**

**DATE:** April 10, 2002

**To:** Kathy Geren  
Administrative Specialist

**FROM:**   
Scott S. Covert  
Assistant County Attorney

Lee Cares

**RE: Bluesheet # 20020273  
Mastec Settlement  
Agenda 04/16/02**

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We are requesting that the above item on the Administrative Agenda be deferred until the May 14, 2002 Board of County Commissioners meeting as we are aggressively working towards a more favorable settlement. This item was originally heard at the Board of County Commissioners meeting on April 2, 2002.

If I can be of further assistance, please do not hesitate to contact me.

**cc:** Board of County Commissioners  
James G. Yaeger, County Attorney  
Robert Gray, Deputy County Attorney  
David M. Owen, Chief Assistant County Attorney  
Denise Stanton, DOT