

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

Blue Sheet No. 20020771

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Approve and execute a Joint Project Agreement between Lee County DOT and Florida Water Service Corp. on the Lee Blvd., Phase IV Improvement Project. Also approve Budget Amendment Resolution in the Transportation Capital Improvement Fund in the amount of \$656,155.00 for unanticipated revenues from Florida Water Service Corp. and expenditures for the Lee Blvd., Phase IV Improvement Project. Amend FY02 -06 Capital Improvement Program.

**WHY ACTION IS NECESSARY:** This agreement will permit the County's contractor to construct the Florida Water Service utility lines along Lee Blvd. This will eliminate a conflict between contractors working in the same area during the construction period. All CIP amendments require BOCC approval.

**WHAT ACTION ACCOMPLISHES:** Provide mechanism that one general contractor will perform the roadway construction as well as the utility work. Amend FY02 - 06 Capital Improvement Program.

**2. DEPARTMENTAL CATEGORY:  
COMMISSION DISTRICT #**

C9E

**3. MEETING DATE:**

07-09-2002

**4. AGENDA:**

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:  
(Specify)**

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER

**6. REQUESTOR OF INFORMATION:**

- A. COMMISSIONER \_\_\_\_\_
- B. DEPARTMENT Transportation
- C. DIVISION Administration

BY: Scott Gilbertson, Director

**BACKGROUND:** Through conferences between the County DOT and Florida Water Corp., it has been determined that it would be in the best interest of the County to combine the construction of Lee Blvd., Phase IV and Florida Water Corp. Utilities construction into a single contract as both projects will be under construction simultaneously. Having a single construction contractor would help reduce the overall construction cost for the County.

Continued on next page.

**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
<i>[Signature]</i>	<i>[Signature]</i>	N/A	<i>[Signature]</i>	<i>[Signature]</i>	OA	OM	Risk	GC	<i>[Signature]</i>
					<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

REC'D.  
by CO. ATTY.  
6/25/02  
145pm  
CO. ATTY 6/25/02  
FORWARDED TO:  
Budget  
L. COON

RECEIVED BY  
COUNTY ADMIN. *[Signature]*  
*[Signature]* 4:30  
COUNTY ADMIN.  
FORWARDED TO:  
6/25/02

**Blue Sheet No. 20020771 (continued)**

7. Background (continued)

According to the agreement, Florida Water Services agrees that it will, upon the execution of this agreement, furnish to the County a check in the amount of 110% of the estimated construction cost of their facilities, plus the estimated cost to the County of any additional engineering fees and out-of-pocket expenses.

Funds are available in following account:

20	-	Capital Improvement
4057	-	Lee Blvd., Phase IV Improvements
18803	-	Transportation Capital Improvement, Road Impact Fees – E. Lee County
506540	-	Improvements Construction

After receipt, funds should be posted as follows :

20	-	Capital Projects
4057	-	Lee Blvd. 4-Lane
30708	-	Transportation Capital Improvement – Florida Water Service
506540	-	Improvements Construction

# RESOLUTION #

Amending the Budget of Transportation Capital Improvements-FL Water Service Corp-Fund 30708 to incorporate the unanticipated receipts into Estimated Revenues and Appropriations for the fiscal year 2001-2002.

**WHEREAS**, in compliance with the Florida Statutes 129.06(2), it is the desire of the Board of County Commissioners of Lee County, Florida, to amend the Transportation Capital Improvements-FL Water Service Corp-Fund 30708 budget for \$65,000 of the unanticipated revenue from FL Water Service Corp and an appropriation of a like amount for construction costs and;

**WHEREAS**, the Transportation Capital Improvements-FL Water Service Corp-Fund 30708 budget shall be amended to include the following amounts which were previously not included.

<b>ESTIMATED REVENUES</b>		
Prior Total:		\$24,698
Additions		
20405730708.366001.9002	Contribution from FL Water Service	656,155
Amended Total Estimated Revenues		\$680,853

<b>APPROPRIATIONS</b>		
Prior Total:		\$24,698
Additions		
20405730708.506540	Improvements Construction	656,155
Amended Total Appropriations		\$680,853

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Lee County, Florida, that the Transportation Capital Improvements-FL Water Service Corp-Fund 30708 budget is hereby amended to show the above additions to its Estimated Revenue and Appropriation accounts.

Duly voted upon and adopted in Chambers at a regular Public Hearing by the Board of County Commissioners on this \_\_\_\_ day of \_\_\_\_\_, 2002.

ATTEST:  
CHARLIE GREEN, EX-OFFICIO CLERK

BOARD OF COUNTY COMMISSIONERS  
LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
DEPUTY CLERK

\_\_\_\_\_  
CHAIRMAN

APPROVED AS TO FORM

\_\_\_\_\_  
OFFICE OF COUNTY ATTORNEY

DOC TYPE YA  
LEDGER TYPE BA

LEE COUNTY DIVISION OF TRANSPORTATION

JOINT PROJECT AGREEMENT

UTILITY INSTALLATION BY HIGHWAY CONTRACTOR

FLORIDA WATER SERVICES CORPORATION

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between LEE COUNTY, hereinafter called the COUNTY, and Florida Water Services Corporation, a corporation organized and existing under the laws of the State of Florida, with its principal place of business in the City of Apopka, County of Orange, State of Florida, hereinafter called the COMPANY.

WITNESSETH:

WHEREAS, the COUNTY is constructing, reconstructing or otherwise changing a portion of the COUNTY Highway System designated by the COUNTY, known as Project No. 4057, Lee Boulevard from Homestead Road to Leeland Heights Blvd. Said project calls for the installation of COMPANY water, sewer force main, raw water, and sewer gravity main facilities along said highway, as more particularly shown on the attached Exhibit "A", and

WHEREAS, except for those Plans for the Utility Work not yet prepared or finalized by the COMPANY, the plans for the said construction, reconstruction, or other changes to be made, as above described, have been reviewed by the COUNTY, and the COMPANY, said above described installation of COMPANY water, raw water, and sewer facilities to hereinafter be designated as "Utility Work"; and

WHEREAS, the term "Cost of Utility Work" shall include the entire amount to be paid by the COMPANY properly attributable to the utility work; and,

WHEREAS, the COMPANY will assume the "Cost of Utility Work," as defined in this Agreement; and,

WHEREAS, the COMPANY has requested the COUNTY to include in the Project certain plans and specifications to meet the COMPANY'S needs; and,

WHEREAS, the COUNTY and the COMPANY have determined that it would be to the best interest of the general public and to the economic advantage of both parties to enter into a JOINT PROJECT providing for such work.

NOW THEREFORE, the premises considered, and in consideration of the sum of Ten Dollars each to the other in hand paid, the receipt whereof is hereby acknowledged, and

in further consideration of the mutual covenants hereinafter contained, it is agreed by the parties as follows:

1. The COUNTY and the COMPANY shall participate in a JOINT PROJECT, the scope of which will cover only COMPANY utility facilities within the limits of the project as included in the plans and estimate of the highway contract, more specifically described as Utility Adjustments for Florida Water Services Water, Raw Water, and Force Main Utilities Lee Boulevard.
2. The COMPANY will prepare, at its expense, the design and plans for all of the COMPANY'S necessary "Utility Work" specified above, and will furnish to the COUNTY no later than March 7, 2002, complete original plans on standard size sheets (11" x 17"), all suitable for reproduction by the COUNTY, together with a complete set of specifications covering all construction requirements for the "Utility Work". Final "Utility Work" plans shall be complete and constructible and will include a "Summary of Quantities" sheet and construction cost estimate. It will be the responsibility of the COMPANY to coordinate the development of the "Utility Work" plans with the COUNTY'S highway job plans. The COUNTY, upon request by the COMPANY, will furnish all highway job plans and all highway information available to the County required by the COMPANY for the development of the "Utility Work" plans. The COMPANY shall reimburse the COUNTY any costs incurred by the COUNTY in providing copies of this information. The parties shall cooperate fully with each other to this end.
3. All of the work on the JOINT PROJECT is to be done according to the plans and specifications of the COUNTY, and the Utility Plans of the COMPANY, which plans and specifications are, by reference hereto, made a part hereof. The COMPANY will be responsible for verifying the accuracy of the COUNTY'S underground survey information. If a conflict in the specifications is discovered, the matter shall be discussed by the COMPANY and the COUNTY and an agreement on the correct specifications should be reached. If such an agreement cannot be reached within a reasonable period of time, then the COUNTY specifications shall govern.
4. The COMPANY, on request and at its expense, will furnish all engineering inspections, testing and supervision of the "Utility Work," and will also furnish the COUNTY'S CONSTRUCTION INSPECTOR with progress reports for diary records, approved quantities and amounts for weekly, monthly, and final estimates. All field survey control for the "Utility Work" will be furnished by the COMPANY under the supervision of the COUNTY'S ENGINEERING CONSULTANTS. The coordination of the COMPANY'S "Utility Work" with that of the highway contractor and other utilities and/or their contractors will be the responsibility of the COUNTY, and the COMPANY shall cooperate fully in this matter. All information required for Change Orders or Supplemental Agreements pertaining to the COMPANY'S "Utility Work" or otherwise related to subject matter of this Agreement shall be promptly furnished to the COUNTY by the COMPANY upon the request of the COUNTY.

5. The COUNTY will provide the necessary engineering supervision to assure construction is in compliance with the plans and specifications hereinabove referred to, and shall receive all bids for and let all contracts for said "Utility Work" all at the sole expense of the COMPANY. All bids for said "Utility Work" shall be taken into consideration for a possible combined award of the Highway Job and Utility Work. However, the COMPANY shall have the right to reject any or all bids on the "Utility Work." If said bids exceed the COMPANY'S estimated cost by 10%, the COMPANY shall have the discretion of rejecting all Utility Work bids. In the event of rejection of bids for the "Utility Work," the highway contract documents will be so amended prior to award and the COMPANY will, at its expense, arrange for the prompt construction of the "Utility Work," so as to cause no delay to the prosecution of the highway work by the COUNTY contractor. If the Utility Work and Highway Job are awarded on a combined basis to the same Contractor under a single Contract, then the Utility Work Contract Price shall be separated into a distinct "Add Alternate" and a separate Schedule of Values and Pay Applications shall be utilized, which separate "Add Alternate" shall be referred to as the "Utility Contract" for convenient reference.
6. All adjustments, relocations, repairs and incidentals required to be performed to the existing COMPANY utilities within this project, not included in this contract, will be the sole responsibility of the COMPANY. All such work is to be coordinated with the construction of this project and in a manner that will not cause delay to the highway contractor.
7. In the event that COMPANY causes a delay in performance of the work referenced in paragraph 5 or 6 above, COMPANY shall be liable to the COUNTY for liquidated damages, and not as a penalty, for the sum of \$250.00 per day. Delays caused by factors beyond the COMPANY'S control such as government action, strike, civil disturbances, weather and acts of God or delays which are the responsibility of the Contractor performing the Utility Contract under a combined award, shall not give rise to liability for liquidated damages. The COMPANY shall not be liable for liquidated damages for adjustments to its existing Utilities or adjustments to the Utility Work to be installed under this Agreement to the extent necessitated by changes or modifications to the Highway Job. The COMPANY will be allowed a reasonable time to plan and perform such adjustments based upon the time added from the modifications to the highway job.
8. All services and work under the construction contract shall be performed to the satisfaction of the COUNTY. All questions, difficulties and disputes of whatever nature which may arise under or by reason of such contract for "Utility Work," the prosecution and fulfillment of the service thereunder and the character, quality, amount and value thereof, shall be discussed by the parties. If the parties are unable to resolve the dispute, it may be submitted to mediation with a mediator mutually agreed to by the parties. Costs associated with the mediation shall be borne equally by both parties.

9. The COMPANY agrees that it will, upon the execution of this Agreement, furnish the COUNTY an interest-bearing escrow account in the COUNTY'S name in the amount of \$ 656,154.95, which represents 110% of the COUNTY-selected contractor's bid of the COMPANY'S facilities plus the COUNTY'S estimated cost to the COUNTY of any additional engineering fees and out-of-pocket expenses. This account shall be available to the COUNTY Clerk to draw against for the contractor's monthly pay estimates. When the project is complete, the COMPANY would be entitled to any funds left in the account plus any interest earned. If it appears that during the course of construction the amount of funds in the account will be insufficient to cover the remaining costs, the COMPANY will, at the COUNTY'S request, supply additional funds within fifteen (15) days of said notification.
10. Upon completion and acceptance of the work, the COMPANY shall own, control, maintain and be responsible for all COMPANY utility facilities involved, according to the terms of the standard permit by the State Statutes for occupancy of public right-of-way. The COMPANY further agrees that it will maintain and keep in repair, or cause to be maintained and kept in repair, all of such construction facilities or utilities within the right-of-way of aid County road to comply with all provisions of law and of the COUNTY'S manual with amendment and specifications for traffic control routing and parking and to conform with the COUNTY'S regulations pertaining thereto.
11. If either party through its negligent or willful acts or omissions pursuant to this Agreement causes the other party or parties to be the subject of a legal action, claim or demand by any persons or legal entity, the party which committed the negligent or willful act or omission agrees to defend, save and hold the other party harmless from such legal action, claim or demand. The COUNTY'S obligations under this paragraph are subject to the limitations of Section 768.28 F.S.
12. Upon completion of the work, the COUNTY shall, at the earliest date practicable, furnish the COMPANY with two (2) copies of its final and complete billing of all cost incurred in connection with the work performed hereunder, such statement to follow as closely as possible the order of the items contained in the job estimate. The final billing shall show the description and site of the project; the date on which the first work was performed; the date of which the earliest item of billed expense was incurred; and the location where the records' and accounts' bill can be audited. Adequate reference shall be made in the billing to the COUNTY'S records, accounts or other relevant documents. All cost records and accounts shall be subject to audit by a representative of the COMPANY. The COMPANY at reasonable intervals may review all interim cost information relating to the Utility Work, as described above, and shall be consulted by COUNTY in advance of the execution of any Change Orders, Modifications or Directives relating to the Utility Work.
13. The Contract Document for the Utility Work shall:
  - A. Provide that the COMPANY is an intended third-party beneficiary to the Utility Work Contract.

- B. Provide that all warranties and guarantees of the Contractor under the Utility Work Contract are to be assigned by COUNTY to COMPANY at Substantial Completion of the Utility Work.
  - C. Provide that, at COMPANY'S request, the rights and entitlement of the COUNTY under the Utility Contract, subject to the COUNTY'S prior consent, may be assigned by COUNTY to COMPANY at Final Completion, or at any time thereafter, in the sole discretion of and upon written request of COMPANY to COUNTY, and without requirement of consent of Contractor.
  - D. Provide that, even without an assignment of the Utility Contract, the COMPANY shall have all rights and recourse of the COUNTY under the Utility Contract concerning defective, non-conforming Work or latent defects in such Utility Work.
  - E. Provide that the COMPANY shall be (i) an additional named insured on the Utility Contractor's general liability insurance provided under the Contract Documents and (ii) an additional named obligee on the Contractor's Payment and Performance Bonds for the Utility Work.
  - F. Provide that the COMPANY shall be an additional indemnified party under the indemnity provisions of the Contract Documents.
14. This Agreement shall not establish that the COUNTY and COMPANY are to be joint venturers for the Utility Work. The COUNTY and COMPANY have agreed to their respective rights and obligations in this Agreement for the Utility Work but have not established any joint venture or partnership therefor.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized officers, and their official seals hereto affixed, the date and year first above written.

ATTEST: COUNTY: LEE COUNTY, FLORIDA  
BOARD OF COUNTY COMMISSIONERS

By: \_\_\_\_\_  
Chairman

\_\_\_\_\_ Date: \_\_\_\_\_

Approved as to form, legality and execution  
LEE COUNTY

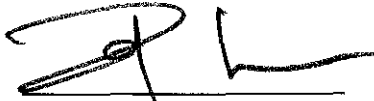
SEAL

BY: \_\_\_\_\_  
Assistant County Attorney



WITNESS:

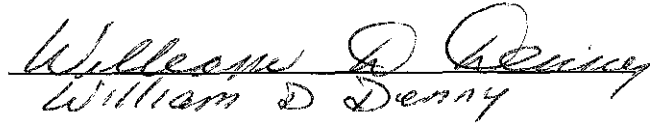
FLORIDA WATER SERVICES CORPORATION



Kirk D. Martin



Suzanne M. Finney



Date: June 14, 2002

Company Seal