

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

Blue Sheet No. 20021078

**1. REQUESTED MOTION:**

**ACTION REQUESTED:**

Approve authorizing agreement for Chairman to execute attached Landscape Installation and Maintenance Agreement between Lee County and Worthington of Renaissance, LLC on behalf of the BoCC.

**WHY ACTION IS NECESSARY:**

The Board must approve the agreement and authorize the Chairman to sign it so that it may become fully executed.

**WHAT ACTION ACCOMPLISHES:**

Provides an agreement that establishes the landscape installation and maintenance responsibilities in the median and roadsides of Danport Boulevard between Daniels Parkway and Marketplace Road.

**2. DEPARTMENTAL CATEGORY: 9  
COMMISSION DISTRICT # 5**

*C9A*

**3. MEETING DATE:**

*10-15-2002*

**4. AGENDA:**

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

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

- STATUTE
  - ORDINANCE
  - ADMIN. CODE
  - OTHER
- LeeScape Master Plan*

**6. REQUESTOR OF INFORMATION:**

- A. COMMISSIONER
- B. DEPARTMENT *Transportation*
- C. DIVISION *Operations*

BY: *Scott M. Gilbertson, P.E.,  
Director, DOT*

**7. BACKGROUND:**

Lee County staff and Worthington Communities have worked together to develop this agreement for enhanced landscaping and irrigation improvements to this local street, which is the entry road to the new Renaissance Development.

Worthington has agreed to fund the installation and ongoing maintenance of the project as their part of the agreement.

**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>9/23/02 [Signature]</i>	<i>[Signature]</i>	NA		<i>Andrea [Signature]</i>	OA <i>[Signature]</i>	OM <i>[Signature]</i>	Risk <i>[Signature]</i>	GC <i>[Signature]</i>	<i>[Signature]</i> 10-2-02

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

**Rec. by** *Coakley*  
**Date:** *9/26/02*  
**Time:** *11:30 am*

**Forwarded To:**  
*Budget*  
*10/2/02 2:10p*

**RECEIVED BY**  
**COUNTY ADMIN.** *RK*  
*9/30 4:00*

**COUNTY ADMIN.**  
**FORWARDED TO:** *DS*  
*10/2 5:00*

## **LANDSCAPE INSTALLATION AND MAINTENANCE AGREEMENT**

THIS AGREEMENT entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2002, by and between LEE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "County", and WORTHINGTON of RENAISSANCE, LLC, a Florida corporation, hereinafter referred to as "Developer".

### **RECITALS**

WHEREAS, the Developer and County desire to enter into an Agreement regarding their respective duties and responsibilities for the installation and maintenance of the landscape improvements installed within the median and roadside right-of-way of Danport Boulevard, hereinafter referred to as "Right-of-Way", in Section 22, Township 45S, Range 25E, which runs north 300' from the north right-of-way line of Daniels Parkway; and

WHEREAS, Developer will be responsible for the installation and maintenance of the installed roadway improvements including but not limited to trees, shrubs, ground covers, turfgrass, signs, lighting, decorative asphalt paving, and any other plant material or hard scape items located within the said right-of-way, hereinafter referred to as "landscape improvements", as described on Exhibits "A and B" attached hereto. Developer will be responsible for all costs associated with the installation and maintenance of the roadway landscape improvements; and deliver to County a surety bond or equivalent security document in the amount of twelve thousand six hundred and fifty dollars (\$12,650.00), for the Cost Estimate of the project's removal and restoration (\$11,000.00), plus fifteen percent (15%) \$1,650.00), subject to the reasonable satisfaction of the County Attorney's office; and

WHEREAS, it is in the public's interest for the County and Developer to enter into this Agreement; and

WHEREAS, the Developer has agreed to improve and landscape the right-of-way and maintain the landscape improvements and replace dead or damaged plant material and other items incidental to the landscaping as necessary at the Developer's expense.

NOW, THEREFORE, in consideration of the above premises and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the Parties, the Developer and the County hereby agree as follows:

1. The Recitals as set forth above are incorporated into the terms of this Agreement as if set out herein at length.

2. The County and the Developer agree to enter into this Agreement concerning installation and maintenance of landscape improvements within said County right-of-way.
3. Reference to the Developer includes all assigns and successors in interest.
4. The Developer agrees to landscape the right-of-way of Danport Boulevard including the installation of plant materials and irrigation system within the right-of-way in accordance with plans and specifications approved by Developer and Lee County Department of Transportation, hereinafter referred to DOT (see attached plans marked Exhibit "A", and by reference, made a part hereof). All costs for construction, initial landscaping and maintenance of the landscape improvements as described on Exhibits "A and B" shall be at the Developer's expense.
5. The Developer will install and maintain the landscape improvements in cooperation with DOT, and in accordance with the Lee County Roadway Landscape Master Plan "LeeScope". The Developer will be responsible for providing the minimum maintenance frequencies as indicated on the Maintenance Matrix - Level Two, as described on Exhibit "B", and by reference, made a part hereof. DOT will enforce the LeeScope guidelines, and reserves the right to reject any plant material for sub-standard quality, improper planting/pruning or maintenance practices, and unsound tree structure. Trees shall be pruned in a manner that will provide a structurally sound street tree, in order to minimize storm damage and tree/branch failure. Should the Developer fail to provide such care, the County will do so with its resources, and pursue reimbursement compensation from the Developer for all expenses incurred.
6. The Developer agrees to maintain the landscape improvements and all other items incidental to the landscaping, including all plant materials and hard scape items, during the installation and on-going maintenance of the landscape improvements.
7. The Developer agrees to prevent obstructions or conditions which may be dangerous to the public through the exercise of its rights of the performance of its installation and maintenance duties. This includes providing clear visibility for motorists and pedestrians and the avoidance of wetting the adjacent roadway or bike paths/sidewalks.
8. The Developer agrees to indemnify, hold harmless and defend the County and all of its officers, agents, consultants and employees from and against all losses, claims, demands, payments, suits, actions, recoveries, and judgments of every nature and description brought or recoverable against it or them by reason of any act or omission of the Developer, its agents, consultants, employees, or subcontractors, during the installation of landscape improvements or their maintenance contemplated by this Agreement; and also agrees to assume any related costs or fees. Developer further agrees to carry and maintain in full force

and effect liability insurance so as to indemnify the County in all respects. A copy of the Certificate of Insurance provided by the Developer is attached as Exhibit "C". This insurance must remain in effect until such time as any assign or successor in interest provides similar proof of insurance to the satisfaction of the County Attorney's Office.

9. The Developer assumes all risk and bears any loss or injury to property or persons occasioned by neglect or accident arising from the exercise of its rights or the performance of its maintenance duties.
10. The Developer also assumes full responsibility for loss by reason of neglect or violation of any state or federal law or local government rule, regulation or order. The Developer will give all required notices relating to the landscaping or maintenance contemplated by this Agreement to the proper authorities. In addition, Developer will obtain all official permits and licenses, and pay all proper fees.
11. The Developer agrees to repair, restore, or rebuild any damage caused to County property by installing or maintaining the landscape improvements in the described right-of-way.
12. Developer will deliver to County a surety bond or other equivalent security document in the amount of twelve thousand six hundred and fifty dollars (\$12,650.00), for the Cost Estimate of the project's removal and restoration (\$11,000), plus fifteen percent (15%) \$1,650.00), subject to the reasonable satisfaction of the County Attorney's office. The surety bond or equivalent security document must remain current during the term of this agreement.
13. Failure to maintain the landscape improvements as stated above, or keep the certificate of insurance, surety bond, or equivalent security document current, shall constitute a default on the part of the Developer. Failure of the Developer to maintain the landscape improvements, or keep the certificate of insurance, surety bond, or equivalent security document current, will result in the County removing the landscape improvements and invoicing the Developer for the removal and restoration costs. Developer agrees to pay the County all of the County's costs for the removal of the landscape improvements and restoration of the areas to pre-construction conditions.
14. Failure of the Developer to pay the County the invoiced removal and restoration costs owed under this Agreement within thirty (30) days following receipt of the invoice shall constitute a material breach of this Agreement by the Developer. The County shall first give notice of the alleged breach and a fifteen (15) day time period to cure same and, if the Developer fails to cure the alleged breach, the County's remedy shall be to exercise the surety bond or equivalent security document or sue for specific performance.

15. This Agreement will continue in full force and effect until such time as the road is widened, repaired, closed, abandoned, vacated, discontinued or reconstructed, or until the Developer receives written notice of the County's termination of this Agreement or until such time as Developer notifies the County in writing of the intent to terminate this Agreement. At the County's option, the Developer will be required to move or remove all of the landscape improvements placed within the Danport Boulevard right-of-way by virtue of this Agreement, and restore those areas to pre-construction conditions, within thirty (30) days of the Developer's receipt of written notice. The cost of relocation, or removal of the landscape improvements and restoration of those areas to pre-construction conditions will be paid entirely by the Developer.
16. The Developer agrees that if the placement, repair, relocation or reconstruction of public utilities, including but not limited to water, sewage, gas, power, telephone located within the right-of-way, requires the relocation or removal of the landscape improvements referenced herein, then the Developer will move or remove the landscape improvements and restore those areas to pre-construction conditions within thirty (30) days of the Developer's receipt of written notice at no cost to the County or utility.
17. The Developer agrees that if the landscape improvements such as the decorative asphalt paving, as shown on the approved plans, are altered or modified by the County through normal routine maintenance activities such as pot hole repairs or overlaying the street with a layer of asphalt, the County is not obligated to replace the decorative asphalt paving and will restore it only in accordance with the County's core level of service for roadway maintenance.
18. This Agreement binds and inures to the benefit of the parties as well as their respective legal representatives, successors and/or assigns. In the event Developer assigns its obligations hereunder to successor Owners, Developer, or Homeowner's Association, all of Developer's obligations and agreements made herein shall be fully and completely assigned to such assignee in full as if such assignee were mentioned by name instead of Developer herein. In the event the Developer desires to transfer its rights and obligations hereunder to a third party such as a homeowner's association, County agrees to cooperate with respect to modifying this Agreement in accordance with Section 21 below provided that prior to such assignment being binding on County, Developer will demonstrate to County that the association to become the assignee has the authority to undertake the obligations and responsibilities herein contemplated.
19. The Developer may assign the rights and obligations set forth herein to successor Owners, Developer, or Homeowner Associations, except that Developer will remain responsible under the terms of this Agreement until such time as the Developer or successor in interest can provide written documentation to the satisfaction of the County Attorney's Office, which confirms that its success in interest has assumed

responsibility for the compliance with the terms and conditions of this Agreement with respect to the landscape improvements.

20. This Agreement must be construed, and its performance enforced under Florida law.
21. This Agreement is the entire agreement between the parties and shall not be modified or replaced except by another signed written Agreement.
22. The Parties recognize and agree that this Agreement is of a unique nature inuring principally to the benefit of **WORTHINGTON** of Renaissance, LLC and that money damages may not be an adequate or appropriate remedy for either Party for breach of the terms herein. As a result, the Parties specifically agree that a non-defaulting Party may raise in any pleadings, without objections from the alleged defaulting Party, the extraordinary remedy of specific performance, in order to protect the public's interest in this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

Witnesses:

WORTHINGTON of RENAISSANCE, LLC

[Signature]  
Signature

By: [Signature]

Andrea Stieren  
Name Printed, Stamped or Typed

Scott Connell V.P.  
Name Printed, Stamped or Typed

[Signature]  
Signature

[Signature]  
Name Printed, Stamped or Typed

STATE OF FLORIDA  
COUNTY OF

The foregoing agreement was acknowledged before me this 4 day of September, 2002, by Scott Connell as Vice President of Worthington of Renaissance, LLC. He is personally known to me or has produced \_\_\_\_\_ as identification.

[Signature]  
Notary Public, State of Florida at Large



Andrea Stieren  
MY COMMISSION # 00615740 EXPIRES  
December 2, 2005  
BONDED THRU TROY FAIN INSURANCE, INC.

Name of Notary Printed, Stamped or Typed

ATTEST:  
CHARLIE GREEN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

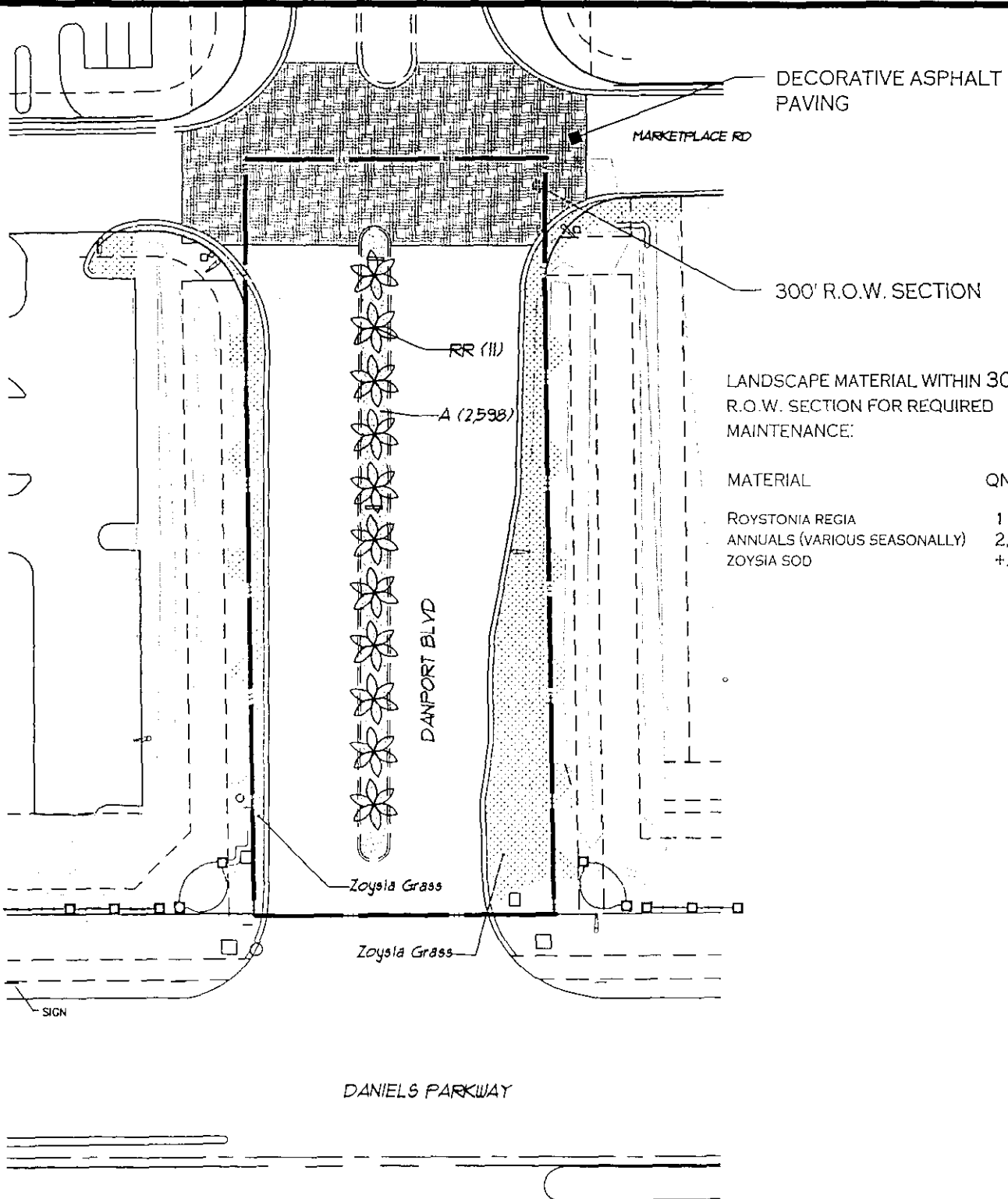
BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

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

APPROVED AS TO FORM BY:

\_\_\_\_\_  
Office of the County Attorney





LANDSCAPE MATERIAL WITHIN 300' R.O.W. SECTION FOR REQUIRED MAINTENANCE:

MATERIAL	QNTY.
ROYSTONIA REGIA	11
ANNUALS (VARIOUS SEASONALLY)	2,598
ZOYSIA SOD	+/- 7,200 S.F.

PLAN VIEW OF EXISTING LANDSCAPING WITHIN DANPORT BLVD. R.O.W.  
SCALE: 1" = 60'-0"

EXHIBIT A

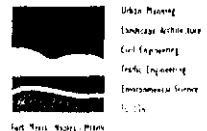
Sheet 1 of 2

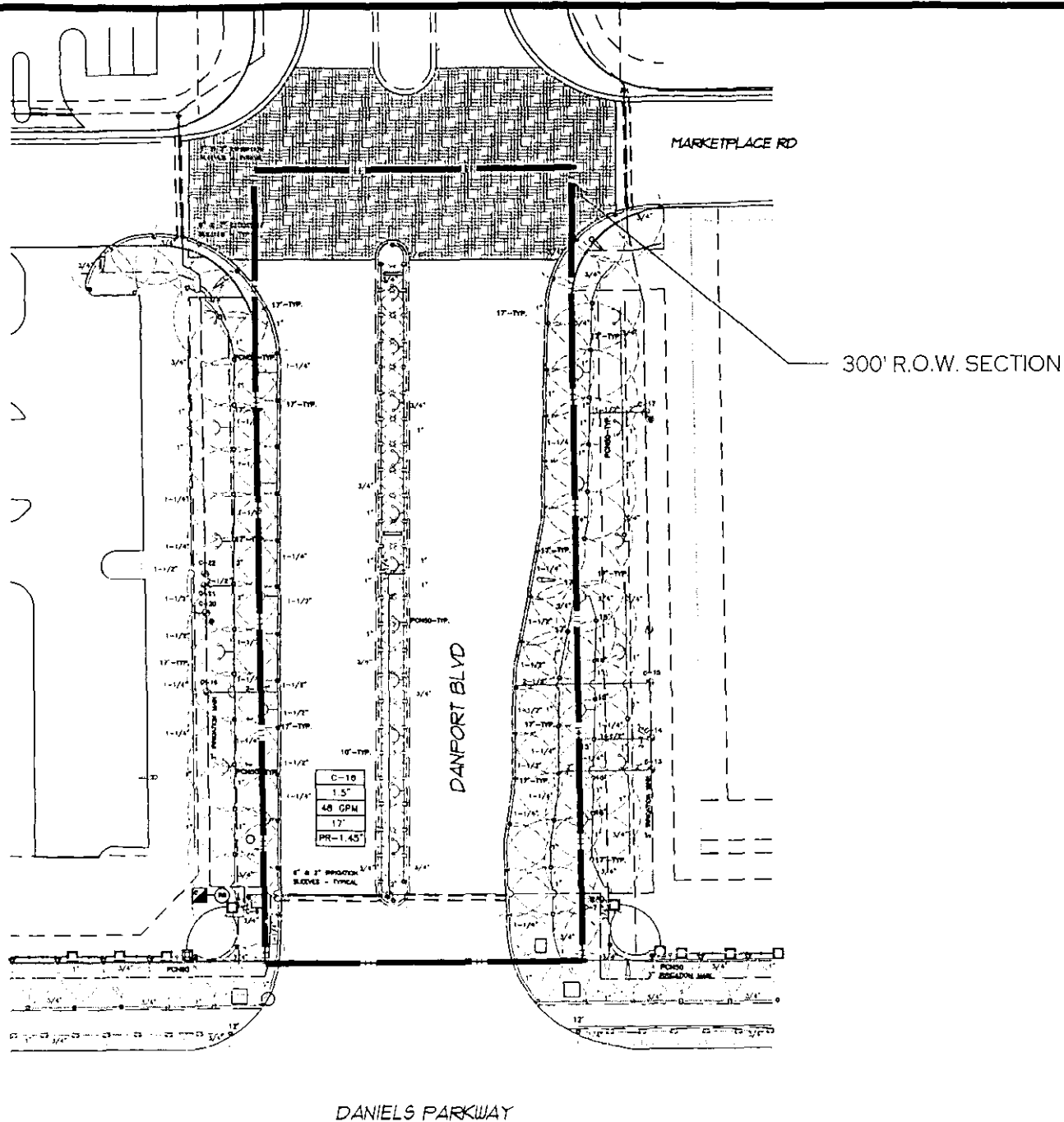
**RENAISSANCE**  
AS-BUILT LA PLAN FOR 300' R.O.W.

RENAISSANCE      WORTHINGTON COMMUNITIES      6150 DIAMOND CENTRE COURT #1300      FT. MYERS, FL. 33912

PROJECT 80475-ENTRY      MAY 21, 2002

**Vanasse  
Daylor**





PLAN VIEW OF EXISTING IRRIGATION WITHIN DANFORD BLVD. R.O.W.  
 SCALE 1" = 60'-0"

EXHIBIT A

RENAISSANCE  
 AS-BUILT LA PLAN FOR 300' R.O.W.

RENAISSANCE      WORTHINGTON COMMUNITIES      6150 DIAMOND CENTRE COURT #1300      FT. MYERS, FL 33912

PROJECT: 80475 ENTRY

MAY 23, 2002

Vanasse  
 Daylor



Urban Planning  
 Landscape Architecture  
 Civil Engineering  
 Traffic Engineering  
 Environmental Science  
 Surveying

Vanasse Daylor - Miami

G:\projects\80475\as-built\plan\80475-02-02-01.dwg, 5/23/02 2:31:41 PM

## MAINTENANCE MATRIX - LEVEL TWO

MAINTENANCE OPERATION	MAINTENANCE FREQUENCIES ARE MINIMUMS											
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
MOWING 3-4" HEIGHT	X	X	XX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	X	X	X
	MOW ST. AUGUSTINE ON A WEEKLY BASIS FROM APRIL THROUGH SEPTEMBER AND MONTHLY FROM DECEMBER THROUGH FEBRUARY. MOW BAHIA GRASS AT THE LEVEL ONE FREQUENCIES.											
WATERING	PLANT MATERIAL		DAY		FREQUENCY			NUMBER OF APPLICATIONS				
	ALL		1-60		DAILY			60				
	ALL		61-150		3 TIMES/WEEK			36				
	ALL		151-365		WEEKLY			28				
WEEDING	LANDSCAPED BEDS AND MULCHED AREAS SHALL BE KEPT WEED FREE.											
PRUNING	PRUNE AS NECESSARY TO REMOVE ALL SUCKERS, DEAD, DISEASED, OR BROKEN BRANCHES, FRONDS AND SEED HEADS.											
FERTILIZATION		X		X		X		X		X		X
LITTER REMOVAL	WEEKLY IN ALL MULCHED AREAS AND JUST BEFORE EACH MOWING.											
GENERAL	RESTORE SAUCERS AND CONTROL ANTS, INSECTS AND DISEASE AS THEY APPEAR.											
IRRIGATION	MAINTAIN THE IRRIGATION SYSTEM IN AN OPERABLE CONDITION AT ALL TIMES. CHECK SYSTEM FOR LINE BREAKS AND CLOGGING OF HEADS AND BUBBLERS EACH WEEK.											
EDGING	X	X	X	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	X	X	X
MULCHING	MAINTAIN A CONTINUOUS 3" LAYER OF MULCH IN ALL PLANTED AND MULCHED AREAS. MULCH ENTIRE SITE IN MONTH TWELVE OF MAINTENANCE CONTRACT.											
	REFER TO SITE MAINTENANCE SPECIFICATIONS FOR DETAILS. LEE COUNTY RESERVES THE RIGHT TO ADJUST FREQUENCIES AS NECESSARY.											

Client#: 51518

WORCO

# ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)  
08/01/02

**PRODUCER**  
Gulfshore Insurance, Inc.  
4100 Goodlette Road N, #100  
Naples, FL 34103 -3303  
941 261-3646

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

**INSURERS AFFORDING COVERAGE**

**INSURED**  
Worthington Communities, Inc.  
6150 Diamond Center Court, #1300  
Fort Myers, FL 33912

INSURER A: Cincinnati Insurance Company  
INSURER B: FCCI Insurance Company  
INSURER C:  
INSURER D:  
INSURER E:

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	CAP5467081	08/01/02	08/01/03	EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$50,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	CAP5467081	08/01/02	08/01/03	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000  BODILY INJURY (Per person) \$  BODILY INJURY (Per accident) \$  PROPERTY DAMAGE (Per accident) \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
A	<b>EXCESS LIABILITY</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$0	CCC4488593	08/01/02	08/01/03	EACH OCCURRENCE \$4,000,000 AGGREGATE \$4,000,000 \$ \$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>	001WCO02A43990002	01/01/02	01/01/03	WC STATUTORY LIMITS --- OTH-ER E.L. EACH ACCIDENT \$500,000 E.L. DISEASE - EA EMPLOYEE \$500,000 E.L. DISEASE - POLICY LIMIT \$500,000
	OTHER				

**DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS**

Community Associaiton  
 \*30 Days for Workers' Compensation  
 List of Named Insureds Include:  
 Worthington Homes, Inc.  
 (See Attached Descriptions)

**CERTIFICATE HOLDER**

Lee County Board of Commisioners  
 PO Box 398  
 Fort Myers, FL 33902-0398

**ADDITIONAL INSURED; INSURER LETTER:**

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES

AUTHORIZED REPRESENTATIVE 

EXHIBIT C

**IMPORTANT**

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

**DISCLAIMER**

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

EXHIBIT C

**DESCRIPTIONS (Continued from Page 1)**

Worthington Group of Southwest Florida, Inc.  
Worthington Title, Inc.  
Worthington of Renaissance, LLC  
Worthington Holdings, LLC  
Worthington Realty Inc.  
Worthington of Renaissance, LLC  
Worthington Communities of Naples, Inc.  
Renaissance Realty, LLC  
Worthington Holdings Southwest, LLC  
Certificate Holder is Named as Additional Insured As Respects to:  
General Liability Only.

EXHIBIT C



## COLONIAL BANK

Date: August 1, 2002

Irrevocable Standby Letter of Credit No.: [8031630273-2-34001039 ]

In Favor Of:  
Lee County Department of Transportation

Amount:\$12,650.00

Expiration:  
(Automatically Renewable)

Gentlemen:

We hereby establish our Irrevocable Standby Letter of Credit No. 8031630273-2-34001039 Dated August 1, 2002 in your favor for the account of Worthington of Renaissance, LLC, 6150 Diamond Center Court, Fort Myers, Florida 33912 up to an aggregate amount of Twelve thousand six hundred fifty and 00/100 dollars ( \$ 12,650.00 ) available by your draft(s) drawn on us at sight when accompanied by the following:

1. Dated statement purportedly signed by an authorized representative of Lee County Department of Transportation certifying that Worthington of Renaissance, LLC is in default under the Landscape Installation and Maintenance Agreement between Lee County Department of Transportation and Worthington of Renaissance, LLC.

This letter of credit shall be valid until December 31, 2002. It is automatically renewable thereafter without amendments for the successive one year periods on the anniversary date of its expiration, unless we notify you in writing by registered mail at least 30 days prior to any such expiration date that we elect not to renew it. If this occurs, you may draw hereunder within the validity of the credit solely by presentation of: 1) your draft at sight representing the amount due you and not exceeding the amount of credit; 2) officially signed statement that you are in receipt of our non-renewal notice and that funds are due you.

Drafts drawn under this credit must be marked "Drawn under Colonial Bank, Irrevocable Standby Letter of Credit No. 8031630273-2-34001039 Dated August 1, 2002".

Any reference to the landscape agreement is for informational purposes only and does not form an integral part of this credit.

An Affiliate of Colonial BancGroup, Inc.  
16740 San Carlos Blvd. S.W., P.O. Box 08009, Fort Myers, Florida 33908  
Telephone 941/466-7500 • Fax 941/466-6000  
[www.colonialbank.com](http://www.colonialbank.com)

AN EQUAL OPPORTUNITY EMPLOYER

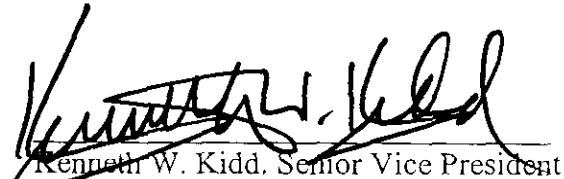
The original of this letter of credit must be presented with any drawings.

Presentation of documents and surrender/cancellation of this letter of credit will be at the counters of: Colonial Bank, 16740 San Carlos Boulevard South West, Fort Myers, Florida 33908. Phone (941) 415-5232 and Facsimile (941) 466-6000.

We hereby engage with you that drafts drawn under and in compliance with the terms of the credit will by duly honored upon presentation and delivery of the documents as specified.

Except so far as otherwise expressly stated herein, this letter of credit is subject to the "International Standby Practices 1998 (ISP98), International Chamber of Commerce Publication No. 590 which is effective as of January 1, 1999.

Colonial Bank



Kenneth W. Kidd, Senior Vice President  
Authorized Signature