

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

**Blue Sheet No. 20030370**

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Request Board of County Commissioners to adopt a resolution authorizing the borrowing of up to \$534,000 from the Tax Exempt Commercial Paper Program for the Triple Crown Court Waterline MSBU.

**WHY ACTION IS NECESSARY:** MSBU projects must be included in a resolution prior to funding the improvements with Commercial Paper.

**WHAT ACTION ACCOMPLISHES:** Approval of the resolution allows for specific draws on the credit line to be made to provide construction funds.

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

*CIA*

**3. MEETING DATE:**

*04-08-2003*

**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 County Administration
- B. DEPARTMENT Budget Services
- C. DIVISION

BY: Antonio Majul, Budget Director

**7. BACKGROUND:** On October 8, 2002 the Board of County Commissioners approved the creation of the Country/Triple Court Waterline MSBU, Bluesheet # 20020862 (Resolution # 02-10-09) for the construction of a waterline system as well as Resolution of Intent to Reimburse (02-10-11) and Budget Resolution (0-10-10). This current bluesheet will authorize a "not to exceed" amount that forms the basis for commercial paper draws. It is possible that two draws of the commercial paper request will be needed. The commercial paper should be repaid in March, 2004.

**8. MANAGEMENT RECOMMENDATIONS:** Approve commercial paper resolution

**9. RECOMMENDED APPROVAL:**

| A<br>Department<br>Director | B<br>Purchasing<br>or<br>Contracts | C<br>Human<br>Resources | D<br>Other | E<br>County<br>Attorney | F<br>Budget Services |                          |                              |                            | G<br>County Manager  |
|-----------------------------|------------------------------------|-------------------------|------------|-------------------------|----------------------|--------------------------|------------------------------|----------------------------|----------------------|
| <i>AMajul</i><br>3/27/03    |                                    |                         |            | <i>KJC</i><br>3/27/03   | OA<br><i>gl</i>      | OM<br><i>bjm</i><br>3/27 | Risk<br><i>js</i><br>3/27/03 | GC<br><i>MS</i><br>3/27/03 | HS for<br><i>JDS</i> |

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

**Rec. by CoAtty**  
 Date: *3/27/03*  
 Time: *10:55 am*  
 Forwarded To:  
*City Admin*  
*3-27-03 11:10*

**RECEIVED BY**  
**COUNTY ADMIN.**  
*3-27-03*  
*11:30*  
**COUNTY ADMIN.**  
**FORWARDED TO:**  
*3/27/03 4:00*

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, AUTHORIZING THE BORROWING OF NOT EXCEEDING \$534,000 FROM THE POOLED COMMERCIAL PAPER LOAN PROGRAM OF THE FLORIDA LOCAL GOVERNMENT FINANCE COMMISSION PURSUANT TO THE TERMS OF THE LOAN AGREEMENT BETWEEN THE COMMISSION AND THE COUNTY IN ORDER TO FINANCE A PORTION OF THE COSTS AND EXPENSES RELATED TO VARIOUS WATER UTILITY IMPROVEMENTS WITHIN THE TRIPLE CROWN COURT WATERLINE MSBU, INCLUDING THE REIMBURSEMENT OF CERTAIN EXPENSES INCURRED BY THE COUNTY IN CONNECTION THEREWITH, IF NECESSARY; AUTHORIZING THE EXECUTION OF A LOAN NOTE OR NOTES TO EVIDENCE SUCH BORROWING AND AGREEING TO SECURE SUCH BORROWING WITH A COVENANT TO BUDGET AND APPROPRIATE LEGALLY AVAILABLE NON-AD VALOREM REVENUES AS PROVIDED IN THE LOAN AGREEMENT; AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH OTHER DOCUMENTS AS MAY BE NECESSARY TO EFFECT SUCH BORROWING; AND PROVIDING AN EFFECTIVE DATE.

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:**

**SECTION 1. DEFINITIONS.** Unless the context of use indicates another meaning or intent, the following words and terms as used in this Resolution shall have the following meanings. Capitalized terms not defined herein shall have the meanings ascribed thereto in the hereinafter defined Loan Agreement.

"**Act**" means, collectively, Part I, Chapter 125, Florida Statutes, Part I, Chapter 163, Florida Statutes, and all other applicable provisions of law.

"**Additional Payments**" means the payments required to be made by the County pursuant to Sections 5.02(b), 5.02(c), 5.02(d), 5.05 and 6.06(e) of the Loan Agreement.

"**Board**" means the Board of County Commissioners of the County.

**"Chairman"** means the Chairman or Vice Chairman of the Board and such other person as may be duly authorized to act on his or her behalf.

**"Clerk"** means the Clerk of the Circuit Court for Lee County, and ex-officio Clerk of the Board, and such other person as may be duly authorized to act on his or her behalf.

**"Commission"** means the Florida Local Government Finance Commission, and any assigns or successors thereto.

**"County"** means Lee County, Florida, a political subdivision of the State of Florida.

**"Designated Revenues"** means (1) Public Agency Moneys budgeted and appropriated for purposes of payment of the Loan Repayments and any other amounts due under the Loan Agreement, and (2) the proceeds of the Loan pending the application thereof.

**"Draw"** means the borrowing of money under the Loan Agreement in accordance with Article III thereof.

**"Loan"** means the loan to be made by the Commission to the County from proceeds of the Series A Notes in accordance with the terms of this Resolution and of the Loan Agreement.

**"Loan Agreement"** means the Loan Agreement, dated as of April 12, 1991, between the County and the Commission, as the same may be amended and supplemented.

**"Loan No. A-16 "** means the Loan designated as "Loan No. A-16" the proceeds of which shall be used to finance a portion of the costs of Project A-16.

**"Loan Note"** means a note of the County evidencing the obligations incurred under the Loan Agreement by the County on account of a Draw made in regard to a Loan, which shall be in substantially the form provided in Exhibit I to the Loan Agreement.

**"Loan Rate"** has the meaning set forth in the Loan Agreement.

**"Loan Repayments" or "Repayments"** means the payments of principal and interest at the Loan Rate on the Loan amounts payable by the County pursuant to the provisions of the Loan Agreement and all other payments, including Additional Payments, payable by the County pursuant to the provisions of the Loan Agreement.

**"Non-Ad Valorem Revenues"** means all legally available revenues of the County derived from any source whatsoever other than ad valorem taxation on real and personal property, which are legally available to make the Loan Repayments required in the Loan Agreement, but only after provision has been made by the County for 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.

**"Program"** means the Pooled Commercial Paper Loan Program established by the Commission.

**"Project A-16"** means various water utility improvements within the Triple Crown Court Waterline MSBU, as the same may be amended or modified from time to time, and as more particularly described in the plans and specifications on file with the County.

**"Public Agency Moneys"** shall mean the moneys budgeted and appropriated by the County for payment of the Loan Repayments and any other amounts due hereunder from Non-Ad Valorem Revenues pursuant to the County's covenant to budget and appropriate such Non-Ad Valorem Revenues contained in Section 6.04 of the Loan Agreement.

**"Resolution"** means this Resolution, as the same may from time to time be amended, modified or supplemented.

**"Series A Notes"** means the Commission's Pooled Commercial Paper Notes, Series A (Governmental Issue), to be issued from time to time by the Commission.

The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms, shall refer to this Resolution; the term "heretofore" shall mean before the date of adoption of this Resolution; and the term "hereafter" shall mean after the date of adoption of this Resolution.

Words importing the masculine gender include every other gender.

Words importing the singular number include the plural number, and vice versa.

**SECTION 2. AUTHORITY FOR RESOLUTION.** This Resolution is adopted pursuant to the provisions of the Act.

**SECTION 3. FINDINGS.** It is hereby ascertained, determined and declared that:

(A) The Commission has been established for the principal purpose of issuing commercial paper notes in order to provide funds to loan to public agencies, such as the County, desiring to finance and refinance the cost of acquiring, constructing and equipping capital improvements and to finance and refinance other governmental needs.

(B) In furtherance of the foregoing, the Commission shall issue, from time to time, commercial paper notes to be known as "Florida Local Government Finance Commission Pooled Commercial Paper Notes, Series A (Governmental Issue)" and shall loan the proceeds of such Series A Notes to public agencies, including the County.

(C) Pursuant to the authority of the Act, the Commission has agreed to loan, from time to time, to the County such amounts as shall be authorized herein and in the Loan Agreement in order to enable the County to finance, reimburse or refinance the cost of acquisition, construction and equipping of capital improvements, including Project A-16.

(D) There is presently a need by the County to finance the acquisition and construction of Project A-16 and, if necessary, to reimburse the County for certain costs incurred in connection therewith, and the most cost effective means by which to finance Project A-16 is by use of moneys obtained pursuant to the Program by means of Loan No. A-16.

(E) The County hereby determines that the provision of funds by the Commission to the County in the form of Loan No. A-16 pursuant to the terms of the Loan Agreement and the financing of a portion of the costs of Project A-16 will assist in the development and maintenance of the public welfare of the residents of the County, and shall serve a public purpose by improving the safety, health and living conditions, and providing governmental services, facilities and programs and will promote the most efficient and economical development of such services, facilities and programs.

(F) Loan No. A-16 shall be repaid solely from the Designated Revenues. Such Designated Revenues shall include moneys derived from a covenant to budget and appropriate legally available Non-Ad Valorem Revenues. The ad valorem taxing power of the County will never be necessary or authorized to make the Loan Repayments.

(G) Due to the potential volatility of the market for tax-exempt obligations such as the Note or Notes to be issued evidencing Loan No. A-16, the complexity of the transactions relating to such Note or Notes and the uniqueness of the Program, it is in the best interest of the County to deliver the Note or Notes to the Commission pursuant to the Program by a negotiated sale pursuant to Section 218.385(1), Florida Statutes, allowing the County to utilize the Program in which it participates from time to time and to enter the market at the

most advantageous time, rather than at a specified advertised date, thereby permitting the County to obtain the best possible price, issuance costs and interest rate for such Note or Notes.

**SECTION 4. TERMS OF LOAN.** The County hereby approves the Loan in an aggregate amount of not exceeding \$534,000 for the purposes of providing the County with sufficient funds to finance a portion of Project A-16. The Chairman and the Clerk are hereby authorized to execute, seal and deliver on behalf of the County the Loan Note and other documents, instruments, agreements and certificates necessary or desirable to effectuate the Loan as provided in the Loan Agreement. The Loan Note or Notes with respect to Loan No. A-16 shall reflect the terms of such Loan and shall be substantially in the form attached to the Loan Agreement as Exhibit I. The County Manager shall determine the date of funding of Loan No. A-16 and the amount thereof in accordance with the terms of the Loan Agreement as appropriate to finance Project A-16 and is permitted by the Loan Agreement. The Loan shall mature in accordance with the provisions described in Schedule I attached hereto or in such other date or dates and in such amounts as may be determined by the County Manager. Loan No. A-16 shall bear interest at the Loan Rate in accordance with the terms of the Loan Agreement. The County further agrees to make all Loan Repayments required of it pursuant to the terms of the Loan Agreement. The Letter of Credit fees for the Loan shall be 35 basis points or such other amount as may be agreed between the County and Wachovia Bank.

**SECTION 5. AUTHORIZATION OF PROJECT A-16.** The County does hereby authorize the financing of Project A-16 and the reimbursement of any costs incurred by the County with respect to the Project A-16 that are approved by Bond Counsel to the Program.

**SECTION 6. SECURITY FOR THE LOAN.** The County's obligation to repay Loan No. A-16 will be secured by a pledge of and lien upon the Designated Revenues in accordance with the terms of the Loan Agreement. The obligation of the County to repay the Loan shall not be deemed a pledge of the faith and credit or taxing power of the County and such obligation shall not create a lien on any property whatsoever of or in the County other than the Designated Revenues.

**SECTION 7. GENERAL AUTHORITY.** The members of the Board and the officers, attorneys and other agents or employees of the County are hereby authorized to do all acts and things required of them by this Resolution and the Loan Agreement, or desirable or consistent with the requirements of this Resolution and the Loan Agreement, for the full punctual and complete performance of all the terms, covenants and agreements contained in this Resolution and the Loan Agreement, and each member, employee, attorney and officer

of the County or its Board is hereby authorized and directed to execute and deliver any and all papers and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Resolution and the Loan Agreement.

**SECTION 8. SEVERABILITY.** If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof.

**SECTION 9. REPEAL OF INCONSISTENT RESOLUTIONS.** All resolutions or parts thereof in conflict herewith are hereby superseded and repealed to the extent of such conflict.

**SECTION 10. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption.

**DULY ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2003.

**BOARD OF COUNTY COMMISSIONERS OF  
LEE COUNTY, FLORIDA**

(SEAL)

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

ATTEST:

\_\_\_\_\_  
Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

\_\_\_\_\_  
County Attorney

**SCHEDULE I**

**PROPOSED LOAN REPAYMENT SCHEDULE**

The principal of the Loan shall be repaid as follows (or on such other date or dates and in such amounts as the County Manager shall determine):

| <u>Date</u>   | <u>Principal Repayment</u> |
|---|----------------------------|
| March 2, 2004<br>(or in such other amounts as is borrowed under the resolution pursuant to which this schedule is attached) | \$534,000                  |

Interest on the Loan shall be paid monthly in accordance with the terms and provisions of the Loan Agreement. Additional Payments shall also be made in accordance with the Loan Agreement.



**NABORS, GIBLIN & NICKERSON, P.A.**

Attorneys at Law  
The Pointe, Suite 1060  
2502 Rocky Point Drive  
Tampa, Florida 33607  
(813) 281-2222  
Telecopy (813) 281-0129

1500 Mahan Drive  
Suite 200  
Tallahassee, Florida 32308  
(850) 224-4070  
Telecopy (850) 224-4073

450 South Orange Avenue  
Suite 510  
Orlando, Florida 32801  
(407) 426-7595  
Telecopy (407) 426-8022

March 26, 2003

**VIA E-MAIL**

**M E M O R A N D U M**

TO: The Persons on the Attached Distribution List

FROM: Steven E. Miller

RE: Florida Local Government Finance Commission - Lee County  
Draw No. A-16-1

---

Enclosed please find a draft resolution approving Draw No. A-16-1 which is scheduled to be adopted by the County at their April 8 meeting. This draw will finance costs of water utility improvements within the Triple Crown Court Waterline MSBU.

Please provide any comments you may have to the enclosed document **as soon as possible**.

SEM:djb  
Enclosure

**FLORIDA LOCAL GOVERNMENT FINANCE COMMISSION  
POOLED COMMERCIAL PAPER LOAN PROGRAM**

**Distribution List - Lee County**

**LEE COUNTY**

2115 Second Street  
Fort Myers, Florida 33901

James G. Yaeger, Esq.  
County Attorney  
Phone: 941/335-2236  
Fax: 941/335-2606  
Email: [delgiad@leegov.com](mailto:delgiad@leegov.com)

James Lewin  
Fiscal Research Director  
Phone: 941/335-2336  
Fax: 941/335-2907  
Email: [lewinj@leegov.com](mailto:lewinj@leegov.com)

Marcia Simons  
Debt Analyst  
Phone: 941/335-2948  
Fax: 941/335-2362  
Email: [msimons@leccclerk.org](mailto:msimons@leccclerk.org)

**COMMISSION COUNSEL**

Steven E. Miller, Esq.  
Nabors, Giblin & Nickerson  
2502 Rocky Point Drive, Suite 1060  
Tampa, Florida 33607  
Phone: 813/281-2222  
Fax: 813/281-0129  
Email: [smiller@ngn-tampa.com](mailto:smiller@ngn-tampa.com)

**PROGRAM ADMINISTRATOR**

Catherine Lee  
Florida Association Counties  
100 South Monroe Street  
Tallahassee, Florida 32301  
Phone: 850/922-4300  
Fax: 850/487-1434  
Email: [clee@fl-counties.com](mailto:clee@fl-counties.com)

**WACHOVIA BANK**

Beth Gordon  
Corporate Banking  
Wachovia Bank  
225 Water Street  
Mail Code FL 0074  
Jacksonville, Florida 32202  
Phone: 904/489-3013  
Fax: 904/489-5441  
Email: [beth.gordon@wachovia.com](mailto:beth.gordon@wachovia.com)

Irene Sutter  
Wachovia Bank  
1950 Hillsboro Boulevard  
Deerfield Beach, Florida 33442  
Phone: 954/596-6902  
Fax: 954/596-6908  
Email: [irene.sutter@wachovia.com](mailto:irene.sutter@wachovia.com)

**BANK COUNSEL**

Peter Dame, Esq.  
Rogers, Towers, Bailey, Jones &  
Gay, P.A.  
1301 Riverplace Boulevard, Suite 1500  
Jacksonville, Florida 32207  
Phone: 904/346-5766  
Fax: 904/396-0663  
Email: [pdame@rtflaw.com](mailto:pdame@rtflaw.com)

**TRUSTEE**

Cristina Fleitas  
SunTrust Bank  
225 East Robinson Street, Suite 250  
Orlando, Florida 32801  
Phone: 407/237-4437  
Fax: 407/237-4437  
Email: [cristina.fleitas@suntrust.com](mailto:cristina.fleitas@suntrust.com)

**UNDERWRITER**

Coleman Cordell (without documents)  
Morgan Stanley Dean Witter  
200 South Orange Avenue, Suite 1440  
Orlando, Florida 32801  
Phone: 407/422-2503  
Fax: 407/422-2507  
Email: [coleman.cordell@msdw.com](mailto:coleman.cordell@msdw.com)