

Lee County Board Of County Commissioners

Agenda Item Summary

Blue Sheet No. 20030138

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Approve inter-local agreements between Lee County and the Lee County Tax Collector, and Lee County and Property Appraiser for the preparation and submission of the Lee County NE Hurricane Bay Dredging MSBU, University Overlay Landscape Capital MSBU, University Overlay Landscape O & M SIU, Cottage Point Waterline MSBU, Anchorage Way MSBU, Dewberry Road MSBU and Country/Triple Crown Waterline MSBU Non-Ad Valorem Assessment Rolls and their related Uniform Collection and Enforcement pursuant to §197.3632.

**WHY ACTION IS NECESSARY:** Provides for the inclusion of certain Non-Ad Valorem Municipal Service Taxing and Benefit Units on the tax roll for 2003 and subsequent years.

**WHAT ACTION ACCOMPLISHES:** This establishes separate agreements between Lee County and the Lee County Tax Collector, and Lee County and Property Appraiser for the preparation and submission of certain Lee County Municipal Services Taxing and Benefit Units Non-Ad Valorem assessment rolls and their related uniform collection and enforcement pursuant to §197.3632, Florida Statutes.

**2. DEPARTMENTAL CATEGORY:**

COMMISSION DISTRICT #: CW

C6B

**3. MEETING DATE:**

05-13-2003

**4. AGENDA:**

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

**5. REQUIREMENT/PURPOSE:**

(Specify)

- STATUTE 197.3632
- ORDINANCE
- ADMIN. CODE
- OTHER

**6. REQUESTOR OF INFORMATION:**

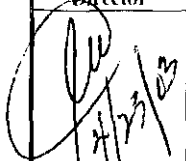
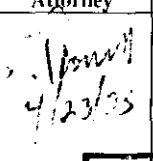
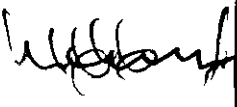
- A. COMMISSIONER
- B. DEPARTMENT Public Resources
- C. DIVISION MSTBU
- BY: Libby Walker

**7. BACKGROUND:** On January 28, 2003, the Lee County Board of County Commissioners approved Resolution No. 03-01-38 in order to allow Lee County to utilize the uniform method for collecting certain existing non-ad valorem special assessments pursuant to §197.3632, Florida Statutes. In an effort to reduce MSTBU billing costs to certain customers, it is desirable to collect certain MSTBU special assessments by the uniform collection method on the Lee County ad valorem tax bill as provided for by state statute.

As the result of the above and in order to utilize the optional non-ad valorem special assessment tax roll billing in the tax year 2003-2004 and subsequent years as is provided for by §197.3632, Florida Statutes, the Board of County Commissioners must enter into inter-local agreements with the Lee County Tax Collector and the Lee County Property Appraiser for the preparation and submission of the Lee County NE Hurricane Bay Dredging MSBU, University Overlay Landscape Capital MSBU, University Overlay Landscape O & M SIU, Cottage Point Waterline MSBU, Anchorage Way MSBU, Dewberry Road MSBU, and Country/ Triple Crown Waterline MSBU Non-Ad Valorem Assessment Rolls and their related Uniform Collection and Enforcement pursuant to §197.3632.

Attachments: Resolution 03-01-38  
 Interagency Agreement between Lee County and the Tax Collector (3 originals)  
 Interagency Agreement between Lee County and Property Appraiser (3 originals)

**9. RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services Risk			G County Manager	
	N/A	N/A	N/A		OA 4/23/03	OMT 4/24/03	Risk 4/24/03	GC 4-24-03	

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty  
 Date: 4/23/03  
 Time: 2:19 PM  
 Forwarded to:  
 City Admin  
 4-23-03 3:20

4/24/03  
 FORWARDED TO:  
 COUNTY ADMIN  
 013  
 03-01-38-7  
 CA

**RESOLUTION # 03-01-38**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA ELECTING TO USE THE UNIFORM METHOD OF COLLECTING NON-AD VALOREM SPECIAL ASSESSMENTS LEVIED IN THE UNINCORPORATED AREA OF THE COUNTY; STATING A NEED FOR SUCH LEVY; PROVIDING FOR THE MAILING OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Board of County Commissioners (the "Board") of Lee County, Florida (the "County") is contemplating the imposition of special assessments for the provision of (i) water and wastewater services and facilities, (ii) road paving and maintenance services, and (iii) capital improvements including neighborhood park improvements, beautification and maintenance of rights-of-way, subdivision wall construction and maintenance, canal and channel dredging, subdivision entranceway construction and maintenance, and street lighting; and

**WHEREAS**, the Board intends to use the uniform method for collecting non-ad valorem special assessments for the cost of providing (i) water and waste water services and facilities, (ii) road paving and maintenance services, and (iii) capital improvements including neighborhood park improvements, beautification and maintenance of rights-of-way, subdivision wall construction and maintenance, subdivision entranceway construction and maintenance, canal and channel dredging, and street lighting to property within the unincorporated area of the County as authorized by Section 197.3632, Florida Statutes, as amended, because this method will allow such special assessments to be collected annually commencing fiscal year October 1, 2003 and for each year thereafter in the same manner as provided for ad valorem taxes; and

**WHEREAS**, the Board held a duly advertised public hearing prior to the adoption of this Resolution, proof of publication of such hearing being attached hereto as Exhibit A;

**NOW THEREFORE BE IT RESOLVED** by the Board of County Commissioners of Lee County, Florida, as follows:

1. Commencing with the Fiscal Year beginning on October 1, 2003, and with the tax statement mailed for such Fiscal Year, the County intends to use the uniform method of collecting non-ad valorem assessments authorized in Section 197.3632, Florida Statutes, and wastewater services and facilities, (ii) road paving and maintenance services, and (iii) capital improvements including neighborhood park improvements, beautification and maintenance of rights-of-way, subdivision wall construction and maintenance, subdivision entranceway construction and maintenance, canal and channel dredging, and street lighting. Such non-ad valorem assessments shall be levied within the unincorporated area of the County. A legal description of such area subject to the assessment is attached hereto as Exhibit B and incorporated by reference.
2. The County hereby determines that the levy of the assessments is needed to fund the cost of (i) water and wastewater services and facilities, (ii) road paving and maintenance services, and (iii) capital improvements, including

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1-28-03**

neighborhood park improvements, beautification and maintenance of rights-of-way, subdivision wall construction and maintenance, subdivision entranceway construction and maintenance, canal and channel dredging, and street lighting within the unincorporated area of the County.

3. Upon adoption, the County Clerk is hereby directed to send a copy of this Resolution by United States mail to the Florida Department of Revenue, the Lee County Tax Collector, and the Lee County Property Appraiser by March 1, 2003.
4. This Resolution shall be effective upon adoption.

DULY ADOPTED this 28th day of January 2003.

ATTEST:  
CHARLE GREEN  
CLERK OF COURTS

By: 

Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
LEE COUNTY, FLORIDA

By: 

Ray Judah, Chairman

(SEAL)



APPROVED AS TO FORM:

By: 

Office of the County Attorney

**INTERAGENCY AGREEMENT**  
**BETWEEN LEE COUNTY**  
**AND**  
**TAX COLLECTOR**  
**FOR COLLECTION OF NON-AD VALOREM SPECIAL ASSESSMENTS**

This Agreement made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2003, between the Office of the Lee County Tax Collector, by and through the Honorable Cathy Curtis, Lee County Tax Collector ("Tax Collector"), whose address is Lee County Tax Collector's Office, 2480 Thompson Street, Florida 33901 and Lee County, by and through the Board of County Commissioners, ("County"), collectively, "The Parties" hereto.

**SECTION I**

**Findings and Determinations**

The parties find and determine:

1. County is authorized to impose and levy, and by appropriate Resolution Number 03-01-38 has expressed its intent to use the statutory uniform methodology of collection for certain non-ad valorem special assessments for Lee County Municipal Service Benefit Units (MSBU) for NE Hurricane Bay Dredging MSBU, University Overlay Landscape Capital MSBU, University Overlay Landscape O & M Special Improvement Unit, Cottage Point Waterline MSBU, Anchorage Way MSBU, Dewberry Road MSBU, Country/Triple Crown Waterline MSBU ("Assessments"), as authorized by constitutional and statutory municipal home rule and by Section 197.3632, Florida Statutes (2002 Supp.), and Rule 12D-18, Florida Administrative Code, as amended; and
2. The term "Assessments" means those certain levies by County which purport to constitute non-ad valorem special assessments for benefits and maintenance and related systems, facilities, and services pursuant to the Lee County NE Hurricane Bay Dredging MSBU, University Overlay Landscape Capital MSBU, University Overlay Landscape O & M Special Improvement Unit, Cottage Point Waterline MSBU, Anchorage Way MSBU, Dewberry Road MSBU, Country/Triple Crown Waterline MSBU. A non-ad valorem special assessment is lienable under Section 4, Article X, Florida Constitution, if it results in a special benefit peculiar to the parcels of property involved, over and above general community benefit, as a result of a logical connection to the property involved from the system, facility and service provided by County and if it is apportioned to the property fairly and reasonably; and
3. The uniform statutory collection methodology is provided in Section 197.3632, Florida Statutes, and Rule 12D-18, Florida Administrative Code ("uniform methodology"), with its enforcement provisions, including the use of tax certificates and tax deeds for enforcing against any delinquencies; and
4. The uniform methodology is more fair to the delinquent property owner than traditional lien foreclosure methodology; and

5. The uniform methodology provides for more efficiency of collection by virtue of the "Assessments" being on the official tax notice issued by the Tax Collector which will produce positive economic benefits to County and its citizens and taxpayers; and
6. The uniform methodology, through use of the official tax notice, will tend to eliminate confusion and promote local government accountability; and
7. The Tax Collector, as the State Constitutional Officer for the Lee County Political Subdivision, is charged by general law in Chapter 197, Florida Statutes, and related rules and regulations, to function as the agent of the Florida Department of Revenue for purposes of the uniform methodology for the "Assessments"; and
8. The sole and exclusive responsibility to determine, impose and levy the "Assessments" and to determine that it is a legal, constitutional and lienable non-ad valorem special assessment for County's Municipal Service Benefit Units referenced herein and related systems, facilities and services is that of County and no other person, entity or officer.

## **SECTION II**

### **AUTHORITY**

1. Section 2, Article VIII, Florida Constitution; Section 166.021, Florida Statutes; Sections 197.3631, 3632 and 3635, Florida Statutes; Rule 12D-18, Florida Administrative Code, and all other applicable provisions of constitutional and statutory law govern the exercise by County of its local self-government power to render and pay for municipal services.
2. Section 1(d), Article VIII, Florida Constitution; Chapter 197, Florida Statutes; Rule 12D-13, Florida Administrative Code; Rule 12D-18, Florida Administrative Code, and other applicable provisions of constitutional and statutory law apply to Tax Collector in her capacity as a state constitutional county officer and agent of the Florida Department of Revenue for the purpose of collecting and enforcing the collection of non-ad valorem special assessments levied by Lee County, a political subdivision of the State of Florida.
3. Section 197.3631, Florida Statutes, constitutes supplemental authority for County to levy non-ad valorem assessments including such non-ad valorem special assessments as the "Assessments" for County's Municipal Service Benefit Units referenced herein and related systems, facilities and services.
4. Section 197.3632, Florida Statutes, and Rule 12D-18, Florida Administrative Code, have provisions that apply both to County and to Tax Collector in and for Lee County, as well as the Department of Revenue.

### SECTION III

#### Purpose

The purpose of this Agreement under Rule 12D-18, Florida Administrative Code, is to establish the terms and conditions under which the Tax Collector shall collect and enforce the collection of those certain non-ad valorem special assessments, the "Assessments", levied by County to include compensation by County to the Tax Collector for actual costs of collection pursuant to Section 197.3632(8)(c), Florida Statutes; payment by County of any costs involved in separate mailings because of non merger of any non-ad valorem special assessment roll as certified by Lee County or his or her designee, pursuant to Section 197.3632(7), Florida Statutes, and reimbursement by County for necessary administrative costs, including, but not limited to, those costs associated with personnel, forms, supplies, data processing, computer equipment, postage and programming which attend all of the collection and enforcement duties imposed upon the Tax Collector by the uniform methodology, as provided in Section 197.3632(2), Florida Statutes.

### SECTION IV

#### Term

The term of this Agreement shall commence upon execution, effective for the 2003 tax notice purposes, and shall continue and extend uninterrupted from year to year, automatically renewed for successive periods not to exceed one (1) year each, unless County shall inform the Tax Collector, as well as the Property Appraiser and the Department of Revenue by January 10 of each calendar year, if County intends to discontinue to use the uniform methodology for such "Assessments" pursuant to Section 197.3632(6), Florida Statutes, and Rule 12D-18.006(3), Florida Administrative Code, using Form DR-412 promulgated by the Florida Department of Revenue.

### SECTION V

#### Duties and Responsibilities of County

County agrees, covenants and contracts to:

1. Compensate the Tax Collector for actual collection costs incurred pursuant to Section 197.3632(8)(c), Florida Statutes, and 12D-18.004(2), Florida Administrative Code.
2. Reimburse Tax Collector for necessary administrative costs for the collection and enforcement of the "Assessments" by the Tax Collector under the uniform methodology, pursuant to Section 197.3632(2), Florida Statutes, and Rule 12D-18.004(2), Florida Administrative Code, to include, but not be limited to, those costs associated with personnel, forms, supplies, data processing, computer equipment, postage and programming.
3. To pay for or alternatively to reimburse the Tax Collector for any separate tax notice necessitated by the inability of the Tax Collector to merge the non-ad valorem special

assessment roll certified by County pursuant to Section 197.3632(7), Florida Statutes, and Rule 12D-18.004(2), Florida Administrative Code.

- 4 The Tax Collector shall collect from County all costs associated with the collection of the non-ad valorem special assessments for each year. Current estimated annual collection cost is \$1.50 per parcel and is subject to change based upon actual expenditures.
5. County shall be directly responsible for any requirements and costs associated with advertising relating to implementation of the uniform non-ad valorem special assessment law pursuant to Sections 197.3632 and 197.3635, Florida Statutes, and Rule 12D-18.004(2), Florida Administrative Code.
6. County has elected to engage the services of the Property Appraiser to serve as agent of County to specifically list, extend, prepare and submit the non-ad valorem assessment rolls of County to the Tax Collector on an annual basis at the same time that the regular ad valorem roll is certified to the Tax Collector on compatible electronic medium as defined in Section 197.3632(1)(f), Florida Statutes; designated by the property identification number, the Lee County NE Hurricane Bay Dredging MSBU, University Overlay Landscape Capital MSBU, University Overlay Landscape 0 & M Special Improvement Unit, Cottage Point Waterline MSBU, Anchorage Way MSBU, Dewberry Road, MSBU, Country/Triple Crown Waterline MSBU, non-ad valorem special assessment rolls.
7. County agrees to abide by and implement its duties under the uniform law pursuant to all the provisions of Sections 197.3632 and 197.3635, Florida Statutes, or its successor of statutory provisions and all applicable rules promulgated by the Department of Revenue and their successor rules.
8. County acknowledges that the Tax Collector has no duty, authority or responsibility in the imposition and levy of any non-ad valorem special assessments, including County's "Assessments" and that it is the sole responsibility and duty of County to follow all procedural and substantive requirements for the levy and imposition of constitutionally lienable non-ad valorem special assessments, including the "Assessments".
9. To the extent permitted by law (Section 768.28, Florida Statutes), County shall indemnify and hold harmless Tax Collector to the extent of any legal action which may be filed in local, state or federal courts against Tax Collector regarding the imposition, levy, roll preparation and certification of the "Assessments"; County shall pay for or reimburse Tax Collector for fees for legal services rendered to Tax Collector with regard to any such legal action.

## **SECTION VI**

### **Duties of the Tax Collector**

1. The Tax Collector shall include the non-ad valorem special assessments on the combined notice of taxes, prepare a collection roll and prepare a combined notice (the tax notice) for both ad valorem taxes and non-ad valorem special assessments for all levying authorities (all the local governments) within the Lee County Political Subdivision, pursuant to Sections 197.3632 and 197.3635, Florida Statutes, and its successor provisions and any applicable rules, and their successor rules, promulgated by the Department of Revenue, and in accordance with any specific ordinances or resolutions adopted by County, so long as said

ordinances and resolutions shall themselves each and every one clearly state intent to use the uniform method for collecting such assessments and so long as they are further not inconsistent with, or contrary to, the provisions of Sections 197.3632 and 197.3635, Florida Statutes, and their successor provisions, and any applicable rules.

2. Tax Collector shall collect the "Assessments" of County as certified by the duly authorized County representative, to the Property Appraiser no later than September 15 of each calendar year on compatible electronic medium, tied to the property identification number for each parcel, and in the format used in July by the Property Appraiser for the ad valorem rolls submitted to the Department of Revenue, using DR Form 408, and free of errors and omissions.
3. The Tax Collector shall disburse funds due to County hereunder in accordance with the provisions of F.S. 197.383, as amended from time to time. All costs associated with the collection of the non-ad valorem special assessments shall be deducted from the second and third distributions prior to remittance of the proceeds to County.
4. The Tax Collector agrees to cooperate with County in implementation of the uniform methodology for collecting "Assessments" pursuant to Sections 197.3632 and 197.3635, Florida Statutes, and any successor provisions and applicable rules. The Tax Collector shall not accept any non-ad valorem special assessment roll for the "Assessments" of County that is not officially, timely and legally certified to the Tax Collector pursuant to Chapter 197, Florida Statutes, and Rule 12D-18, Florida Administrative Code.
5. If the Tax Collector discovers errors or omissions on such roll, the Tax Collector may request County to file a corrected roll or a correction of the amount of any assessment and County shall bear the cost of any such error or omission.
6. If Tax Collector determines that a separate mailing is authorized pursuant to section 197.3632(7), Florida Statutes, and any applicable rules promulgated by the Department of Revenue, and any successor provision to said law or rules, the Tax Collector shall either mail a separate notice of the particular non-ad valorem special assessment ("Assessment") or shall direct County to mail such a separate notice. In making this decision, the Tax Collector shall consider all costs to County and to the taxpayers of such a separate mailing as well as the adverse effect to the taxpayers of delay in multiple notices. Tax Collector shall have sole discretion in making such decision. If such a separate mailing is affected, County shall bear all costs associated with the separate notice for the non-ad valorem special assessment that could not be merged, and all such costs shall be deducted from the second and third distributions prior to remittance of the proceeds to County.

## SECTION VII

### **Good Faith, Severability, Governing Law and Notice**

1. The parties shall perform all their obligations under this Agreement in accordance with good faith and prudent practice.
2. This Agreement constitutes the entire agreement between the parties with respect to the subject matter contained herein and may not be amended, modified or rescinded unless otherwise provided in this Agreement, except in writing and signed by all the parties hereto.



Should any provision of this Agreement be declared to be invalid, the remaining provisions of this Agreement shall remain in full force and effect, unless such provision is found to be invalid, altering substantially the benefits of the Agreement for either of the parties or rendering the statutory and regulatory obligations unperformable.

3. This Agreement shall be governed by the laws of the State of Florida.
4. Written notice shall be given to the parties at the following addresses or such other place or person as each of the parties shall designate by similar notice:

- a. As to Tax Collector:

Cathy Curtis  
Lee County Tax Collector  
2480 Thompson Street Fort  
Myers, FL 33901

- b. As to County:

Ms. Elizabeth Walker  
Lee County Public Resources Manager  
P. O. Box 398  
Fort Myers, FL 33902

IN WITNESS WHEREOF, the Parties have executed this Agreement, the Board of County Commissioners approved this Agreement on the \_\_\_\_ day of \_\_\_\_\_, 2003, and the Lee County Tax Collector's Office approved this Agreement on the \_\_\_\_ day of \_\_\_\_\_, 2003.

ATTEST

LEE COUNTY TAX COLLECTOR

Jean L. Cayll

By: Catherine M. Curtis  
Cathy Curtis

ATTEST: CHARLIE GREEN  
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

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

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

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Office of the County Attorney

**INTERAGENCY AGREEMENT**  
**BETWEEN LEE COUNTY AND PROPERTY APPRAISER**

**FOR THE PREPARATION AND SUBMISSION OF THE LEE COUNTY**  
**NE HURRICANE BAY DREDGING MUNICIPAL SERVICE BENEFIT UNIT,**  
**UNIVERSITY OVERLAY LANDSCAPE CAPITAL MUNICIPAL SERVICE BENEFIT**  
**UNIT,**  
**UNIVERSITY OVERLAY LANDSCAPE O & M SPECIAL IMPROVEMENT UNIT,**  
**COTTAGE POINT WATERLINE MUNICIPAL SERVICE BENEFIT UNIT,**  
**ANCHORAGE WAY MUNICIPAL SERVICE BENEFIT UNIT,**  
**DEWBERRY ROAD MUNICIPAL SERVICE BENEFIT UNIT,**  
**COUNTRY/TRIPLE CROWN WATERLINE MUNICIPAL SERVICE BENEFIT UNIT**  
**NON-AD VALOREM ASSESSMENT ROLLS**  
**PURSUANT TO §197.3632, FLORIDA STATUTES**

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2003, between the Lee County Property Appraiser, a duly elected Constitutional Officer of Lee County, (hereinafter referred to as "Property Appraiser"), and Lee County, a political subdivision of the State of Florida by and through the Board of County Commissioners, (hereinafter referred to as "County"), collectively, "The Parties" hereto.

**WITNESSETH**

WHEREAS, the Property Appraiser, is the County Constitutional Officer charged with determining the value of all property within the County and maintaining certain records connected therewith, specifically including the name of the owner, address, and legal descriptions of parcels of property on the tax rolls and providing certain services and information to taxing authorities under §197.3632, Florida Statutes; and

WHEREAS, pursuant to §197.3632, Florida Statutes, authorizes the County and Property Appraiser to enter into an agreement regarding the County's reimbursement of necessary administrative costs incurred by the Property Appraiser; and

WHEREAS, pursuant to §197.3632, Florida Statutes, the Property Appraiser may provide additional services to the County above the basic requirement to provide the name, address, and legal description for each parcel of land for which the non-ad valorem assessment is to be levied, and is to be reimbursed accordingly, including the authority to act as the agent of the County in fulfilling the duty of the County both to prepare and to submit the non-ad valorem assessment rolls to the Lee County Tax Collector (hereinafter referred to as "Tax Collector") each calendar year in compatible electronic medium tied to the property identification number on the tax roll of the Property Appraiser; and

WHEREAS, the Lee County Board of Commissioners has concluded that the use of the Florida Uniform Non-Ad Valorem Assessment Methodology is fair, more efficient, and more accountable than other collection alternatives available; and

WHEREAS, the Lee County Board of County Commissioners passed Lee County Resolution No. 03-01-38 on January 28, 2003 (Exhibit "A") hereto, expressing its intent to use the Uniform Collection and Enforcement of Non-Ad Valorem Assessments Methodology in accordance with the procedures as outlined in §197.3632, Florida Statutes, and is, therefore, electing to use the Non-Ad Valorem Assessment Methodology pursuant to §197.3632, Florida Statutes, for the collection of Lee County Municipal Service Benefit Units (MSBU's) for NE Hurricane Bay Dredging MSBU, University Overlay Landscape Capital MSBU, University Overlay Landscape O & M Special Improvement Unit, Cottage Point Waterline MSBU, Anchorage Way MSBU, Dewberry Road MSBU, Country/Triple

Crown Waterline MSBU non-ad valorem assessments beginning with the 2003 taxing year;  
and

WHEREAS, the duty to certify the non-ad valorem assessment rolls is by the Chairman of the Lee County Board of County Commissioners of the County; and

WHEREAS, The County desires the Property Appraiser to serve as agent of the County specifically to list, extend, prepare and submit the non-ad valorem assessment rolls of the County to the Tax Collector on an annual basis; and

WHEREAS, the Property Appraiser and County are agencies of the State within the meaning of Chapter 163, Florida Statutes, and desire to share the joint powers each possesses, and will exercise separately under the terms of this Agreement; and

WHEREAS, pursuant to Chapter 163, Florida Statutes, and Chapter 197, Florida Statutes, there is statutory authority for interlocal and interagency agreements between the Property Appraiser, and the County; and

WHEREAS, the Property Appraiser agrees to provide the services of their office for the preparation and collection of the County's MSBU non-ad valorem assessments referenced herein as set forth by statutory law and applicable rules, as they may be amended from time to time, and per this Agreement; and

WHEREAS, the County desires to accept the services of the Property Appraiser as provided for in this Agreement and further agrees to fulfill all County duties and responsibilities under law and pursuant to this Agreement.

NOW, THEREFORE, the County and the Property Appraiser hereby agree as follows:

**SECTION 1:            PREPARATION AND CERTIFICATION OF NON-AD VALOREM  
ASSESSMENT ROLLS**

A.     Commencing with the 2003 calendar year and all subsequent years thereafter, except as provided for in Section 5 (below), the Property Appraiser, as agent for the County, agrees to list, prepare, and submit to the Tax Collector, at the same time that the regular ad valorem tax roll is certified to the Tax Collector on compatible electronic medium as defined in §197.3632(1)(f), Florida Statutes, designated by the property identification number, the Lee County NE Hurricane Bay Dredging MSBU, University Overlay Landscape Capital MSBU, University Overlay Landscape O & M Special Improvement Unit, Cottage Point Waterline MSBU, Anchorage Way MSBU, Dewberry Road MSBU, Country/Triple Crown Waterline MSBU Assessment rolls.

B.     The County shall comply with all applicable provisions of Chapter 197, Florida Statutes, and related F.A.C. rules, including, but not limited to, compliance with all advertisements and notices required for the use of the §197.3632, Florida Statutes, Non-Ad Valorem Assessment Methodology, levying, roll adoption, and certification of the assessment roll to the Property Appraiser. The Property Appraiser shall certify to the Tax Collector the non-ad valorem assessment roll at the same time that the regular ad valorem tax roll is certified to the Tax Collector for collection.

**SECTION 2:            LEGAL DESCRIPTION**

The County has furnished to the Property Appraiser the legal description of the land, the district on which the non-ad valorem MSBU assessments referenced herein will be levied for calendar year 2003. By May 1<sup>st</sup> of each year, for all subsequent years, the

County shall provide any amendment(s) to such legal description to the Property Appraiser. The Property Appraiser shall use due diligence to accurately determine the name, address and legal description of each affected parcel and submit the information to the County by June 1<sup>st</sup>, of each year. The Property Appraiser shall also act as the agent for the County to list, extend, prepare and maintain the non-ad valorem assessment roll for and on behalf of the County and to provide it at the same time that the regular ad valorem tax rolls are certified to the Tax Collector, in the name of the County to the Tax Collector in compatible electronic medium tied to the property identification number; provided, however, that the Property Appraiser shall not be under any duty to act as agent of the County in preparing and certifying to the Tax Collector the non-ad valorem assessment roll unless the County shall have provided the Property Appraiser, no later than September 15<sup>th</sup> of each calendar year as a condition precedent, the officially adopted Assessment per parcel of property for the Lee County MSBU non-ad valorem assessments referenced herein as officially adopted by the Lee County Board of County Commissioners at a duly advertised public meeting.

**SECTION 3:           COMPENSATION**

A.     The County hereby agrees to compensate the Property Appraiser for its necessary administrative costs as defined in §197.3632(2), Florida Statutes, incurred in fulfilling the statutory and contractual duties of the Property Appraiser under this Agreement. The County shall compensate the Property Appraiser at the rate of one dollar (\$1.00) per parcel (strap number) of property within the district for establishing the NE Hurricane Bay Dredging MSBU, University Overlay Landscape Capital MSBU, University Overlay Landscape O & M Special Improvement Unit, Cottage Point Waterline MSBU,

Anchorage Way MSBU, Dewberry Road MSBU, and Country/Triple Crown Waterline MSBU Non-Ad Valorem or special Assessment rolls, and annually thereafter, the amount of one dollar (\$1.00) per parcel (strap number) of property for the maintenance of each parcel of property. The Property Appraiser will bill the County by invoice upon submission of the non-ad valorem assessment roll to the Tax Collector, and the County shall pay the Property Appraiser by county warrant within forty-five (45) days from the receipt of said invoice.

B. If the actual costs of performing the services by the Property Appraiser exceed the compensation referenced in Section 3 (above), then the compensation to be paid to the Property Appraiser shall equal the actual cost of performing such services. The Property Appraiser in such instance will submit to the County a Notice of Actual Costs, which shall be reviewed for approval by the County, and which shall not be unreasonably withheld.

**SECTION 4: STAFF ASSISTANCE**

The Parties to this Agreement agree to consult and cooperate with one another as necessary and practical for the efficient and timely listing, preparation, submission, certification, ~~collection, and enforcement against future delinquencies~~ of the County's non-ad valorem MSBU special assessments referenced herein. The County shall provide to the Property Appraiser and Tax Collector any staff assistance reasonably necessary and required to affect the purposes of this Agreement.

Handwritten signature and initials in black ink, consisting of a stylized name above a circular mark containing initials.

**SECTION 5: TERM OF AGREEMENT**

The term of this Agreement shall commence with the 2003 non-ad valorem MSBU



assessment rolls and shall continue and extend uninterrupted from year to year from the effective date as indicated below unless a written Notice of Termination shall be issued by the Property Appraiser. Such written Notice of Termination shall be delivered to the non-terminating Party not less than one hundred eighty (180) days in advance of the commencement of the next Fiscal Year of the County.

**SECTION 6: INDEMNIFY AND HOLD HARMLESS**

In performing these services herein specifically provided, the Property Appraiser shall not in any way, expressed or implied, directly or indirectly, responsible for proposing, imposing, certifying or levying any non-ad valorem special assessment and/or determining whether any such special or non-ad valorem assessment levied by the County is authorized, constitutional, legal or valid. The County acknowledges that it is the sole responsibility of the County to levy such assessments and to insure that they are authorized, legal, valid and constitutional. To the extent permitted by Florida law, the County agrees to indemnify and hold harmless the Property Appraiser for any losses, costs, and expenses, including attorney's fees, that they may incur in defending any action contesting the legality of the special assessments, except for any challenge to the conduct of the Property Appraiser in fulfilling their obligations as set forth in this Agreement.

**SECTION 7: NOTIFICATION**

The County agrees to be responsible for all changes and adjustments to the assessments on the Lee County NE Hurricane Bay Dredging MSBU, University Overlay Landscape Capital MSBU, University Overlay Landscape O & M Special Improvement Unit, Cottage Point Waterline MSBU, Anchorage Way MSBU, Dewberry Road MSBU, and

Country/Triple Crown Waterline MSBU assessment rolls and will provide any such changes or adjustments to the Property Appraiser as applicable for revisions to the assessment as directed. Time limitations on changes and adjustments to the amounts of assessments shall be governed by §197.122, Florida Statutes, and Department of Revenue Rule 12D-8.021.

**SECTION 8: PREVIOUS AGREEMENTS**

All Agreements previously entered into by and between the Parties hereto in conflict herewith are hereby superseded to the extent of the conflict.

**SECTION 9: EFFECTIVE DATE**

This Agreement is intended to be bound as of the date shown below.

(Balance of Page Left Intentionally Blank)

**IN WITNESS WHEREOF** the Parties have executed this Agreement, the Board of County Commissioners approved this Agreement on the \_\_\_\_\_ of \_\_\_\_\_, 2003, and the Property Appraiser approved this Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 2003.

ATTEST: CHARLIE GREEN  
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

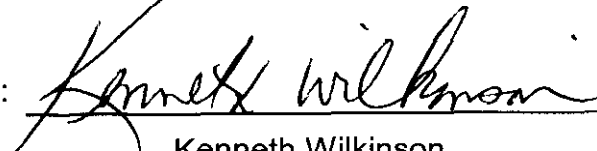
BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Ray Judah, Chairman

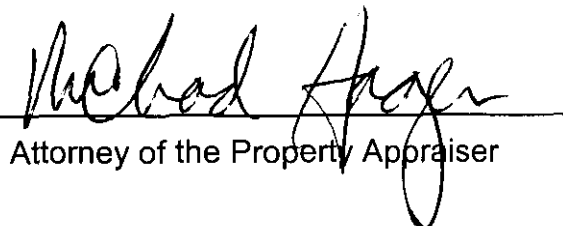
APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Office of the County Attorney

LEE COUNTY PROPERTY APPRAISER

BY:   
Kenneth Wilkinson

APPROVED AS TO FORM:

BY:   
Attorney of the Property Appraiser

## **EXHIBIT A**

### **RESOLUTION # 03-01-38**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA ELECTING TO USE THE UNIFORM METHOD OF COLLECTING NON-AD VALOREM SPECIAL ASSESSMENTS LEVIED IN THE UNINCORPORATED AREA OF THE COUNTY; STATING A NEED FOR SUCH LEVY; PROVIDING FOR THE MAILING OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Board of County Commissioners (the "Board") of Lee County, Florida (the "County") is contemplating the imposition of special assessments for the provision of (i) water and wastewater services and facilities, (ii) road paving and maintenance services, and (iii) capital improvements including neighborhood park improvements, beautification and maintenance of rights-of-way, subdivision wall construction and maintenance, canal and channel dredging, subdivision entranceway construction and maintenance, and street lighting; and

**WHEREAS**, the Board intends to use the uniform method for collecting non-ad valorem special assessments for the cost of providing (i) water and waste water services and facilities, (ii) road paving and maintenance services, and (iii) capital improvements including neighborhood park improvements, beautification and maintenance of rights-of-way, subdivision wall construction and maintenance, subdivision entranceway construction and maintenance, canal and channel dredging, and street lighting to property within the unincorporated area of the County as authorized by Section 197.3632, Florida Statutes, as amended, because this method will allow such special assessments to be collected annually commencing fiscal year October 1, 2003 and for each year thereafter in the same manner as provided for ad valorem taxes; and

**WHEREAS**, the Board held a duly advertised public hearing prior to the adoption of this Resolution, proof of publication of such hearing being attached hereto as Exhibit A;

**NOW THEREFORE BE IT RESOLVED** by the Board of County Commissioners of Lee County, Florida, as follows:

1. Commencing with the Fiscal Year beginning on October 1, 2003, and with the tax statement mailed for such Fiscal Year, the County intends to use the uniform method of collecting non-ad valorem assessments authorized in Section 197.3632, Florida Statutes, and wastewater services and facilities, (ii) road paving and maintenance services, and (iii) capital improvements including neighborhood park improvements, beautification and maintenance of rights-of-way, subdivision wall construction and maintenance, subdivision entranceway construction and maintenance, canal and channel dredging, and street lighting. Such non-ad valorem assessments shall be levied within the unincorporated area of the County. A legal description of such area subject to the assessment is attached hereto as Exhibit B and incorporated by reference.
2. The County hereby determines that the levy of the assessments is needed to fund the cost of (i) water and wastewater services and facilities, (ii) road paving and maintenance services, and (iii) capital improvements, including

neighborhood park improvements, beautification and maintenance of rights-of-way, subdivision wall construction and maintenance, subdivision entranceway construction and maintenance, canal and channel dredging, and street lighting within the unincorporated area of the County.

3. Upon adoption, the County Clerk is hereby directed to send a copy of this Resolution by United States mail to the Florida Department of Revenue, the Lee County Tax Collector, and the Lee County Property Appraiser by March 1, 2003.
4. This Resolution shall be effective upon adoption.

DULY ADOPTED this 28th day of January 2003.

ATTEST:  
CHARNE GREEN  
CLERK OF COURTS

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

Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
LEE COUNTY, FLORIDA

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

Ray Judah, Chairman

(SEAL)



APPROVED AS TO FORM:

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

Office of the County Attorney

**"Exhibit A"**

**NOTICE OF INTENT TO USE UNIFORM METHOD OF  
COLLECTING NON-AD VALOREM ASSESSMENTS**

The Board of County Commissioners of Lee County, Florida (the "Board") hereby provides notice, pursuant to section 197.3632(3) (a), Florida Statutes, of its intent to use the uniform method of collecting non-ad valorem special assessments to be levied within the unincorporated area of Lee County, for the cost of providing (i) water and wastewater services and facilities; (ii) road paving and maintenance services; and (iii) capital improvements including neighborhood park improvements, beautification and maintenance of right-of-way, subdivision wall construction and maintenance, subdivision entranceway construction and maintenance, canal and channel dredging, and street lighting commencing for the Fiscal Year beginning October 1, 2003. The Board will consider the adoption of resolutions electing to use the uniform method of collecting such assessments authorized by section 197.3632, Florida Statutes, at a public hearing to be held at 5:00 p.m., December 10, 2002 in the Chamber Room of the Old Courthouse, 2120 Main Street, Fort Myers, Florida. Such resolutions will state the need for the levy and will contain a legal description of the boundaries of the real property subject to the levy. Copies of the proposed forms of resolution, which contains the legal description of the real property subject to the levy, are on file at the office of the County Clerk of Lee County, and the Public Resources Office located at 2115 Second Street, Fort Myers, Florida. All interested persons are invited to attend the hearing in person or through counsel, and are invited to be heard concerning the adoption of the proposed resolution.

In the event any person decides to appeal any decision by the Board with respect to any matter relating to the consideration of the resolutions at the above-referenced public hearing, a record of the proceeding may be needed and in such an event, such person may need to ensure that a verbatim record of the public hearing is made, which record includes the testimony and evidence on which the appeal is to be based. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the County Commission at (239) 335-2269 at least seven days prior to the date of the hearing.

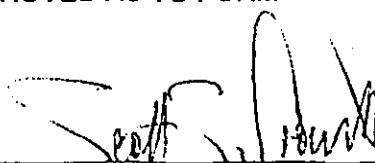
DATED this 18<sup>th</sup> day of November, 2002.

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Clerk of the Circuit Court, Ex Officio  
Clerk of the Board of County Commissioners of  
Lee County, Florida

APPROVED AS TO FORM

By:



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Office of the County Attorney

AD TO RUN:  
Nov. 20, 2002, Nov. 27, 2002  
Dec. 4, 2002, Dec. 9, 2002

DIRECT VOUCHER  
Account #803664  
Size: 2X5

**"EXHIBIT B"**

**1. NE HURRICANE BAY CANAL DREDGING MSBU  
LEGAL DESCRIPTION**

A tract or parcel of land lying in the East One-Half (E ½) of the Northeast Quarter (NE ¼), Section 7, Township 46 South, Range 24 East, Lee County, Florida which tract or parcel is described as follows:

From the one-inch diameter axle marking the Southwest corner of the Northeast Quarter (NE ¼) of said Section 7 run North 89° 25' 00" East along the South line of said Northeast Quarter for 1384.52 feet to the Southeast corner of lands described in deed recorded in Official Record Book 701, at page 380, Lee County records and the Point of Beginning.

From said Point of Beginning run North 00° 48' 27" West along the East line of said lands for 125.00 feet to the South right-of-way of Pine Ridge Road (100 feet wide); thence run North 89° 25' 00" East along said right-of-way for 1298.40 feet to the East line of said Northeast Quarter (NE ¼), thence run South 00° 50' 30" East along said East line for 125.01 feet to the Southeast corner of said fraction, thence run South 89° 25' 00" West along the South line of said Northeast Quarter (NE ¼) for 1298.48 feet to the Point of Beginning.

EXCEPTING THEREFROM the Easterly 73 feet thereof and less the Westerly 565 feet.

SUBJECT TO easements, restrictions and reservations of record and taxes for the year 1993.

**2. UNIVERSITY LANDSCAPING CAPITAL MSBU  
LEGAL DESCRIPTION**

*(From Lee County/University Window Overlay Property Owners's Agreement 4/9/97)*

Area within 100 feet on both sides of the right-of-way on the following road segments; Ben Hill Griffin Road (formerly Treeline Boulevard) from Alico Road to Corkscrew Road; Alico Road from I-75 to Ben Hill Griffin Road; Corkscrew Road from I-75.

**3. UNIVERSITY LANDSCAPING OPERATION & MAINTENANCE SIU  
LEGAL DESCRIPTION**

*(From Lee County/University Window Overlay Property Owners's Agreement 4/9/97)*

Area within 100 feet on both sides of the right-of-way on the following road segments; Ben Hill Griffin Road (formerly Treeline Boulevard) from Alico Road to Corkscrew Road; Alico Road from I-75 to Ben Hill Griffin Road; Corkscrew Road from I-75.



**"EXHIBIT B" (cont'd)**

**4. COTTAGE POINT WATERLINE MSBU  
LEGAL DESCRIPTION**

Parcels 0030 and 0010 located in Cottage Point Subdivision, Block H as recorded in Plat Book 9, Page 133.

Cottage Point parcels 0020 through 0450 in Block G, as identified in Deed Book 259, Page 224.

Cottage Point parcels 0670 through 0830 in Block G, as identified in Deed Book 259, Page 224.

**5. ANCHORAGE WAY / INTRACOASTAL MSBU  
LEGAL DESCRIPTION**

Lots 1-12, in Intracoastal Harbour Subdivision as identified in Plat Book 45, pages 35-37 and Lots 1-10 in the Shadows Subdivision as identified in Plat Book 32, page 12, public records of Lee County, Florida, and a tract or parcel of land lying in Sections 25 and 36, Township 45 South, Range 23 East, Lee County, Florida which tract or parcel is described as follows: From the railroad spike marking the Southeast corner of Government Lot 1, said Section 36, run North along the Easterly line of said lot for 25 feet to an intersection with the Northerly line of Iona Loop Road (50 feet wide); thence run West along said Northerly line parallel with the South line of said lot for 161.5 feet to concrete monument; thence continue West along said Northerly line for 200 feet; thence run North along the centerline of a roadway 60 feet wide for 1093.10 feet to the center point of a roadway turnaround of radius 65 feet; thence run N 55° 06' 56" W for 65 feet to a point on the circumference of said turnaround and the point of beginning of the herein described parcel. From said Point of Beginning run S 55° 06' 56" E for 65 feet to the center point of said turnaround; thence run N 87° 31' 39" W for 65 feet to a point on the circumference of said turnaround; thence run West for 170.24 feet to an intersection with a line parallel with and 596.68 feet West of the East line of said Government Lot 1; thence run North along said parallel line for 207.64 feet to a concrete monument marking the intersection with the North line of said Section 36; thence run N 00° 10' 45" W for 75 feet more or less to the waters of the Caloosahatchee River; thence run Northeasterly along said waters for 190 feet more or less to an intersection with a line bearing North, passing through the Point of Beginning; thence run South along said line for 290 feet more or less to the Point of Beginning. SUBJECT TO and TOGETHER with the hereinabove described roadway and roadway turnaround. Bearings hereinabove mentioned are from assuming the East line of said Lot 1 to bear North.

**"EXHIBIT B" (cont'd)**

**6. DEWBERRY MSBU  
LEGAL DESCRIPTION**

Lots 0040 through 0700, Block D of the Cherry Estates, Unrecorded Subdivision, located in Lee County, Florida.

**7. COUNTRY / TRIPLE CROWN WATERLINE MSBU  
LEGAL DESCRIPTION**

Lots 0010 through 0170 as described in Plat Book 30, Page 28 and Lots 0010 through 0030 as described in Plat Book 30, Page 88 and Lots 0180 through 0220 as described in Plat Book 30, Page 88 and, Lots 0250 and 0260 as described in Plat Book 30, Page 88 and Lots 0040 through 0120 as described in Plat Book 30, Page 89 and Lots 0150 through 0170 as described in Plat Book 30, Page 89 and Lots 0230 and 0240 as described in Plat Book 30, Page 89 and Lot 0140 as described in Plat Book 30, Page 89 plus part of Tract A as described in OR Book 1767, Page 0659 and Lot 0130 as described in Plat Book 30, Page 89 plus part of Tract A as described in OR Book 1767, Page 0659 and Lot 0030 as described in OR Book 3178, Page 1248 and Lot 003A as described in OR Book 1912, Page 3388 and Lot 003B as described in OR Book 2751, Page 2600 and Lot 003E as described in OR Book 2745, Page 1085 and Lot 003F as described in OR Book 2804, Page 325 and Lot 005A as described in OR Book 1860, Page 1790 and Lot 005B as described in OR Book 2386, Page 2783 and Lot 005C as described in OR Book 1574, Page 1297 and Lot 005D as described in OR Book 1805, Page 3667 and Lot 005F as described in OR Book 2779, Page 3357 and a parcel of land as described in OR Book 514, Page 539.