

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

Blue Sheet No. 20041141

**1. REQUESTED MOTION:**

**ACTION REQUESTED:**

Approve funding a financial assistance grant for a landscaping project and authorize the Chairman of the Board of County Commissioner's (BoCC) to execute the attached agreement.

**WHY ACTION IS NECESSARY:**

The Landscaping Funds Program requires the BoCC's approval to fund the project and authorize the Chairman to execute the attached agreement.

**WHAT ACTION ACCOMPLISHES:**

Approves funding a grant for a landscaping project in the center island area of a cul-de-sac located on Silvery Lane, pursuant to the terms and conditions of the Landscaping Funds Program (AC 11-08) and the attached agreement.

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

*C9B*

**3. MEETING DATE:**

*09-21-2004*

**4. AGENDA:**

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

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

- STATUTE
- ORDINANCE
- ADMIN. 11-08
- CODE
- OTHER

**6. REQUESTOR OF INFORMATION:**

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

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

**7. BACKGROUND:**

The grant applicant is a local resident who lives adjacent to the project area. The applicant contacted DOT in an effort to improve the appearance of the center island area. Since the area is located on a local street, the only landscape improvements provided by DOT as a core level of service, is routine mowing and as needed tree maintenance. Therefore, the applicant decided to volunteer his efforts in order to make improvements. He had a planting and irrigation plan prepared for the area. The plan was reviewed and approved by the Roadway Landscape Advisory Committee, during their July 6, 2004 meeting. The applicant has agreed to the on-going maintenance responsibilities of the landscape improvements. In addition, the applicant has agreed to provide water for the project's irrigation system, from his own personal residential irrigation system.

Funds will be available in the following account: 20- Capital Improvement Project, 6024 – Roadway Beautification, 30100 – Capital Improvements Fund, 508210 – Aids to Private Organizations

**8. MANAGEMENT RECOMMENDATIONS:** Approve funding the project and executing the agreement.

**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>9/2/04</i> <i>[Signature]</i>	<i>N/A Pur.</i> <i>[Signature]</i>	<i>N/A</i>	<i>N/A</i>	<i>[Signature]</i>	<i>OA</i> <i>[Signature]</i>	<i>OM</i> <i>[Signature]</i>	<i>Risk</i> <i>[Signature]</i>	<i>GC</i> <i>[Signature]</i>	<i>[Signature]</i> <i>9.2.04</i>

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty  
Date: *9/3/04*  
Time: *3:53*  
Forwarded To: *[Signature]*

RECEIVED BY  
COUNTY ADMIN:  
*9/3/04*  
*[Signature]*  
COUNTY ADMIN  
FORWARDED TO: *[Signature]*  
*9/9/04*  
*[Signature]*

## AGREEMENT

This Agreement is made between the Lee County Board of County Commissioners (hereinafter referred to as the "COUNTY"), a political subdivision and Charter County and Patrick L. Kroll (hereinafter referred to as the "ENTITY"). The parties agree to be bound by the terms and conditions set forth herein.

### WITNESSETH:

WHEREAS, ENTITY has developed a landscape and irrigation plan for the Silvery Lane cul-de-sac in Fort Myers, Florida, within Lee County roadway right-of-way, and has affirmed the commitment to develop said plan; and

WHEREAS, COUNTY has made available grant funds for not-for-profit groups engaged in landscaping projects for the betterment of Lee County, through the Landscaping Funds Program Administrative Code 11-08; and

WHEREAS, both parties agree that said project will serve to enhance and improve a public area within Lee County;

NOW THEREFORE, it is agreed between the parties that:

### SECTION 1

ENTITY agrees to develop this project according to plans and scope of work submitted to Lee County in its Grant Application and approved by the Lee County Roadway Landscape Advisory Committee on July 6, 2004, subject to special conditions described in Attachment "A". Payment of Lee County Landscaping Grant funds will be made on a reimbursement basis as indicated in the Landscaping Funds Program (which is attached and incorporated herein by reference). Grantee agrees to abide by all rules for submitting progress reports, final narrative report, amendments, audits, and records as set forth in the Landscaping Funds Program. Invoices with unit costs and quantities shall accompany any requests for funds to substantiate payment.

### SECTION 2

ENTITY agrees to assume full responsibility for preparation of all plans and specifications, securing of the construction contract, construction supervision and attainment of required permits.

### SECTION 3

The term for this Agreement shall run from the date of this Agreement until September 30, 2005, for the completion of the project's implementation and reimbursement, unless both parties mutually agree in writing to extend it by amendment.

#### SECTION 4

In consideration of the above terms and conditions, the COUNTY will make available the total sum of six thousand five hundred dollars (\$6,500.00), from aforementioned landscaping funds program to the ENTITY for the design, purchase and installation of plans, plants and materials for the project. The funds shall be drawn as stated in the Landscaping Funds Program.

#### SECTION 5

To the extent permitted by Florida Law, ENTITY agrees to indemnify and hold harmless the COUNTY from any claims made against the COUNTY arising directly, or indirectly, from the use of the area as described above, or from the work in progress during implementation of the project.

#### SECTION 6

ENTITY shall assume all risk and bear any loss or injury to property or persons occasioned by neglect or accident during the progress of work or maintenance of such work. The ENTITY agrees to repair, restore or rebuild any damages they cause to any property of the COUNTY. ENTITY shall also assume all blame or loss because of neglect or violation of any state or federal law or municipal rule, regulation or order. The ENTITY shall give to the proper authorities all required notices relating to the work, obtain all official permits and licenses and pay all proper fees. ENTITY shall repair any damage that may occur to any adjoining building, structure, utility or private property in the course of this work.

#### SECTION 7

Nothing within this Agreement shall be construed as creating an employee/employer relationship between ENTITY and COUNTY, or either entities' employers, officers, agents, consultants, etc.

IN WITNESS TO THIS AGREEMENT, the undersigned parties have executed this Agreement, effective this \_\_\_\_\_ day of \_\_\_\_\_ 2004.

Attest: Charlie Green, Clerk

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

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

Deputy Clerk

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

Chairman

Approved as to Form

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

Lee County Attorney's Office

ENTITY

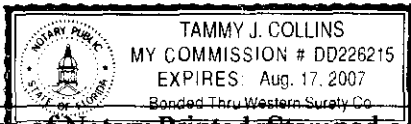
By: Patrick L. Kroll

Patrick L. Kroll

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing agreement was acknowledged before me this 27 day of August 2004, by Patrick L. Kroll, as ENTITY. He is personally known to me or has produced FL Drivers license as identification.

Tammy J. Collins  
Notary Public, State of Florida at Large



Name of Notary Printed, Stamped or Typed

## ATTACHMENT "A"

The proposed project application was reviewed and evaluated by the Lee County Roadway Landscape Advisory Committee (RLAC) during June and part of July 2004. The committee expressed concern about some of the proposed plant material. On July 6, 2004, the RLAC approved the plans, subject to the substitution of known invasive exotic plant species, with non-invasive plant species. Project approval is subject to the terms and conditions of the Landscaping Funds Program Administrative Code 11-08, and the following additional provisions, made a part of this project/agreement.

1. The project's landscape maintenance and irrigation requirements shall be provided perpetually by the ENTITY.
2. Lee County reserves the right to remove all, or a part of this project, if necessary.
3. The installing contractor or the ENTITY, must obtain a Lee County Department of Transportation Right-of-Way Construction Permit prior to beginning work.
4. The landscape contractor must have all utilities located prior to beginning work. In addition, the contractor must avoid all utility conflicts and prevent disruptions of service and traffic.
5. The contractor must utilize the approved maintenance of traffic plan at all times.
6. The ENTITY must keep the plant material maintained at all times in a manner that will avoid visibility conflicts too motorists, pedestrians, cyclists, and the public.
7. County funds expended on this project must be utilized solely for landscaping and irrigation design or components within the County right-of-way, and the items necessary to complete the connection of the projects irrigation system to the water source of supply, provided by the ENTITY.
8. The ENTITY and Lee County Department of Transportation representative must agree upon an acceptable plant substitution for the following known invasive exotic species according to the Florida Exotic Pest Plant Council's *2003 List of Invasive Species*:
  - a. Mexican ruellia
  - b. Lantana 'Confetti'