

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

Blue Sheet No. 20041441

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Authorize Chairman to approve by signature the attached Amendment 1 to Use Agreement U-0310. The document amends the original agreement between the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (TIITF) and Lee County for use of upland state park lands during construction and maintenance of Lovers Key restoration.

**WHY ACTION IS NECESSARY:** The Division of State Lands for the State of Florida requested the amendment to clarify special conditions applicable to Lovers Key Restoration.

**WHAT ACTION ACCOMPLISHES:** The amendment specifies conditions that both the State of Florida and Lee County must adhere to during the construction process.

|   |  |
|---|--|
| <b>2. DEPARTMENTAL CATEGORY:</b> 08         | <b>3. MEETING DATE:</b> 11-16-2004                         |
| <b>COMMISSION DISTRICT #:</b> 03            |  |
| <b>4. AGENDA:</b>                           | <b>5. REQUIREMENT/PURPOSE:</b> (Specify)                   |
| <input checked="" type="checkbox"/> CONSENT | <input type="checkbox"/> STATUTE                           |
| <input type="checkbox"/> ADMINISTRATIVE     | <input type="checkbox"/> ORDINANCE                         |
| <input type="checkbox"/> APPEALS            | <input type="checkbox"/> ADMIN. CODE                       |
| <input type="checkbox"/> PUBLIC             | <input checked="" type="checkbox"/> OTHER <u>Amendment</u> |
| <input type="checkbox"/> WALK ON            |  |
| <b>TIME REQUIRED:</b>                       | <b>6. REQUESTOR OF INFORMATION:</b>                        |
|   | A. COMMISSIONER _____                                      |
|   | B. DEPARTMENT <u>Public Works</u>                          |
|   | C. DIVISION <u>Natural Resources</u>                       |
|   | BY: <u>Roland Ottolini, Director</u>                       |

**7. BACKGROUND:** In accordance with Florida Administrative code 18-2.018(2)(o), Land Use Agreement U-310 was executed by the Board of County Commission, on March 18, 2003. The agreement granted Lee County authorization to construct and maintain a beach restoration project in Lovers Key State Park. The term of the agreement is 5 years.

The Division of State Lands of the State of Florida has requested specific special conditions be amended to the Use Agreement. The special conditions address project specific items, and have were previously incorporated into the existing construction contract with Lake Michigan Contractors. The amendment will serve as a written agreement between the State of Florida and Lee County for construction activities.

Upon the Board of County Commissioner's review and approval of the instrument, it will be forwarded for the State's execution. An original executed amendment will then be returned to Lee County for recording in the public records.

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

| A<br>Department<br>Director    | B<br>Purchasing<br>or Contracts | C<br>Human<br>Resources | D<br>Other | E<br>County<br>Attorney         | F<br>Budget Services |                |                |                | G<br>County Manager            |
|--------------------------------|---------------------------------|-------------------------|------------|---------------------------------|----------------------|----------------|----------------|----------------|--------------------------------|
|                                |                                 |                         |            |                                 | OA                   | OM             | Risk           | GC             |                                |
| <i>J. Saunders</i><br>10-29-04 |                                 |                         |            | <i>K. [unclear]</i><br>11-21-04 | <i>2-04</i>          | <i>11/4/04</i> | <i>11/4/04</i> | <i>11-3-04</i> | <i>J. Saunders</i><br>10-29-04 |

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty

Date: 11/2/04

Time: 1:10

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Forwarded To:  
Co. Admin  
11/2/04

RECEIVED BY  
COUNTY ADMIN: *[Signature]*

11/2/04

3:00pm SUN

FORWARDED TO: *[Signature]*

11/4/04

3pm

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT  
TRUST FUND OF THE STATE OF FLORIDA**

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AMENDMENT No. 1 to USE AGREEMENT No. U-0310

This AMENDMENT TO USE AGREEMENT No. U-0310 is hereby made and entered into this \_\_\_\_\_, day of \_\_\_\_\_, 2004, between the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA, hereinafter referred to as "GRANTOR," and LEE COUNTY, FLORIDA, hereinafter referred to as the "GRANTEE."

WHITNESSETH

WHEREAS, the GRANTEE has embarked on a shore protection project ( the "Project") Pin the vicinity of Lovers Key State Park ("Park") which is owned by the GRANTOR and managed by the Department of Environmental Protection, Division of Recreation and Parks under Lease No. 3340; and

WHEREAS, on April 24, 2003, the GRANTOR and the GRANTEE entered into Use Agreement Number U-0310 (the "Use Agreement"), which provides the GRANTEE certain controlled access to the park; and

WHEREAS, the GRANTOR and the GRANTEE desire to amend paragraph 28 of the Use Agreement to include some additional special conditions.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the GRANTOR and the GRANTEE agree as follows:

1. Paragraph 28 of the Use Agreement is amended to include the following special conditions:

- (1) If the GRANTEE works in the Park after normal operating hours, the GRANTEE will be responsible for closing the front entrance gates after each individual entry and exit.
- (2) The GRANTEE will protect the brick paver blocks from the weight of heavy trucks and equipment by using a minimum of ½" plywood and will be responsible for removing the plywood when not in use.
- (3) The GRANTEE will make delivery of equipment only before or after peak visitation hours of the day, hereby designated as 10:00 AM to 3:00 PM. Deliveries during peak hours will only be allowed with specific prior approval of the Park Manager.
- (4) The south beach area will be set aside as a staging area and considered a starting point for the Project in order to allow the Park's center beach access to remain open to the public. As the Project moves north and before it becomes necessary for the center access to be closed, the south beach area will be made safe and accessible to the public. It is understood that it may be required to close or

restrict public use of all accesses for short durations during the Project for safety reasons. The Park Manager shall be required to approve such closings except in emergency situations. In emergency situations, the Park Manager will be notified of the closure and the area will be reopened as soon as practicable.

- (5) The GRANTEE may not hinder the use of the boat ramp by park visitors.
- (6) Storage of GRANTEE'S employee vehicles and necessary equipment will be allowed only in locations approved by the Park Manager.
- (7) The GRANTEE will construct, repair and maintain all structures it builds on the Park. The beach fill is not considered a structure.
- (8) The Park Manager will be responsible to identify and mark any dunes or other features that may not be disturbed by the GRANTEE. If the GRANTEE requests and is granted use of these areas by the Park Manager, GRANTEE will restore them to substantially the same condition existing before the construction.
- (9) The GRANTEE may use one of the Park's volunteer campsites to set up a temporary mobile office. Should the GRANTEE wish to have power and telephone services at this site, it will have to set up service for the utilities in its own name and be responsible for all costs and expenses associated with these utilities. The GRANTEE shall be allowed to install a septic connection to an existing Park system. All utility installations, locations, and connections shall be subject to the Park Manager's approval.
- (10) The GRANTEE will coordinate with and obtain approval of the Park Manager before undertaking any activity not specifically addressed herein.

2. It is understood and agreed by the GRANTOR and GRANTEE that in each and every respect the terms of this Use Agreement, except as amended above, shall remain unchanged and in full force and effect and the same are hereby ratified, approved and confirmed by the GRANTOR and the GRANTEE

IN WITNESS WHEREOF, the Parties have executed this amendment on the day and year  
aforementioned.

BOARD OF TRUSTEES OF THE INTERNAL  
IMPROVEMENT TRUST FUND OF THE STATE  
OF FLORIDA

By: \_\_\_\_\_ (SEAL)  
Gloria C. Nelson, Operation and Management  
Consultant Manager, Bureau of Public Land  
Administration, Division of State Lands, Department  
of Environmental Protection, As Agent For Trustees

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print/Type Witness Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print/Type Witness Name

"GRANTOR"

STATE OF FLORIDA  
COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2003, by Gloria C. Nelson, Operation and Management Consultant Manager, Bureau of Public  
Land Administration, Division of State Lands, the Department of Environmental Protection, as  
agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the  
State of Florida. She is personally known to me.

\_\_\_\_\_  
Notary Public, State of Florida

\_\_\_\_\_  
Print/Type Notary Name

Commission Number:

Commission Expires:

Approved as to Form and Legality

By: \_\_\_\_\_  
DEP Attorney

LEE COUNTY, FLORIDA  
By its: BOARD OF COUNTY COMMISSIONERS

By: \_\_\_\_\_ (SEAL)  
John E. Albion, Chair

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print/Type Witness Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print/Type Witness Name

(OFFICIAL SEAL)

"GRANTEE"

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2004, by John E. Albion, Chair, Board of County Commissioners of Lee County, Florida on  
behalf of the county. He is personally known to me.

\_\_\_\_\_  
Notary Public, State of Florida

\_\_\_\_\_  
Print/Type Notary Name

Commission Number:

Commission Expires:

Approved as to Form and Legality

By: \_\_\_\_\_  
County Attorney