

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

Blue Sheet No. 20050773

1. ACTION REQUESTED/PURPOSE:

Approve authorizing resolution and agreement for Chairman to execute the attached Resolution and State of Florida Department of Transportation (FDOT) Highway Landscaping Installation and Maintenance Agreement (HLIMA) between Lee County and FDOT for landscape and irrigation on US 41 from Corkscrew Road to the city limits of Bonita Springs on behalf of the BoCC. Also approve budget amendment resolution in the amount of \$644,000 and amend FY 04/05 - 08/09 CIP.

2. WHAT ACTION ACCOMPLISHES:

Requires BOCC approval for agreements and amendments to CIP. Provides an agreement that will reimburse the County for landscaping and irrigation installation design expenses up to \$644,000 for this section of U.S. 41.

3. MANAGEMENT RECOMMENDATION:

Staff recommends approval.

4. Departmental Category:

C9E

5. Meeting Date: *06-21-2005*

6. Agenda:

- Consent
- Administrative
- Appeals
- Public
- Walk-On

7. Requirement/Purpose: (specify)

- Statute
- Ordinance
- Admin. Code
- Other

8. Request Initiated:

Commissioner _____
 Department Transportation
 Division Operations
 By: Scott Gilbertson, P.E.,
Director, DOT

9. Background:

On 10-22-02, Lee County entered into a Joint Participation Agreement with FDOT for landscape and irrigation design for this project (Blue Sheet #20021094). Design work was to be completed in 30 months from the time FDOT completed execution of the agreement (12-3-02). Due to unforeseen changes that impacted the design by both FDOT and Lee County (FDOT: billboard view zones & horizontal clearance/roadside offsets; County: core level, intensified level & enhanced level landscaping) a time extension to May 2006 has been requested by the County and accepted by FDOT.

FDOT originally allocated \$704,000 for the design and installation of landscaping for this road construction project. Up to \$60,000 will be used for design expenses associated with this landscape project at the County's initial expense, with reimbursement of these expenses to follow pending FDOT's approval of invoices per the Joint Participation Agreement. The remaining \$644,000 will be allocated for landscape installation through this Landscape Installation and Maintenance Agreement on a reimbursement basis. FDOT has requested that Lee County enter into this landscape installation and maintenance agreement now in order to assist them in securing funding available this fiscal year

Funds are available in the following account: 20502430700.503490

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
<i>4/5/05</i>	<i>[Signature]</i>	NA		<i>[Signature]</i>	Analyst	Risk	Grants	Mgr.	<i>[Signature]</i>
					<i>6/21/05</i>	<i>6/21/05</i>	<i>6/21/05</i>	<i>6/21/05</i>	<i>6-6-05</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY
 COUNTY ADMIN: *[Signature]*
6-8-05
10AM
 COUNTY ADMIN
 FORWARDED TO: *[Signature]*
6/7/05
7:24AM

Rec. by CoAtty
 Date: 6/7/05
 Time: 4:00
 Forwarded To:
 Co. MGR.
6/7/05 4:50pm

RESOLUTION

Amending the Budget of Transportation Capital Improvements-Fund 30700 to incorporate the unanticipated receipts into Estimated Revenues and Appropriations for the fiscal year 2004-2005.

WHEREAS, in compliance with the Florida Statutes 129.06(2), it is the desire of the Board of County Commissioners of Lee County, Florida, to amend the Transportation Capital Improvements-Fund 30700 budget for \$644,000 of the unanticipated revenue from State of Florida and an appropriation of a like amount for construction costs and;

WHEREAS, the Transportation Capital Improvements-Fund 30700 budget shall be amended to include the following amounts which were previously not included.

ESTIMATED REVENUES

Prior Total:		\$87,836,500
Additions		
20502430700.369900.9183	Reimbursement from FDOT	644,000
Amended Total Estimated Revenues		\$88,480,500

APPROPRIATIONS

Prior Total:		\$87,836,500
Additions		
20502430700.503490	Other Contracted Services	644,000
Amended Total Appropriations		\$88,480,500

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Lee County, Florida, that the Transportation Capital Improvements-Fund 30700 budget is hereby amended to show the above additions to its Estimated Revenue and Appropriation accounts.

Duly voted upon and adopted in Chambers at a regular Public Hearing by the Board of County Commissioners on this ____ day of _____, 2005.

ATTEST:
CHARLIE GREEN, EX-OFFICIO CLERK

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

BY: _____
DEPUTY CLERK

CHAIRMAN

APPROVED AS TO FORM

OFFICE OF COUNTY ATTORNEY

DOC TYPE YA
LEDGER TYPE BA

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
HIGHWAY LANDSCAPING INSTALLATION
AND MAINTENANCE AGREEMENT**

(WITH PLANS TO BE APPROVED SUBSEQUENT TO THE EXECUTION OF THIS AGREEMENT)

THIS AGREEMENT, made and entered into this ____ day of _____, 2005, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as the **DEPARTMENT**, and **LEE COUNTY**, hereinafter referred to as the **AGENCY**.

WITNESSETH

WHEREAS, the **DEPARTMENT** has jurisdiction over and maintains State Roads as part of the State Highway System; and

WHEREAS, the **AGENCY** seeks to install and maintain certain landscape development improvements within the unpaved areas within the right-of-way of US 41 from Bonita Springs city limits North to Corkscrew Road; FM# 195693 2 58 01 programmed in fiscal year 2004/2005 hereinafter referred to as the **PROJECT**; and

WHEREAS, the parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party; and

WHEREAS, the **AGENCY** by Resolution dated _____, a copy of which is attached hereto and made a part hereof, has authorized its Chairman of the Board of County Commissioners to enter into this Agreement on behalf of the **AGENCY**;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties covenant and agree as follows:

1. The **AGENCY** hereby assures the **DEPARTMENT** that subsequent to the execution of this Agreement it will:

- (a) Ascertain the location of all existing utilities, both aerial and underground. A letter of notification and plan of the landscape development improvements will be mailed no later than May of 2006 to the following utilities/municipalities:
Electric: Florida Power and Light
Water and Sewer: Lee County Utilities
Traffic Signals and Street Lights: Lee County DOT Traffic
Telephone: Sprint
- (b) Comply with all permit requirements from the appropriate agencies (county, municipality, etc.) in connection with the activities described hereunder.

Outdoor advertising is specifically excluded from this Agreement in accordance with

Section 479.11, Florida Statutes.

2. The **AGENCY** hereby agrees to install the landscape development improvements in accordance with a Landscape Development Plan to be approved by the **DEPARTMENT** subsequent to the execution of this Agreement. Such installation shall be in conformance with Rule 14-40, Florida Administrative Code, and the Highway Landscape Beautification and Plan Review Procedure (Topic 650-050-001-c), as they may be amended from time to time. **No work shall be authorized to begin prior to the written approval of the Landscape Development Plan by the DEPARTMENT.**

3. The **AGENCY** agrees to maintain the landscape development improvements in accordance with a Technical Maintenance Plan to be approved by the **DEPARTMENT** subsequent to the execution of this Agreement. **No work shall be authorized to begin prior to the written approval of the Technical Maintenance Plan by the DEPARTMENT.**

4. Designated personnel as directed by the District Secretary or his designee may inspect and evaluate this project and issue a written report if a deficiency or unsatisfactory condition is noted. If deficiencies and/or unsatisfactory conditions are not corrected within thirty (30) days, the District Secretary or his designee shall have the option to do one of two things:

- (a) Correct and maintain the landscape improvements with **DEPARTMENT's** contractor or **DEPARTMENT's** personnel and charge the **AGENCY** for the reasonable value of said work.
- (b) Remove by **DEPARTMENT's** contractor or **DEPARTMENT's** personnel all landscape improvements, return the right-of-way to its original condition and charge the **AGENCY** the reasonable value for such work.

5. The **DEPARTMENT** agrees to a maximum participation in the Project, including contingencies, in the amount of SIX HUNDRED FORTY-FOUR THOUSAND AND NO/100 DOLLARS (\$644,000.00).

6. To the extent permitted by Section 768.28, Florida Statutes, the **AGENCY** shall indemnify, defend, save and hold harmless, the **DEPARTMENT** and all of its officers, agents or employees from all suits, actions, claims, demands, liability of any nature whatsoever arising out of, because of, or due to breach of this Agreement by the **AGENCY**, its officers, agents, or employees or due to any negligent act or occurrence of omission or commission of the **AGENCY**, its officers, agents, or employees. Neither the **AGENCY**, nor any of its officers, agents, or employees will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the negligence of the **DEPARTMENT** or any of its officers, agents or employees.

7. The **AGENCY** covenants to keep in force during the period of this Agreement public liability insurance, property damage insurance and worker's compensation insurance through an insurance policy(ies) or the **AGENCY's** self insurance program.

8. This Agreement shall remain in effect until such time the **AGENCY** or **DEPARTMENT** wishes to cancel said agreement and this shall be done in writing giving the **AGENCY** or **DEPARTMENT** thirty (30) days notice. All landscape improvements shall be

removed by the **AGENCY** and the **DEPARTMENT's** right-of-way returned to its original condition. If, after thirty (30) days, the landscape improvements have not been removed, the **DEPARTMENT** may, at its option, proceed as follows:

- (a) Maintain the landscape improvements within the limits of said project with **DEPARTMENT's** contractor or personnel and charge the **AGENCY** for the reasonable value of said work;
OR
- (b) Remove by **DEPARTMENT's** contractor or personnel all of the landscape improvements, return the right-of-way to its original condition, and charge the **AGENCY** for the reasonable value of such work.

9. The term of this Agreement commences upon execution by both parties. The Landscape Development Plan and the Technical Maintenance Plan shall be completed and submitted for approval by the **DEPARTMENT** on or before December 31, 2007. Utility clearances shall be obtained on or before December 31, 2007. Construction shall be completed on or before December 31, 2007.

10. This writing embodies the entire Agreement and understanding between the parties hereto and there are no other agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.

11. This Agreement may not be assigned or transferred by the **AGENCY** in whole or part without the written consent of the **DEPARTMENT**.

12. This Agreement shall be governed by and construed in accordance with the laws of the state of Florida. In the event of a conflict between any portion of the Agreement and Florida law, the laws of Florida shall prevail.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

LEE COUNTY, FLORIDA

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: _____
Chairman

BY: _____
District Secretary

ATTEST: _____ (SEAL)
TITLE: _____

ATTEST: _____ (SEAL)
Executive Secretary

Legal Review:

District Legal Counsel

LEE COUNTY RESOLUTION NO. _____

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, AUTHORIZING THE CHAIRMAN TO ENTER INTO A STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION HIGHWAY LANDSCAPING INSTALLATION AND MAINTENANCE AGREEMENT BETWEEN LEE COUNTY GOVERNMENT AND THE DEPARTMENT OF TRANSPORTATION FOR LANDSCAPE INSTALLATION AND MAINTENANCE ALONG US 41 FROM CORKSCREW ROAD SOUTHWARD TO THE NORTHERN LIMITS OF THE CITY OF BONITA SPRINGS, FL (SR 45, FM# 195693 2 58 01).

WHEREAS, landscaping provides beautification to our community; and

WHEREAS, Lee County desires to landscape and irrigate the roadsides and medians along US 41 from Corkscrew Road southward to the northern limits of the City of Bonita Springs, FL; and

WHEREAS, Lee County desires to enter into a Highway Landscaping Installation and Maintenance agreement with the State of Florida Department of Transportation Department.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, that:

Section 1: The Board of County Commissioners supports the Highway Landscaping Installation and Maintenance Agreement for this landscaping and irrigation project along US 41.

Section 2: The Board of County Commissioners hereby authorizes the Chairman of the Board of County Commissioners to enter into the Highway Landscaping

Installation and Maintenance Agreement between Lee County and State of
Florida Department of Transportation.

The foregoing Resolution was offered by Commissioner _____, who moved
its adoption. The motion was seconded by Commissioner _____ and, being put to
a vote, the vote was as follows:

- BOB JANES
- DOUGLAS ST. CERNY
- RAY JUDAH
- TAMMY HALL
- JOHN ALBION

DULY PASSED AND ADOPTED this _____ day of _____, 2005.

ATTEST: CHARLIE GREEN
CLERK OF THE COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of the County Attorney

FORWARD WITH AGREEMENT AND BLUE SHEET

ALL INFORMATION IS REQUIRED - DO NOT LEAVE ANY BLANKS - USE N/A WHEN NOT APPLICABLE

GRANT AT A GLANCE

GRANT AWARD INFORMATION

- 1. County Grant ID (project #): 225051 205024
- 2. Title of Grant: Highway Landscape Installation and Maintenance Agreement
- 3. Amount of Award: \$644,000 Payback in 04/05
- 4. Amount of Match Required: None
- 5. Type of Match: N/A
(cash, in-kind etc)

6. SOURCE OF GRANT FUNDS & CATALOG NUMBER:

FEDERAL <input type="checkbox"/> CFDA #	STATE <input checked="" type="checkbox"/> CSFA #N/A
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7. Agency Contract Number: 19569325801

8. Contract Period:	Begin Date: <u>upon exec</u>	End Date: <u>N/A</u>
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9. Name of Subrecipient(s) None

10. Business Unit(s): 22505130100.503490

11. Scope of Grant: (describe project). **FDOT agrees to contribute a maximum of \$644,000 for landscape installation and maintenance along US 41 from Corkscrew Road to Old 41.**

12. Has this Grant been Funded Before? YES NO If YES When?

13. Is Grant Funding Anticipated in Subsequent Years? YES NO

14. If Grant Funding Ends Will This Program Be Continued at County Expense? YES NO
If YES What is the Lee County Budget Impact:

1st Year	2 nd Year	3 rd Year
4 th Year	5 th Year	

Check Box if Additional Information on Program and Budget Impact is provided in *Comment Section* on page 2

ADMINISTERING DEPARTMENT INFORMATION

- 1. Department: Engineering Services/DOT
- 2. Contacts:

Program Mgr. Pat Moore	Phone #: 479-8545
Fiscal Mgr. Eileen Webster	Phone #: 479-8507

GRANTOR AGENCY INFORMATION

(The agency you signed this agreement with)

- 1. Grantor Agency: Florida Department of Transportation
- 2. Program Title/Division: Highway Landscaping Installation and Maintenance Agreement
- 3. Agency Contact: Karen Miracola
- 4. Phone Number: 239-461-4302
- 5. Mailing Address: Florida Department Of Transportation, District One, SWAO
2295 Victoria Ave, Ft. Myers 33902

SOURCE OF FUNDS

- 1. Original Funding Source: Florida Department of Transportation
(name of agency where funding originated from)
- 2. Pass Through Agency: None
(middleman if any? Example: federal \$\$ from US DOT given to STATE of FL DOT - - then from STATE DOT to Lee County DOT - - - STATE of FL DOT is the pass-through agency).
- 3. Additional Information for Other Agencies Involved:

3a. Is the County a Grantee or Subrecipient in #3 above: Grantee

REPORTING REQUIREMENTS

1. Does this grant require a separate subfund? YES NO
(Example: you need to return interest earnings)

Please Explain: _____

2. Is funding received in advance? YES NO
(If YES, please indicate conditions for returning residual proceeds, or interest and the address to return it to, if different from the Grantor Agency Information)

All remaining funds and interest earned upon completion of work shall be immediately remitted to the FDOT. Funds or interest earnings "not committed" as defined in Chapter 14-88, F.A.C., after one year from the date of this agreement shall be remitted to FDOT. A balance of proceeds can be retained sufficient to liquidate executed contracts financed by funds approved in the agreement.

COMMENTS--INSTRUCTIONS: County will invoice FDOT for reimbursement.