

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

Blue Sheet No. 20060543

1. ACTION REQUESTED/PURPOSE: Approve authorizing resolution and agreement for Chairwoman 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 Bayshore Road from west of I-75 to east of Slater. Also approve budget amendment resolution in the amount of \$448,000 and amend the FY 05/06 - 09/10 CIP.

2. WHAT ACTION ACCOMPLISHES: Executes agreement between FDOT and Lee County for landscape installation and maintenance on Bayshore Road from west of I-75 to east of Slater.

3. MANAGEMENT RECOMMENDATION: Approve

4. Departmental Category:09

C9B

5. Meeting Date: **5-23-2006**

6. Agenda:
 Consent
 Administrative
 Appeals
 Public
 Walk-On

7. Requirement/Purpose: (specify)
 Statute
 Ordinance
 Admin. Code
 Other

8. Request Initiated:
Commissioner _____
Department Transportation
Division _____
By: Scott Gilbertson

9. Background: Lee County staff and FDOT have worked together to develop this Landscape Installation and Maintenance Agreement for Bayshore Road. Lee County will fund the design of core level landscaping and FDOT will fund the installation and maintenance up to \$448,000. DOT staff anticipates starting design in August of 2006 with completion slated for December 2007. Upon approval of plans by FDOT, DOT can start the installation and maintenance phase which will be completed by December 2010. FDOT will fund up to \$448,000 for design and installation of the project and Lee County will be responsible for the remaining expenses for the design and installation of core level landscaping. This is currently estimated at \$650,000.

Funds will be made available in the following account: 40666930700.503490, *hw*

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>S. Gilbertson</i> Date: <i>5/19/06</i>	<i>8/8/06</i>	NA	<i>8/8/06</i>	<i>5/5/06</i>	<i>5/9</i>	<i>5/19/06</i>	<i>5/19/06</i>	<i>5/19/06</i>	<i>J. Lavender</i> Date: <i>5.3.06</i>

11. Commission Action:

- Approved**
- Deferred**
- Denied**
- Other**

RECEIVED BY
 COUNTY ADMIN: *HW*
 5-5-06
 4:59
 COUNTY ADMIN
 FORWARDED TO: *HW*
5/19/06
 5:21M

Rec. by CoAtty
 Date: *5/5/06*
 Time: *11:00:00*
 Forwarded To:
5/5/06
 4:15pm

RESOLUTION

Amending the Budget of Transportation Capital Improvements-Fund 30700 to incorporate the unanticipated receipts into Estimated Revenues and Appropriations for the fiscal year 2005-2006.

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 \$448,000 of the unanticipated revenue from FDOT 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:		\$101,180,065
Additions		
40666930700.369900.9183	Reimbursement from FDOT	448,000
Amended Total Estimated Revenues		\$101,628,065

APPROPRIATIONS		
Prior Total:		\$101,180,065
Additions		
40666930700.503490	Other Contracted Services	448,000
Amended Total Appropriations		\$101,628,065

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 _____, 2006.

ATTEST:
CHARLIE GREEN, EX-OFFICIO CLERK

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

BY: _____
DEPUTY CLERK

CHAIRWOMAN

APPROVED AS TO FORM

OFFICE OF COUNTY ATTORNEY

DOC TYPE YA
LEDGER TYPE BA

LEE COUNTY RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING LEE COUNTY TO ENTER
INTO A HIGHWAY LANDSCAPE INSTALLATION AND
MAINTENANCE AGREEMENT WITH THE FLORIDA
DEPARTMENT OF TRANSPORTATION**

This is a Resolution of the Board of County Commissioners, Lee County, Florida, a political subdivision of the State, authorizing the execution of a Highway Landscape Installation and Maintenance Agreement with the Florida Department of Transportation.

WHEREAS, Lee County, Florida, has the statutory authority to enter into this Agreement with the Florida Department of Transportation in accordance with Section 339.12, Florida Statutes.

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

1. The Highway Landscape Installation and Maintenance Agreement for Bayshore Road from west of I-75 to east of Slater is hereby approved.
2. The Chairwoman or Chairman of and the Clerk, to the Board of County Commissioners of Lee County, Florida, or designee per Lee County Administrative Code 1-3 are hereby authorized to execute said Agreement.
3. The Clerk of the Circuit Court is hereby authorized and directed to transmit one (1) certified copy of this Resolution to the Florida Department of Transportation along with the executed Agreements.

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:

- DOUGLAS ST. CERNY _____
- BOB JANES _____
- RAY JUDAH _____
- TAMMARA HALL _____
- JOHN E. ALBION _____

DULY PASSED AND ADOPTED this _____ day of _____, 2006.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairwoman

APPROVED AS TO FORM:

By: _____
Office of County Attorney

**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 _____, 2006, 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**.

W I T N E S S E T H

1. **WHEREAS**, the **DEPARTMENT** has jurisdiction over and maintains State Roads as part of the State Highway System; and
2. **WHEREAS**, the **AGENCY** seeks to install and maintain certain landscape development improvements within the unpaved areas within the right-of-way of SR 78 (Bayshore) from East of Slater Road to West of I-75; FM# 195705 2 58 01 programmed in fiscal year 2005/2006 hereinafter referred to as the **PROJECT**; and
3. **WHEREAS**, the parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party; and
4. **WHEREAS**, the **AGENCY** by Resolution dated _____, a copy of which is attached hereto and made a part hereof, has authorized its Chairman or designee 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 agrees that subsequent to the execution of this Agreement it will do the following:
 - 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 _____ to the following utilities/municipalities:
 - b. Comply with all permit requirements from the appropriate agencies (county, municipality, etc.) in connection with the activities described hereunder.

2. All outdoor advertising must be in compliance with Florida Statutes §479.11.
3. 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**.
4. 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**.
5. 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 all landscape improvements with a **DEPARTMENT'S** contractor or **DEPARTMENT'S** personnel, return the right-of-way to its original condition and charge the **AGENCY** the reasonable value for such work.
6. The **DEPARTMENT** agrees to a maximum participation in the Project, including contingencies, in the amount of **FOUR HUNDRED FORTY-EIGHT THOUSAND DOLLARS (\$448,000.00)**.
7. To the extent permitted by Florida Statutes §768.28, 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.
8. 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.

9. 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 all landscape improvements with a **DEPARTMENT'S** contractor or **DEPARTMENT'S** personnel, return the right-of-way to its original condition and charge the **AGENCY** the reasonable value for such work.
10. The term of this Agreement commences upon execution by both parties.
- a. The Landscape Development Plan and the Technical Maintenance Plan shall be completed and submitted for approval by the **DEPARTMENT** on or before _____.
 - b. Utility clearances shall be obtained on or before _____.
 - c. Construction shall be completed on or before _____.
11. 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.
12. This Agreement may not be assigned or transferred by the **AGENCY** in whole or part without prior written consent of the **DEPARTMENT**.
13. 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, LEE COUNTY has caused this Agreement to be executed in its behalf, by the Chairman or its designee, as authorized by **Resolution Number** _____, and the FLORIDA DEPARTMENT OF TRANSPORTATION has caused this Agreement to be executed in its behalf through its District Secretary or authorized designee:

LEE COUNTY, FLORIDA

ATTEST

CLERK	(Seal)	CHAIRMAN
	Date	
		Print Name Date
		COUNTY LEGAL REVIEW:
		BY: _____
		DATE

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

ATTEST

EXECUTIVE SECRETARY	(Seal)	BY: _____
		DISTRICT SECRETARY OR DESIGNEE
		DISTRICT ONE
PRINT NAME	DATE	PRINT NAME DATE
		FLA. DEPT. OF TRANS. LEGAL REVIEW:
		BY: _____
		Date