

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

Blue Sheet No. 20070121

1. ACTION REQUESTED/PURPOSE:

Approve the spending of \$995,481.05 pass through money from the FDOT for mitigation for the extension of Metro Parkway the mitigation will take place in Six Mile Slough Preserve. Further approve Supplemental Task Authorization (STA) #5 under CN-05-23 County Wide Environmental Consulting, with EarthBalance, Contract No. 3392, for the project known as State Road 739 – Metro Parkway Extension Mitigation, for a total lump sum amount of \$995,481.05, with a contract period of three years. Authorize Chairman execute STA on behalf of the Board. Also approve Budget Transfer from General Fund Reserves in the amount of \$995,481.00 until reimbursed by the Florida Department of Transportation.

2. FUNDING SOURCE: Department Operating – General Fund – Other Professional Services. The funds will be spent by Lee County then invoiced to the State of Florida Department of Transportation. The project will be over seen by Lee County Parks & Recreation

3. WHAT ACTION ACCOMPLISHES: Provides a Consultant to perform kill-in-place treatment, cut and stack treatment, mechanical removal/berm removal, planting, signage and ongoing maintenance for 2 years for the State Road 739 – Metro Parkway Extension Mitigation project.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category: 11. Parks & Recreation CIIA		6. Meeting Date: FEB 20 2007
7. Agenda: <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	8. Requirement/Purpose: (specify)	
	Statute	
	Ordinance	
	<input checked="" type="checkbox"/> Admin. Code	AC-4-4
	Other	
		9. Request Initiated: Commissioner _____ Department Parks & Recreation Division <i>John Yarbrough</i> By: John Yarbrough, Director

10. Background:

On November 1, 2005, the Board of County Commissioners approved the award of CN-05-23 Miscellaneous Environmental Consulting Services to a total of fifteen (15) firms. EarthBalance is one of the selected firms

We are requesting approval of Supplemental Task Authorization (STA) No. 5 with EarthBalance, to perform kill-in-place treatment, cut and stack treatment, mechanical removal/berm removal, planting, signage and ongoing maintenance for 2 years for the project known as State Road 739 – Metro Parkway Extension Mitigation , for a total lump sum amount of \$995,481.05.

Funds are available in the following account: KH5722000100.503190

Attachments: 1) Three (3) Supplemental Task Authorizations for execution.
 2) Transfer of Funds

11. 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>John Yarbrough</i>	<i>[Signature]</i>			<i>Melba Bass</i>	<i>CA 2/2/07</i>		<i>2/1/07</i>	<i>[Signature]</i>	<i>[Signature]</i>

12. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN:
<i>2/11:30 AM</i>
<i>2 to CA</i>
COUNTY ADMIN FORWARDED TO:
<i>2/4:00 PM</i>
<i>1/3 to PR</i>

Rec. by CoAtty
Date: <i>2/1/07</i>
Time: <i>8:50 AM</i>
Forwarded To:
<i>2/2/07</i>

LEE COUNTY PROFESSIONAL SERVICE/SERVICE PROVIDER AGREEMENT
CHANGE ORDER/SUPPLEMENTAL TASK AUTHORIZATION

Change Order
 Supplemental Task Authorization

NO.: 5

(A Change Order or Supplemental Task Authorization Requires Approval by the Department Director for Expenditures Under \$50,000 or Approval by the County Manager for Expenditures Between \$50,000.01 and \$100,000 or Approval by the Board of County Commissioners for Expenditures over \$100,000)

CONTRACT/PROJECT NAME: County-wide Environmental Consulting
State Road 739 - Metro Parkway Extension Mitigation

CONSULTANT: EarthBalance® PROJECT NO.: NA

SOLICIT NO.: CN-05-23 CONTRACT NO.: 3392 ACCOUNT NO. KH5723030105.503190.216

REQUESTED BY: Robert Repenning DATE OF REQUEST: 01/11/07

Upon the completion and execution of this Change Order or Supplemental Task Authorization by both parties the Consultant/Provider is authorized to and shall proceed with the following:

- EXHIBIT "CO/STA-A" SCOPE OF PROFESSIONAL SERVICE: DATED: 01/11/07
- EXHIBIT "CO/STA-B" COMPENSATION & METHOD OF PAYMENT: DATED: 01/11/07
- EXHIBIT "CO/STA-C" TIME AND SCHEDULE OF PERFORMANCE: DATED: 01/11/07
- EXHIBIT "CO/STA-D" CONSULTANT'S/PROVIDERS ASSOCIATED SUB-CONSULTANT(S)/SUB-CONTRACTORS: DATED: 01/11/07
- EXHIBIT "CO/STA-E" PROJECT GUIDELINES AND CRITERIA DATED: 01/11/07

It is understood and agreed that the acceptance of this modification by the CONSULTANT/PROVIDER constitutes an accord and satisfaction.

RECOMMENDED:

By: [Signature] 1-30-07
Department Director Date

ACCEPTED

By: [Signature]
EarthBalance®
Charles L. Kocur, Jr.
Vice President

COUNTY APPROVAL:

By: [Signature]
Department Director (Under \$50,000)

By: [Signature] 1/22/07
Contracts Management Date

Date Accepted: 1/11/07

Date Approved: 1-30-07

(CORPORATE SEAL)

By: _____
County Manager
(Between \$50,000.01 and \$100,000)

APPROVED:

Date Approved: _____

*County Attorney's Office Date

By: _____
Chairwoman
Board of County Commissioners
(Over \$100,000)

* County Attorney signature needed for
over Board level expenditures only

Date Approved: _____

CHANGE ORDER AGREEMENT No. _____

or

SUPPLEMENTAL TASK AUTHORIZATION No. 5

EXHIBIT "CO/STA-A"

Date: 01/11/07

SCOPE OF PROFESSIONAL SERVICES

Kill-in-place Treatment, Cut and Stack Treatment, Mechanical Removal/Berm Removal, Planting, Signage, and Ongoing Maintenance for Metro Parkway Extension Mitigation (State Road 739)

SECTION 1.00 CHANGE(S) TO PROFESSIONAL SERVICES

The "Scope of Professional Services" as set forth in Exhibit "A" of the Professional Services Agreement, or Service Provider Agreement, referred to hereinbefore is hereby supplemented, changed or authorized, so that the CONSULTANT or SERVICE PROVIDER, shall provide and perform the following professional services, tasks, or work as a supplement to, change to, or authorized to, the scope of services previously agreed to and authorized:

KILL-IN-PLACE TREATMENT - 89.77 acres

EarthBalance® will supply all labor and materials for the initial maintenance of 89.77 acres of mitigation areas at the S.R. 739 Mitigation located in Lee County, Florida. All areas indicated in **green** on the proposed exotic removal plan (see attached) will have initial treatment of all current Florida Exotic Pest Plant Council's category 1 and 2 nuisance species. All species will be killed-in-place with an approved herbicide. This task does not include any debris removal or disposal by **EarthBalance®**. All areas treated will be GPS located by **EarthBalance®** for acreage calculations and payment. All work will be supervised by a qualified project manager certified to apply herbicides in the State of Florida.

CUT AND STACK TREATMENT - 55.23 acres

EarthBalance® will supply all labor and materials for the initial maintenance of 55.23 acres of mitigation areas at the S.R. 739 Mitigation located in Lee County, Florida. All areas indicated in **blue** on the proposed exotic removal plan (see attached) will have initial treatment of all current Florida Exotic Pest Plant Council's category 1 and 2 nuisance species. Treatment in these areas may consist of cut and stack, cut and drop, and cut and dice. All melaleuca (*Melaleuca quinquenervia*) with greater than 3-inch Diameter at Breast Height (DBH) will be cut and stacked in piles not to exceed 4 feet in height, at a pile spacing of 75 feet. It is understood that there will be a maximum of 15% of the melaleuca slash left after stacking. All melaleuca with 3-inch DBH or less will be cut and dropped. All Brazilian pepper (*Schinus terebinthifolius*) will be cut and diced into 4-foot sections and scattered on the ground. All herbaceous species will be killed-in-place with an appropriate herbicide. This task does not include any debris removal or disposal by **EarthBalance®**. All areas treated will be GPS located by **EarthBalance®** for acreage calculations and payment. All work will be supervised by a qualified project manager certified to apply herbicides in the State of Florida.

MECHANICAL REMOVAL/BERM REMOVAL – 139 acres

This task will include mowing of all Brazilian pepper and melaleuca trees with 4-inch DBH or less in place. All melaleuca over 4-inch DBH will be sheared, chipped into a truck, and hauled off site. All slash left on the ground will be mowed in place and left on site leaving no more than approximately 2 inches of mulch on the ground. This task will also include the removal of approximately 3,200 linear feet of existing berm located on the western side of the property. The berm removal will require heavy equipment in the ditch to mow an access path for equipment to fill the berm. This task will require the removal of native vegetation (i.e., live oak, wax myrtle, salt bush, etc.). However, care will be taken to minimize the amount of native vegetation that will be removed. The berm will be removed in areas that are accessible without harming any large native trees.

PLANTING

EarthBalance[®] will supply, deliver, and install the trees listed in the Technical Specifications for the State Road 739 Extension Mitigation located in Lee County, Florida. All plant specifications (fig. 1) will be in accordance with the planting plan provided in the technical specifications. All trees will be fertilized with 10 grams per gallon of AgriForm 20:10:5 tablets (or equivalent). This task does not include any pre-planting or post-planting maintenance by **EarthBalance**[®].

Material Warranty. All plants provided and installed under the terms of this agreement are guaranteed to be of good quality and free of disease or defects at the time of installation. A warranty is provided for an **80%** survivorship of all plants for **90** days following installation. **EarthBalance**[®] will perform replanting to meet the **80%** survival rate, at no cost to the client if survivorship falls below **80%** of the initial plants installed. The plant survivorship warranty does not include the loss or damage of installed plants due to acts of God such as frost, flood, fire, drought, shoreline erosion, or other catastrophic events, nor does it include loss or damage due to theft, vandalism, fish, chemical treatment, or negligence by others including inappropriate engineering or design.

SIGNAGE

EarthBalance[®] will supply, deliver, and install three signs as directed by Johnson Engineering, Inc. Signs will be installed with 4x4-foot posts and will indicate that this is a joint FDOT and Lee County mitigation area. Lee County will provide actual sign information.

ONGOING MAINTENANCE

EarthBalance[®] will supply all labor and material necessary for 2 years of quarterly maintenance (4 events per year) on 284 acres at the S.R. 739 Mitigation located in Lee County, Florida. Treatment will include all current Florida Exotic Pest Plant Council's category 1 and 2 nuisance species. All species will be killed-in-place with an approved herbicide. This task does not include debris removal or disposal by **EarthBalance**[®]. All work will be supervised by a qualified project manager certified to apply herbicides in the State of Florida.

*Attach additional pages, if needed.

CHANGE ORDER AGREEMENT No.
or
 SUPPLEMENTAL TASK AUTHORIZATION No. 5

EXHIBIT "CO/STA-B"

Date: 1/11/07

COMPENSATION AND METHOD OF PAYMENT

Kill-in-place Treatment, Cut and Stack Treatment, Mechanical Removal/Berm Removal, Planting, Signage, and Ongoing Maintenance for Metro Parkway Extension Mitigation (State Road 739)

SECTION 1.00 CHANGE(S) IN COMPENSATION

The compensation the CONSULTANT, or SERVICE PROVIDER, shall be entitled to receive for providing and performing the supplemented, changed or authorized services, tasks, or work as set forth and enumerated in the Scope of Services set forth in this CHANGE ORDER OR SUPPLEMENTAL TASK AUTHORIZATION AGREEMENT, Exhibit "CO/STA-A", attached hereto shall be as follows:

NOTE: A Lump Sum (L.S.) or Not-to-Exceed (N.T.E.) amount of compensation to be paid the CONSULTANT should be established and set forth below for each task or sub-task described and authorized in Exhibit "S/COA-A". In accordance with Professional Services Agreement Article 5.03(2) "Method of Payment", tasks to be paid on a Work-in-Progress payment basis should be identified (WIPP).

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (W.I.P.P.)
1	Mobilization Contractor	\$1,500.00	LS	
2	Berm Removal	\$2,400.00	LS	
3	Initial Kill-in-Place Treatment of Nuisance and Exotic Species (89.77 ac)	\$66,429.80	LS	W.I.P.P
4	Initial Cut and Stack Treatment of Nuisance and Exotic Species (55.23 ac)	\$81,464.25	LS	W.I.P.P
5	Initial Mechanical Harvesting of Nuisance and Exotic Species (139 ac)	\$243,250.00	LS	W.I.P.P
6	Planting of 10,500 Units	\$182,775.00	LS	W.I.P.P
7	FDOT Mitigation Area Signage (3)	\$750.00	LS	
8	Annual Maintenance for Exotic and Nuisance Species for Year 1	\$223,792.00	LS	W.I.P.P
9	Annual Maintenance for Exotic and Nuisance Species for Year 2	\$193,120.00	LS	W.I.P.P
TOTAL		\$995,481.05	LS	

(Unless list is continued on next page)


CHANGE ORDER AGREEMENT No. _____

SUPPLEMENTAL TASK AUTHORIZATION No. ^{or} 5

SECTION 2.00 SUMMARY OF CHANGE(S) IN COMPENSATION

Pursuant to and in consideration of the change(s) in the Scope of Professional Services set forth in the CHANGE ORDER or AGREEMENT, Exhibit "CO/STA-A", the compensation the COUNTY has previously agreed to pay to the CONSULTANT, or SERVICE PROVIDER, as set forth in Exhibit "B" of the Professional Services Agreement, or Service Provider Agreement, shall be changed to be as follows:

Section/Task Number	Section/Task Name	Compensation In the Basic Agreement	Adjustment(s) by Previous CO or STA Nos. 1-3	Adjustment(s) Due to this CO or STA 5	Summary of Changed Compensation
STA 1	Util. Exotic/Nuisance Removal		\$5,420.00		\$5,420.00
STA 2	Parks Toxic Nuisance Maint.		\$3,750.00		\$9,170.00
STA 3	Corkscrew Exotic Nuisance Removal		\$32,755.00		\$41,925.00
STA 4	Caloosahatchee Creek Preserve Maintenance		\$39,400.00		\$81,325.00
STA 5	State Road 730 – Metro Parkway Extension Mitigation			\$995,481.05	995,481.05 ^{CL}
TOTAL			\$81,325.00	\$995,481.05	\$1,533,252.05

11,076,806.05


CMO:026
 09/25/01

CHANGE ORDER AGREEMENT No. _____

SUPPLEMENTAL TASK AUTHORIZATION No. 5

EXHIBIT "CO/STA-D"

Date: 1/11/07

CONSULTANT'S, OR SERVICE PROVIDER'S, ASSOCIATED SUB-CONSULTANT(S) AND SUBCONTRACTOR(S)

Kill-in-place Treatment, Cut and Stack Treatment, Mechanical Removal/Berm Removal, Planting, Signage, and Ongoing Maintenance for Metro Parkway Extension Mitigation (State Road 739)

CONSULTANT, or SERVICE PROVIDER, intends to engage the following sub-consultant(s) and/or sub-contractor(s) to assist the CONSULTANT, or SERVICE PROVIDER, in providing and performing the services, tasks, or work required under this CHANGE ORDER, or SUPPLEMENTAL TASK AUTHORIZATION AGREEMENT.

(If none, enter the word "none" in the space below.)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm	Disadvantaged, Minority or Women Business Enterprise, (If Yes, Indicate Type)			Sub-Consultant Services are Exempted from Prime Consultant=s Insurance Coverage	
		Yes	No	Type	Yes	No
FRVM, Inc.	4353 Michigan Link Ft. Myers, FL 33916-2318		X		X	

CHANGE ORDER AGREEMENT No. _____

or

SUPPLEMENTAL TASK AUTHORIZATION No. 5

EXHIBIT "CO/STA-E"

Date: 1/11/07

PROJECT GUIDELINES AND CRITERIA

Kill-in-place Treatment, Cut and Stack Treatment, Mechanical Removal/Berm Removal, Planting, Signage, and Ongoing Maintenance for Metro Parkway Extension Mitigation.

As a supplement, or change, to the Project Guidelines and Criteria set forth in the Professional Services Agreement, or Service Provider Agreement, Exhibit "E", the COUNTY has established the following Guidelines, Criteria, Goals, Objectives, Constraints, Schedule, Budget, and/or Requirements which shall serve as a guide to the CONSULTANT, or SERVICE PROVIDER, in performing the professional services, tasks, or work to be provided pursuant to the professional services set forth hereinbefore in CHANGE ORDER or SUPPLEMENTAL TASK AUTHORIZATION AGREEMENT, Exhibit "CO/STA-A", attached hereto:

(If none, enter the word "None" in the space below.)

ITEM No. 1

None