

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

**Blue Sheet No. 20070708**

**1. ACTION REQUESTED/PURPOSE:** Approve and authorize Chairman to execute attached Interlocal Agreement between the County and City of Ft. Myers for landscape funding of Palm Beach Boulevard.

**2. FUNDING SOURCE:** No funds required.

**3. WHAT ACTION ACCOMPLISHES:** Executes Interlocal Agreement to allow The City of Ft. Myers to reimburse the County for landscaping of Palm Beach from Seabord to Prospect.

**4. MANAGEMENT RECOMMENDATION:** Approve.

<b>5. Departmental Category:</b> <b>C9A</b>		<b>6. Meeting Date:</b> 6/5/07
<b>7. Agenda:</b> <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	<b>8. Requirement/Purpose: (specify)</b> _____ Statute _____ Ordinance _____ Admin. Code _____ Other	<b>9. Request Initiated:</b> <b>Commissioner</b> <b>Department</b> Transportation <b>Division</b> <b>By:</b> Scott Gilbertson, Dir.

**10. Background:**

DOT staff has also been working with citizens and staff from the City of Ft. Myers to coordinate a joint landscape project within the City limits of Palm Beach Boulevard from Seabord to Prospect. Through this Interlocal The City of Ft. Myers will be required to reimburse Lee County for 100% of design and construction expenses for the section of Palm Beach from Seabord to Prospect. Lee County will be responsible for the costs of design and construction of the section of Palm Beach Boulevard from Prospect to I-75 with \$100,000 available for construction from FDOT through a Local Agency Program Agreement.

Lee County has just completed 30% design plans from Prospect to I-75 and upon execution of this Interlocal Agreement will execute a Supplemental Task Authorization with the consultant to begin the design from Seabord to Prospect. Before construction is complete Lee County will execute a Landscape Maintenance Agreement with FDOT for the section from Prospect to I-75 and The City of Ft. Myers will have to execute a separate agreement for their section from Seabord to Prospect.

**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.	
5/22/07 <i>[Signature]</i>				5/23/07 <i>[Signature]</i>	5/23 RK 5/23	MP 5/23/07	19 5/22/07	5 5/22/07	<i>[Signature]</i> 5.22.07

**12. Commission Action:**

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN: <i>[Signature]</i>
5/ 9:10
1/23 MP.
COUNTY ADMIN FORWARDED TO: <i>[Signature]</i>
5/23 1:30 PM

Rec. by CoAtty
Date: 5/22/07
Time: 4:30pm
Forwarded To:
5/23/07 8:45 A.M.

**Behrens, Karleen A.**

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**From:** Price, Eileen  
**Sent:** Tuesday, May 08, 2007 10:45 AM  
**To:** Gilbertson, Scott M.  
**Cc:** Wingard, Paul W.; Behrens, Karleen A.  
**Subject:** Interlocal for Palm Beach

Scott: In answer to your questions regarding the BS for the Palm Beach Interlocal with Ft. Myers;

This will be on Consent; Karleen has marked it appropriately now.

Yes, we will hold the item here in DOT until the executed documents come from Ft. Myers, I expect them any day.

The Interlocal was initially drafted by me with changes from Jed and input from Paul, Pat and Clay. We didn't put a dollar limit because the County isn't responsible for any of the costs from Prospect to Seaboard and if we had a NTE and then we exceeded it we'd be on the hook or need an amendment. We will invoice the City periodically the get our reimbursement.

Let me know if you have any further questions.

Eileen Price  
Fiscal Manager  
1500 Monroe Street, 3rd Floor  
Ft. Myers, FL 33990  
(239) 479-8507 P  
(239) 479-8520 F

5/8/2007

**INTERLOCAL AGREEMENT  
BETWEEN LEE COUNTY AND THE CITY OF FT. MYERS FOR  
LANDSCAPE FUNDING OF PALM BEACH BOULEVARD**

**THIS INTERLOCAL AGREEMENT**, is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2007 by and between Lee County, a political subdivision and charter county of the State of Florida, hereinafter referred to as "COUNTY", and the City of Fort Myers, a municipal corporation in the State of Florida, hereinafter referred to as "CITY".

**WHEREAS**, the COUNTY is currently under a Local Agency Project Agreement (LAP) with the Florida Department of Transportation for the installation of landscaping on Palm Beach Boulevard at Interstate 75; and

**WHEREAS**, the COUNTY has requested that the project limits of the LAP Agreement be changed to Palm Beach Boulevard from Prospect to I-75; and

**WHEREAS**, the CITY desires to design and install landscaping on their portion of Palm Beach from Seaboard to Prospect; and

**WHEREAS**, the COUNTY and CITY desire to enter into an Interlocal Agreement to designate responsibilities for the design and installation of the entire section of Palm Beach Boulevard from Seaboard to I-75 as one project; and

**NOW, THEREFORE**, in consideration of the foregoing, and of mutual covenants and conditions hereinafter set forth, the CITY and the COUNTY, intending to be legally bound, hereby agree to this Agreement, as follows.

**I. DESIGN PHASE**

1. The COUNTY will be responsible for hiring and managing the consultant to design the landscaping of Palm Beach Boulevard from Seabord to I-75.
2. The CITY will be responsible to reimburse the COUNTY for 100% of expenses for the design of the section of Palm Beach from Seabord to Prospect.
3. Upon submittal of 30%, 60% and 100% phase plans the COUNTY will ask the CITY to review and comment on the plans. In a written memorandum to the COUNTY project manager and within 30 days of each plan submittal the CITY will provide review comments to the COUNTY.
4. Upon completion of each phase the COUNTY will invoice the CITY for the section of Palm Beach from Seabord to Prospect.
5. The COUNTY will be responsible for obtaining State permits to work within FDOT's rights-of-way on Palm Beach Boulevard from Prospect to I-75.
6. The CITY will be responsible for obtaining State permits to work within FDOT's rights-of-way on Palm Beach Boulevard from Seabord to Prospect.

**II. INSTALLATION PHASE**

1. Prior to the commencement of construction the COUNTY and CITY must enter into separate Highway Landscape Installation and Maintenance Agreements with the Florida Department of Transportation.
2. The COUNTY will be responsible for hiring and managing the contractor to install the landscaping of Palm Beach Boulevard from Seabord to I-75.
3. The CITY will be responsible to reimburse the COUNTY for 100% of expenses for the installation of the section of Palm Beach from Seabord to Prospect.
4. Upon completion of the installation phase the COUNTY will invoice the CITY for construction expenses from Seabord to Prospect and the CITY will need to reimburse the COUNTY for the expenses within thirty (30) days of receipt of the invoice.

### **III. MAINTENANCE RESPONSIBILITIES**

1. Once construction is complete the COUNTY and CITY will be responsible for landscape maintenance of Palm Beach from Prospect to I-75 as outlined in their separate Highway Landscape Installation and Maintenance Agreements.

### **IV. AMENDMENT**

This Interlocal Agreement may only be amended in writing and duly executed by the CITY and the COUNTY with the same formalities as this Agreement.

### **V. CONSTRUCTION**

This Interlocal Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

### **VI. DEFAULT**

If the CITY or the COUNTY shall fail to perform or observe any of the material terms or conditions of this Interlocal Agreement applicable to it for a period of thirty (30) days after receipt of written notice of such default from the other Party, the Party giving the notice of default may be entitled to terminate this Interlocal Agreement. Failure of any Party to exercise its rights in the event of any breach by another Party shall not constitute a waiver of such rights. No Party shall be deemed to have waived any failure to perform by another Party unless such waiver is in writing and signed by the waiving Party. Such waiver shall be limited to the terms specifically contained therein.

### **VII. SEVERABILITY**

If any provision of this Interlocal Agreement is held invalid, the remainder of the Interlocal Agreement shall not be affected thereby and all other parts of this Interlocal Agreement shall nevertheless be in full force and effect.

**VIII. LIABILITY**

The CITY agrees to indemnify, defend and hold the COUNTY harmless from any and all claims, suits, judgments, damages, losses and expenses, including court costs, expert witness and professional consultation services, and attorneys' fees arising out of any errors, omissions, and/or negligence of the CITY, its employees, agents or representatives during the term of this agreement. The CITY shall not be liable to, nor be required to indemnify the COUNTY for any damages arising out of any error, omission, and/or negligence of the COUNTY, its employees, agents or representatives. This Section shall not be interpreted to be a waiver of sovereign immunity by the CITY or the COUNTY and this agreement is in accordance with the general laws of the State of Florida and subject to the limitations as set out in Section 768.28, Florida Statutes, as it may be revised or amended from time to time.

**IX. NOTICES**

Any notices or other documents permitted or required to be delivered pursuant to this Interlocal Agreement, shall be delivered to the COUNTY at the Office of the County Manager, and to the CITY, at the Office of the Mayor.

**X. FILING**

This Interlocal Agreement and any subsequent amendments hereto shall be filed with the Lee County Clerk of the Circuit Court, Minutes Department, and the Clerk of the City.

**IN WITNESS WHEREOF**, the CITY and the COUNTY have executed this Agreement on the day, month and year first written above.

ATTEST: CITY CLERK

CITY OF FORT MYERS

By: \_\_\_\_\_  
City Clerk

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

Date: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney

ATTEST: CHARLIE GREEN  
CLERK OF COURTS

BOARD OF COUNTY  
COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

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

Date: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Office of County Attorney