

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

**Blue Sheet No. 20060823**

**1. ACTION REQUESTED/PURPOSE:** Approve and execute the agreement for the construction and installation of the traffic signal at Alico Road and the joint driveway of Rinker Materials of Florida, Inc. and Schwab Ready-Mix, Inc. Also, approve budget amendment resolution in the amount of \$150,000 in Project 204030 and amend FY05/06 -09/10 Capital Improvement Program accordingly.

**2. WHAT ACTION ACCOMPLISHES:** Allows for the design and construction of a traffic signal on Alico Road. Rinker Materials is providing an amount not to exceed \$150,000 toward the design and construction of same, and Schwab Ready-Mix is providing a public frontage road easement from their joint driveway to their east property line in accordance with the agreement.

**3. MANAGEMENT RECOMMENDATION:** Staff recommends approval.

**4. Departmental Category:**

**C95**

**5. Meeting Date:** JUNE 27, 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 M. Gilbertson, Director

**9. Background:**

During construction of Alico Road, Schwab Ready-Mix, Inc. and Rinker Materials of Florida, Inc. approached Lee County DOT about the location of the proposed median opening at Pennsylvania Road. Schwab and Rinker requested that DOT do traffic counts of both their entrance and Pennsylvania Road in order to determine if moving the median opening to the Schwab/Rinker entrance would be warranted based on volume of traffic. After conducting traffic counts, reviewing the geometry (specifically the location in relation to the RR crossing) and preparing a traffic signal warrant study at the new proposed location (Schwab/Rinker), Lee County DOT determined the median would better serve all parties on both sides of the road if it was relocated to the Schwab/Rinker driveway and signalized. This decision was articulated to Schwab/Rinker with several stipulations.

The attached agreement addresses those stipulations in that Schwab has agreed to provide an access easement across their property so the industrial park to the east may construct an access road and have access to the relocated median opening and future signalized intersection. Rinker has agreed to pay \$150,000 towards the construction of the new signal and additionally to pay to upgrade the railroad crossing. Lee County will be contributing the remaining monies necessary to design and construct the traffic signal.

Funds are available in account: 20403030700.506540

**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>Stanley 6-14-06</i>				<i>6/15/06</i>	<i>6-15-06</i>	<i>6-15-06</i>	<i>6/15/06</i>	<i>6/15/06</i>	<i>Stanley 6-14-06</i>

**11. Commission Action:**

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

RECEIVED BY COUNTY ADMIN: <i>6/15/06 10:52 AM</i>
COUNTY ADMIN FORWARDED TO: <i>6/15/06</i>

Rec. by CoAtty
Date: <i>6/15/06</i>
Time: <i>10:15 AM</i>
Forwarded To: <i>6/15/06</i>

# 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 \$150,000 of the unanticipated revenue from Rinker Materials 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.

<b>ESTIMATED REVENUES</b>		
Prior Total:		101,180,065
Additions		
20403030700.366900.9213	Contribution-Rinker Materials	150,000
Amended Total Estimated Revenues		\$101,330,065
<b>APPROPRIATIONS</b>		
Prior Total:		\$101,180,065
Additions		
20403030700.506540	Improvements Construction	150,000
Amended Total Appropriations		\$101,330,065

**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

**AGREEMENT FOR THE CONSTRUCTION AND INSTALLATION  
OF THE TRAFFIC SIGNAL AT ALICO ROAD AND THE DRIVEWAY OF RINKER  
MATERIALS OF FLORIDA, INC. AND SCHWAB READY-MIX, INC.**

This Agreement ("Agreement") is made on this \_\_\_ day of \_\_\_\_\_, 2006, by and among **RINKER MATERIALS OF FLORIDA, INC.**, a Florida corporation ("Rinker Materials"), **SCHWAB READY-MIX, INC.**, a Florida corporation ("Schwab"), and **LEE COUNTY**, a political subdivision of the State of Florida ("County"), collectively the "Parties" hereto.

RECITALS:

**WHEREAS**, the Parties, in the interest of the public health, welfare, and safety desire to install a traffic signal and improve the access connection at Alico Road, a public roadway, and the Rinker Materials and Schwab private driveway as more particularly described hereinafter; and,

**WHEREAS**, Lee County will design and construct said traffic signal and improvements; and,

**WHEREAS**, Rinker Materials will provide certain funding for the design and construction of said traffic signal and improvements; and,

**WHEREAS**, Schwab will provide an easement (the "Easement Agreement") for the frontage road to be used by the general public in conjunction with the said traffic signal and improvements.

**NOW THEREFORE**, it is agreed between the Parties as follows:

I. Design and Construction of the Traffic Signal and Improvements at Alico Road and the Rinker Materials and Schwab Driveway

A. The County agrees to design and construct the traffic signal and access improvements at Alico Road and the Rinker Materials and Schwab driveway within twelve (12) months following execution of this Agreement by all Parties. These improvements include, but are not limited to, the addition of a public roadway traffic signal, signalization equipment, overhead signal pole, and appurtenances thereto, left turning lanes and access connection to the driveway.

B. The access connection improvements will be made to the driveway from the southern limits of the Alico Road County right of way line to the southern limits of the easement further described in Exhibit "A", attached hereto, with exception to the area of this easement that is crossed by the railroad. This area will be improved under the terms of the Rinker Materials and Seminole Gulf Railway railroad crossing agreement that is necessary for the completion of this Agreement (the "Railroad Crossing Agreement"). This Agreement is contingent upon and subject to the execution of the Railroad Crossing Agreement and the Easement Agreement and in the event that either of those two agreements are not fully-executed, the Agreement shall be null and void and of no further force or effect. The County will not design or construct the railroad crossing improvements over the driveway or the future adjoining frontage road. The County is hereby granted ingress and egress and the right, privilege, and authority to construct said improvements to be located on, under, across, and through the easement which is located on the property described in Exhibit "A".

C. The County will prepare, at Rinker Material's expense, the design and plans for the said improvements and will furnish the plans to Rinker Materials for review and approval. Additionally, the County will construct these improvements, subject to the limitations hereinafter described, at Rinker Material's expense. Upon completion of design and the construction phases, the County shall invoice Rinker Materials for the design and construction costs. Payment shall be made to the County within thirty (30) days of receipt of the invoice. Notwithstanding anything to the contrary, Rinker Materials shall only be liable for the payment of construction of the improvements up to a maximum amount of One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00) plus the reasonable costs of the design for the future adjoining road and for no other costs of any kind whatsoever.

D. Schwab agrees to provide a forty (40) foot Easement Agreement for future use by the general public as a frontage road as depicted in Exhibit "B", attached hereto. The Easement Agreement shall be conditioned upon the completion and continued operation of the traffic signal. Should the County decide to end the traffic signal operation at this driveway, the Easement Agreement shall become null and void.

E. The Lee County Department of Transportation ("LeeDOT"), will activate the traffic signal as soon as reasonably possible after completion of construction, but not more than thirty (30) days after completion of construction. At no time will the traffic signal be activated sooner than completion. The LeeDOT agrees to provide inspection and administrative services to determine completion of the improvements. Upon completion of the improvements, it is agreed and understood that the traffic signal facility will be owned and its operation controlled by LeeDOT. By acceptance of this

Agreement, the County assumes no responsibility for ownership or maintenance of any of the private driveway connection constructed outside of the County right of way.

F. The County, during construction of the project, will be liable for money damages in tort for any injury to or loss of property, personal injury, or death caused by the negligent or wrongful act(s) or omission(s) of any official or employee or contractor of the County while acting within the scope of the official's or employee's office or employment under circumstances in which a private person would be found liable 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, amended or renumbered from time to time. The County shall not be liable to, for any money damages in tort for any injury to or loss of property, personal injury, or death caused by the negligent or wrongful act(s) or omission(s) of Rinker Materials and/or Schwab or their employees, agents or representatives.

### III. Construction of the Agreement

Unless otherwise specifically stated herein, this Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

### IV. Severance

If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect provided that the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Agreement.

V. Assignment

Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by Rinker Materials or Schwab without written permission of the County, which shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary, Rinker Materials may assign this Agreement to any of its affiliates so long as they remain liable for their obligations in this Agreement.

VI. Entire Agreement

This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this Agreement. Accordingly, it is agreed that no deviation from the terms herein shall be predicated upon any prior representation or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

IN WITNESS WHEREOF, the Parties hereto have caused the execution hereof

by their duly authorized officials on the dates as set forth below.

WITNESSES:

**RINKER MATERIALS OF FLORIDA  
INC., a Florida Corporation**

By: Sharon Stephany  
SHARON STEPHANY

By: [Signature]  
Name PATRICK J. FAGAN

By: Margaret Cornell  
Margaret CORNELL

Date: 5/27/06

WITNESSES:

**SCHWAB READY-MIX, INC., a  
Florida Corporation**

By: [Signature]

By: [Signature] President  
Name David A. Schwab

By: [Signature]

Date: 6-12-06

ATTEST: CHARLIE GREEN  
CLERK OF COURTS

**BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA**

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

By: \_\_\_\_\_  
Chairwoman

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

APPROVED AS TO FORM:

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



19.50  
70

THIS INSTRUMENT PREPARED BY:  
DAVID K. FOWLER  
P. O. Box 280  
Fl. Myers, FL 33902-0280

4208767

DR2848 P60539

Return to  
CHICAGO TITLE INSURANCE CO  
4880 W Kennedy Blvd., Suite 250  
Tampa, FL 33609 JES

Documentary Tax Pd. \$ 70  
County Clerk  
By: *Melissa*

**EASEMENT AGREEMENT**

THIS AGREEMENT, made this 18 day of April 1997, between FLORIDA ROCK INDUSTRIES, INC., a Florida corporation, whose post office address is P.O. Box 4667, Jacksonville, Florida, 32201, hereinafter called "Grantor" and RINKER MATERIALS CORPORATION, a Florida corporation whose post office address is 1501 Belvedere, West Palm Beach, Florida 33406, hereinafter called "Grantee".

WHEREAS, Grantor is the fee simple title holder of the property described in Exhibit "A" which is attached hereto and made a part hereof by reference, hereinafter called the "Grantor Property"; and

WHEREAS, Grantee is the fee simple title holder to the property described on Exhibit "B" attached hereto and made a part hereof, hereinafter called the "Grantee Property"; and

WHEREAS, the owners of the Grantee Property, their lessees, licensees, agents and invitees have for many years, obtained access to the Grantee Property by crossing the Grantor Property from the northerly terminus of the easement described in Exhibit "B" to the southerly right-of-way line of Alico Road; and

WHEREAS, Grantor wishes to grant a permanent ingress and egress easement across the Grantor Property in favor of Grantee, future owners of the Grantee Property and their lessees, licensees, agents and invitees.

• RECORD VERIFIED - CHARLIE GREEN, CLERK •  
• BY: MARY JO ROBINSON, D.C. •

**WITNESSETH:**

NOW THEREFORE, in consideration of the Ten Dollars and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereby agree to the following:

1. Grantor hereby grants to Grantee, its successors and assigns, a permanent easement over and across the Owner Property for the purpose of access to the Grantee Property from Alico Road, subject to the terms and conditions contained in this Agreement.

2. The easement location shall be as follows:

Beginning at a point on the West line of the East 1/2 of the Northwest 1/4 of Section 8, Township 46 South, Range 25 East, 40' South of the South right-of-way line of Alico Road; thence East parallel and 40' South of said right-of-way line of Alico Road for a distance of 250' to the Point of Beginning; thence continue East parallel with and 40' South of the South right-of-way line of Alico Road for a distance of 60'; thence North parallel to the said West line of the East 1/2 of the Northwest 1/4 for a distance of 40', more or less to a point on the South right-of-way line of Alico Road; thence West along the South right-of-way line of Alico Road for a distance of 60'; thence South parallel to the said West line of the East 1/2 of the Northwest 1/4 for a distance of 40' more or less to the Point of Beginning.

3. The terms and conditions of this Agreement shall benefit and be binding upon the heirs, successors and assigns of the parties herein and shall be appurtenant to and shall run with the Grantee Property.

4. For purposes of this Agreement, the term "Grantor" shall include all successors in title or interest to the Grantor, and the term "Grantee" shall include all successors in title and interest to the Grantee.

IN WITNESS WHEREOF, the Grantor has signed, sealed and delivered this Agreement.

Signed, Sealed and Delivered  
in the Presence of:

FLORIDA ROCK INDUSTRIES, INC.,  
a Florida corporation, Grantor

OR2848 P60540

Matthew J. Gries  
Witness

Matthew J. Gries  
(Type/Print Name of Witness)

David K. Fowler  
Witness

David K Fowler  
(Type/Print Name of Witness)

BY: Robert Hays  
Its: V. President

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me this 18th day of April,  
1997 by Robert Hays as vice president of FLORIDA ROCK  
INDUSTRIES, INC., a Florida corporation, who is personally known to me or who has produced  
FL Drivers License as identification.

\*\* H200 746 37 181 0

David K. Fowler  
Notary Public

My Commission Expires:

(Type/Print Name of Notary)

Commission No: \_\_\_\_\_



DAVID KENT FOWLER  
MY COMMISSION # CC290475 EXPIRES  
June 14, 1997  
BANKED THROUGH FARM INSURANCE, INC.

EXHIBIT "A"

A 40 foot strip of land lying in the West 1/2 of the East 1/2 of the Northwest 1/4 of Section 8, Township 46 South, Range 25 East and lying immediately South of the Alico Road right-of-way and adjacent thereto.

OR2848 PROS 1/11

EXHIBIT "B"

PARCEL I:

The West half of the Southeast Quarter of Northwest Quarter of Section 8 Township 46 South, Range 25 East, Lee County, Florida.  
TOGETHER with

PARCEL II:




That certain easement for the benefit of Parcel I for right of way across lands described as follows: Beginning at a point on the West line of the East half of the Northwest Quarter of Section 8, Township 46 South, Range 25 East, 40 feet South of the South right of way line of Alico Road; thence East parallel with and 40 feet South of said South right of way line of Alico Road for a distance of 250 feet to the P.O.B.; thence continue East parallel with and 40 feet South of the said South right of way line of Alico Road for a distance of 60 feet; thence South parallel to the said West line of the East half of the Northwest Quarter of distance of 1260 feet, more or less, to a point on the South line of the Northeast Quarter of the Northwest Quarter of said section; thence West along said South line a distance of 60 feet; thence North parallel to and 250 feet East of the said West line of the East half of the Northwest Quarter to the Point of Beginning. Subject to the terms, provisions and conditions set forth in the instrument creating said easement.

DR2848 P30512

CHARLIE GREEN LEE CTY, FL  
97 JUL 23 PM 1:39



SC E: 1" = 200'

-  Existing Easement between Florida Rock & Rinker. The owners, tenants, & patrons of properties along Alico Center Rd need to have legal access across also.
-  New easement from Schwab to owners, tenants, patrons of properties along Alico Center Rd.
-  New ROW to connect Pennsylvania to full median opening on Alico Rd. (exact configuration to be negotiated).

Prepared by Lee County DOT, ROW Section, March 24, 2006

EXHIBIT "B"