

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

Blue Sheet No. 20060664

1. ACTION REQUESTED/PURPOSE: Approve and authorize Chairwoman to execute updated agreement and authorizing resolution between Lee County and the Florida Department of Transportation for maintenance of sidewalks/bike paths within Lee County.

2. WHAT ACTION ACCOMPLISHES: Replaces current agreements and specifies maintenance responsibility for certain sidewalk/bikepaths within FDOT rights-of-way.

3. MANAGEMENT RECOMMENDATION: Approve

4. Departmental Category: 09 C9C		5. Meeting Date: 05-30-2006
6. Agenda: <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	7. Requirement/Purpose: (specify)	
	<input type="checkbox"/> Statute	
	<input type="checkbox"/> Ordinance	
	<input type="checkbox"/> Admin. Code	
	<input type="checkbox"/> Other	
		8. Request Initiated: Commissioner _____ Department <u>Transportation</u> Division _____ By: <u>Scott M Gilbertson</u>

9. Background:
Lee County and FDOT entered into an agreement in 1986 to define sidewalk/bike path facilities that are within FDOT's right-of-way that Lee County DOT will maintain. At the time, FDOT was not building sidewalks in their rights-of-way separately from major road improvements, and wouldn't allow the County or Developers (under County Regulations) to do so unless the County agreed to maintain them. Due to the age of the agreement DOT staff requested that the agreement be updated to further clarify the responsibilities of both parties. One key addition is that FDOT is agreeing to maintain sections we install or cause to be installed of substantial length (1/4 mile or longer). The locations included as Exhibit "A" will supersede any existing locations that are the responsibility of the County. Reducing the County's maintenance obligation from 14.68 miles to 1.54 miles of sidewalks and bike paths on the State system. Exhibit "A" of the agreement shall be updated each year, if needed to add or delete sections of sidewalks/bike paths as agreed upon between the County and FDOT.

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>5/2/06</i>				<i>[Signature]</i> 5/15/06	<i>RK</i> 5/15	<i>UD</i> 5/15/06	<i>[Signature]</i> 5/16/06	<i>[Signature]</i> 5/16/06	<i>J. Lavender</i> Date: <i>5/12/06</i>

11. Commission Action:

Approved
 Deferred
 Denied
 Other

RECEIVED BY COUNTY ADMIN: 5-15-06 9:50 COUNTY ADMIN FORWARDED TO: <i>[Signature]</i> 5/15/06 3:30pm	Rec. by CoAtty Date: 5/12/06 Time: 3:15pm Forwarded to: 8:45 Am 5/15/06
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**SIDEWALK/BIKEPATH MAINTENANCE AGREEMENT
BETWEEN
LEE COUNTY
AND
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**

THIS AGREEMENT, is made and entered into the ___ day of _____, 2006, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (hereinafter, "DEPARTMENT") and LEE COUNTY (hereinafter, "COUNTY") for maintenance of sidewalks and/or bike paths by the COUNTY.

1. WHEREAS, the COUNTY has the capability to provide prompt and efficient maintenance of sidewalks and/or bike paths within the COUNTY for which the DEPARTMENT has primary responsibility, but which serve principally local pedestrian/bicycling traffic, and it is in the interests of the DEPARTMENT and the COUNTY that the COUNTY assume responsibility for the maintenance of such sidewalks/bike paths; and
2. WHEREAS, the COUNTY and the DEPARTMENT entered into a SIDEWALK AND BIKE PATH MAINTENANCE AGREEMENT on September 3, 1986; and
3. WHEREAS, the list of facilities to be maintained by the COUNTY, attached hereto as Exhibit A, has not been consistently updated and amended as needed; and
4. WHEREAS, the COUNTY and the DEPARTMENT now desire to amend the Agreement to further clarify their respective responsibilities and update the list; and;
5. WHEREAS, the COUNTY by Resolution No. _____, dated _____, 2006, attached hereto and by reference made a part hereof, desires to enter into an Agreement with the DEPARTMENT to enable COUNTY participation in the maintenance of certain sidewalks and bike paths on State rights-of-way.

NOW, THEREFORE, in consideration of the premises, the parties agree as follows:

1. The COUNTY covenants and agrees that it shall maintain at no cost to the DEPARTMENT the structural integrity of the sidewalks/bike paths listed and described in Exhibit "A" attached hereto and made a part hereof, such maintenance to be in accordance with the usual standards and requirements of the DEPARTMENT. The DEPARTMENT will continue to be responsible for general road maintenance issues such as mowing adjacent to the sidewalks/bike paths. Exhibit "A" of this Agreement shall be amended once a year, if needed, on the anniversary date of its execution to add sections of sidewalks/bike paths less than one-quarter mile in length that the COUNTY has built or caused to be built in State rights-of-way (or possibly longer if there is no logical termini), and to delete those sections that, due to expansions, have become one-quarter mile or greater in length, or are no longer within the State rights-of-way. This updated Exhibit "A" is intended to supersede all existing lists and represents the entire scope of COUNTY maintenance responsibility for sidewalks/bike paths in State road rights-of-way in LEE COUNTY.

2. This Agreement does not alter the DEPARTMENT'S rights to permit and control the construction of utilities, driveways, or landscaping articles and materials within the sidewalks/bike paths.
3. The DEPARTMENT'S Director of Maintenance shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Agreement and his decision upon all claims, questions and disputes shall be final and conclusive upon the Parties hereto.
4. During maintenance and repair operations, all safety regulations of the DEPARTMENT shall be observed and the COUNTY must take measures, including the placing and display of safety devices, that may be necessary in order to safely conduct the public through the project area in accordance with the DEPARTMENT'S Manual on Traffic Controls and Safe Practices for Street and Highway Construction, Maintenance and Utility Operations.
5. This Agreement shall remain in effect until such time the DEPARTMENT or the COUNTY wishes to cancel said Agreement and this shall be done in writing giving the other party thirty (30) days notice.
6. To the extent permitted by law, the COUNTY 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 COUNTY, its sub-consultants, agents or employees, or due to any negligent act or occurrence of omission or commission of the COUNTY, its sub-consultants, agents or employees. Neither the COUNTY nor any of its 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 sole negligence of the DEPARTMENT or any of its officers, agents or employees.

IN WITNESS WHEREOF, the LEE COUNTY BOARD OF COUNTY COMMISSIONERS has caused this Agreement to be executed in its behalf, by the Chairman or its designee, 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)

CHAIRWOMAN, LEE COUNTY BOARD
OF COUNTY COMMISSIONERS

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:

Date

EXHIBIT "A"

STATE ROAD	LOCATION	FACILITY	WIDTH/ LENGTH
SR 865 (San Carlos Blvd.)	West side, from 700 ft. N. of Summerlin Road (Albertson's driveway) to 600 ft. S. of Gladiolus Dr. (Gulf Point Square driveway)	Asphalt Bike Path	6' W 1.24 mi. L
SR 45 (US 41)	SW corner of Del Prado Ext. (Hess Station) - 17951 N. Tamiami Tr.	Concrete Bike Path	8' W 0.07 mi. L
SR 45 (US 41)	SW corner of Brown Road Intersection (Doctors Office) - 14731 N. Cleveland Ave.	Concrete Bike Path	8' W 0.06 mi. L
SR 45 (US 41)	SW corner of Hancock Bridge Pkwy. (Walgreens) - 13501 N. Cleveland Ave.	Concrete Sidewalk	5' W 0.07 mi. L
SR 80	SW corner of Buckingham Road intersection (Walgreens/Wendys) - 14491 and 14411 Palm Beach Blvd.	Concrete Bike Path	8' W 0.10 mi. L

LEE COUNTY RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING LEE COUNTY TO ENTER
INTO A LOCAL AGENCY PROGRAM 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 an 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 334.044, Florida Statutes.

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

1. The Maintenance Agreement for certain sidewalks and/or bike paths within Lee County 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