

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

**Blue Sheet No. 20060750**

**1. ACTION REQUESTED/PURPOSE:** Approve and authorize Chairwoman to execute attached Project Maintenance Agreement and authorizing resolution with the Florida Department of Transportation for maintenance of SR 739 Alico Road from US 41 to Dusty Road.

**2. WHAT ACTION ACCOMPLISHES:** Allows FDOT to begin construction on SR 739 Alico Road by executing a Project Maintenance Agreement.

**3. MANAGEMENT RECOMMENDATION:** Approve

<b>4. Departmental Category:</b> 9 <b>C9D</b>		<b>5. Meeting Date:</b> <b>6-27-2006</b>
<b>6. Agenda:</b> <input checked="" type="checkbox"/> <b>Consent</b> <input type="checkbox"/> <b>Administrative</b> <input type="checkbox"/> <b>Appeals</b> <input type="checkbox"/> <b>Public</b> <input type="checkbox"/> <b>Walk-On</b>	<b>7. Requirement/Purpose: (specify)</b>	
	<input type="checkbox"/> <b>Statute</b>	
	<input type="checkbox"/> <b>Ordinance</b>	
	<input type="checkbox"/> <b>Admin. Code</b>	
	<input type="checkbox"/> <b>Other</b>	
		<b>8. Request Initiated:</b> <b>Commissioner</b> _____ <b>Department</b> <b>Transportation</b> <b>Division</b> _____ <b>By:</b> <b>Scott M. Gilbertson</b>

**9. Background:** The Florida Department of Transportation (FDOT) will be reconstructing a transportation facility identified as SR 739 Alico Road. This project will cover the realignment of Alico Road from US 41 to Dusty Road and is expected to start construction October 2006. When Federal-Aid funding is involved in a project and the project is under local jurisdiction FDOT is required to enter a Project Maintenance Agreement with the local government, stating that upon completion of the project the County will be responsible for maintenance of the roadway.

Once construction is complete the County and FDOT will also need to execute a jurisdictional transfer of the roadway along with any new right-of-way that has been acquired. At that time FDOT and the County will also coordinate with the Seminole Gulf Railway on the westernmost rail crossing on Alico Road.

**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>6/27/06</i>	<i>N/A</i> <i>CL</i>			<i>AS</i> <i>6/27/06</i>	<i>6/13/06</i>	<i>MK</i> <i>6/14/06</i>	<i>6/13/06</i>	<i>6/14/06</i>	<i>J. Lavender</i> Date <i>6.7.06</i>

**11. Commission Action:**

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

RECEIVED BY COUNTY ADMIN: <i>MP</i>
<i>6/9/06 10:28</i> <i>MP.</i>
COUNTY ADMIN FORWARDED TO: <i>MP</i>
<i>6/15/06</i> <i>9 Am</i>

Rec. by CoAtty
Date: <i>6/8/06</i>
Time: <i>11:15 AM</i>
Forwarded to: <i>10:00 AM</i> <i>6/9/06</i>

**PROJECT MAINTENANCE AGREEMENT  
BETWEEN  
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
AND  
LEE COUNTY**

THIS is an Agreement, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, (hereinafter, "**DEPARTMENT**") and **LEE COUNTY** (hereinafter, "**COUNTY**") for the **COUNTY** to maintain a road after completion of a project.

**WITNESSETH**

1. WHEREAS, pursuant to Florida Statutes §339.08(2)(b), and the Intermodal Surface Transportation Efficiency Act of 1991, the **DEPARTMENT** is authorized to undertake a project within **COUNTY** geographical limits; and
2. WHEREAS, the project is identified and known to the parties as Financial Project # **420647 1 52 01** (hereinafter, "**PROJECT**") which will be of benefit to **COUNTY**; and
3. WHEREAS, the **PROJECT** consists of the following:

Realignment and Six laning of Alico Road from US 41 to Dusty Road
4. WHEREAS, in accordance with Title 23, U.S. Code, Section 116 and Federal Highway Administration regulations issued pursuant thereto, there must be an agreement from **COUNTY** to maintain the project; and
5. WHEREAS, **COUNTY** by Resolution, dated \_\_\_\_\_, a copy of which is attached hereto and made a part hereof, has approved the Agreement and authorized its Chairwoman or designee to execute said Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants, conditions and representations contained herein, the parties agree as follows:

1. The **DEPARTMENT** has undertaken the **PROJECT** which consists of the following:
  - a. Realignment and Six laning of Alico Road from US 41 to Dusty Road
2. It is understood and agreed by the parties that upon completion of construction of the **PROJECT**, the **COUNTY**, at the **COUNTY'S** expense, shall be responsible for maintenance of the **PROJECT** in accordance with Title 23 U.S. Code, §116 and the following federally accepted state standards:
  - a. (a) Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (2005), as amended; and
  - b. (b) FDOT Procedure 850-065-001 (2005) as amended; and
  - c. (c) FDOT Procedure 850-065-002 (2005) as amended; and
3. This document 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 understanding concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written.
4. To the extent allowed by law, the **COUNTY** hereby agrees to indemnify, defend, save and hold harmless the **DEPARTMENT** and its officers, agents and employees from all claims, demands, liabilities and suits of any nature arising out of, because of, or due to any negligent act or occurrence of omission or commission of the **COUNTY**, its officers, agents or employees. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the **DEPARTMENT** for its negligence.
5. This Agreement shall be governed, interpreted and construed according to the laws of the State of Florida.

IN WITNESS WHEREOF, LEE COUNTY has caused this Agreement to be executed in its behalf, by the Chairwoman 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. This Agreement shall become effective on:

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**LEE COUNTY, FLORIDA**

ATTEST

\_\_\_\_\_  
CLERK (Seal)

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINT NAME DATE

COUNTY LEGAL REVIEW:

BY:  
\_\_\_\_\_  
DATE

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**

ATTEST

\_\_\_\_\_  
EXECUTIVE SECRETARY (SEAL)

BY:  
\_\_\_\_\_  
DISTRICT SECRETARY  
DISTRICT ONE

\_\_\_\_\_  
PRINT NAME DATE

\_\_\_\_\_  
PRINT NAME DATE

FDOT LEGAL REVIEW:

BY:  
\_\_\_\_\_  
DATE

**LEE COUNTY RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING LEE COUNTY TO ENTER  
INTO A PROJECT 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 Project 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 Project Maintenance Agreement for Alico Road from US 41 to Dusty Road 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