

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

Blue Sheet No. 20061366

1. ACTION REQUESTED/PURPOSE:

Approve an agreement with the East Lee County Council, Inc. to provide financial support up to \$37,500 for the drafting of Land Development Code regulations to implement the Palm Beach Boulevard Community Plan.

2. WHAT ACTION ACCOMPLISHES:

Provides funding to the East Lee County Council to offset costs for the drafting of Land Development Code regulations specific to the Palm Beach Boulevard planning area.

3. MANAGEMENT RECOMMENDATION:

Approve.

4. Departmental Category:

04

A4B

5. Meeting Date:

OCT 31 2006

6. Agenda:

- Consent
- Administrative
- Appeals
- Public
- Walk-On

7. Requirement/Purpose: (specify)

- Statute
- Ordinance
- Admin. Code AC 13-3
- Other

8. Request Initiated:

Commissioner _____
Department Community Development
Division Planning
By: Paul O'Connor, AICP, Director
POC 10/12/06

9. Background:

The East Lee County Council, Inc. (ELCC) has requested \$49,900 for the drafting of land development regulations necessary to implement some policies of the proposed amendment to the Lee Plan for the Palm Beach Boulevard planning area that is being considered in this round of Lee Plan amendments.

On June 28, 2005 the Board amended Administrative Code 13-3, Administrative Procedures Governing Community Planning Efforts Receiving Financial Support from the BOCC. That amendment to AC 13-3 increased the amount of available funding for the development of community plans from \$25,000 to \$50,000 and made each community panel eligible to receive up to an additional \$50,000 for the preparation of land development regulations necessary to implement the community plan.

Continued:

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
<i>Mary Gibbs</i>	N/A	N/A	N/A	<i>JMC</i>	Analyst <i>JPD 10/18/06</i>	Risk <i>10/18/06</i>	Grants <i>10/18/06</i>	Mgr. <i>10/18/06</i>	<i>10-19-06</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

REC'D
by CO. ATTY
10/13/06
11:20 AM
CO. ATTY
FORWARDED TO:
ADMIN
10/16/06 9:07

RECEIVED BY
COUNTY ADMIN:
10/16/06 8:47 *MP.*
COUNTY ADMIN
FORWARDED TO:
MP
10/19/06
10 AM

05 OCT 19 2006

Background (continued):

This request for \$49,900 for the drafting of land development regulations to implement the pending Community Plan amendment is within the funding limits of AC 13-3; however, staff believes that amount of funding is more than is necessary for that task. Staff recommends approval of up to \$37,500 for the drafting of land development regulations to implement the Palm Beach Boulevard Community Plan.

For comparison, staff has recently solicited letters of interest for the North Fort Myers community plan with an anticipated budget of \$50,000. Ten letters of interest were received for that planning effort and six firms were short-listed and four were interviewed for the project. The firm that the selection committee ranked 1st committed to a \$50,000 budget. Their budget proposes a total of 402 hours of planning services to complete the North Fort Myers Community Plan. Staff believes developing a community plan for an area the size and complexity of North Fort Myers is considerably more difficult and time consuming than writing land development regulations to implement Lee Plan policies. Estero developed their land development regulations with \$25,000 of assistance from the County.

Obtaining this grant is contingent upon ELCC complying with the terms and conditions of the contract and the provisions of Administrative Code 13-3. It is understood by all parties that the community planning effort: is subject to the Florida laws on Open Government; must provide an adequate opportunity for public participation; must provide reasonable notice of all meetings pertaining to the planning effort; and, that all meetings of the Community Panel and Subcommittees must be open to the public. The Community Panel must also maintain both recorded and written minutes of all its full meetings.

Funds are available in account: LB5150715500.508309.05 (Community Development/Planning/Unincorporated MSTU/Other Grants & Aids/Sector Planning)

Attachments:

Grant contract

Map of geographic area subject to the Community Planning effort

Funding request

COMMUNITY PLANNING AGREEMENT
BETWEEN LEE COUNTY AND EAST LEE COUNTY COUNCIL, INC.

PALM BEACH BOULEVARD LDC

RECITALS

- A. The Board of County Commissioners recognizes that unincorporated Lee County consists of many diverse communities with various visions on how their community should develop.
- B. The residents of the and Palm Beach Boulevard community prepared and submitted a community plan that included a proposed Lee Plan Goal, Objectives, and Policies applicable to their community.
- C. The East Lee County Council, Inc. has submitted an amendment to the Lee Plan specific to the Palm Beach Boulevard planning area that is being considered in the 2005/2006 current cycle of Lee Plan amendments.
- D. Some of the proposed policies for the Palm Beach Boulevard planning area direct the community to develop land development regulations specific to that planning area.
- E. The East Lee County Council, Inc. has requested planning funds to defray the costs incurred to prepare and submit changes to the Lee County Land Development Code specific to the Palm Beach Boulevard community.
- F. Lee County Administrative Code 13-3 requires communities seeking planning funds from the County to enter into a contract to govern the disbursement and use of public money on community planning efforts.

NOW, THEREFORE, THE PARTIES HERETO AGREE as follows:

1. Geographic Area. This agreement pertains to the grant of public funds to defray the cost of preparing land development regulations for the following area:
 - a. Palm Beach Boulevard

The geographic area has been illustrated in Exhibit A hereto.

2. Deliverables. The East Lee County Council planning panel (the "Panel") is responsible for the preparation of land development regulations applicable to the Palm Beach Boulevard planning area. A detailed description of deliverables is attached hereto as Exhibit B.

3. Eligibility for Public Funds. The parties agree that Lee County will disburse up to \$37,500 in funds that will be used solely for expenditures incurred by the Panel in the preparation and submission of a proposed amendment to the Land Development Code. Total disbursements from the County for this purpose will not exceed \$37,500.

4. Applicability of Lee County Administrative Code. The parties agree that the East Lee County Council planning effort will be governed by the regulations set forth in Lee County Administrative Code 13-3 entitled "Administrative Procedures Governing Community Planning Efforts Receiving Financial Support From the BOCC."

5. Applicability of Florida's Public Records and Open Meetings Laws.

A. Open Government

1. The parties agree that the planning effort is subject to Florida laws on Open Government. Accordingly, all meetings of the Panel and its subcommittees will be open to the public. Moreover, the Panel will provide an adequate opportunity for public participation in the Palm Beach Boulevard planning effort. In addition, the Panel will encourage and allow the participation of residents, property owners, the school district, and other interested parties at all meetings and workshops on the community planning effort.
2. The Panel will provide reasonable notice of all meetings pertaining to the community planning effort.
3. Notification of meetings and workshops will include the posting of meeting date, time, and location of the meeting/workshop in accordance with Section 5, Lee County Administrative Code 13-3.
4. The parties agree that subcommittees consisting of members of the Panel and other community members may meet for the purpose of information gathering, information sharing, and the exploration of common concerns. Subcommittee meetings are also required to be

publicly noticed. Common concerns explored by the subcommittees must be presented to the full community panel during a properly noticed public meeting consistent with Section 5 of Lee County Administrative Code 13-3.

5. The Panel must maintain minutes of its meetings in accordance with Section 5, Lee County Administrative Code 13-3.

B. Public Records

All records created in connection with the community planning effort must be retained by the Panel for three years following the date of submission of completed amendments to the Land Development Code. The records will be considered public records as defined by Chapter 119, Florida Statutes.

6. Record Keeping. The Panel must retain all financial, supporting documentation, and other records necessary to document the community planning effort and expenditures during the term of this agreement. If any litigation, claim, negotiation, audit, or other action involving the records are initiated prior to the expiration of a three-year period, the records must be retained for an additional one year after the final resolution of the action and final resolution of all issues that arise from the action.

7. Assurance, certification, and compliance. The Panel agrees that:

- A. It will comply with Chapter 760, Florida Statutes, and Lee County Ordinance 00-18 that prohibit discrimination in employment on the basis of race, color, national origin, sex, religion, disability, or marital status.
- B. Products or materials purchased with public funds will be procured in accordance with the provisions of 403.7065, Florida Statutes, which refers to the procurement of products or materials with recycled content.
- C. It will comply with the Americans with Disabilities Act of 1990, P.L. 101-336, which prohibits discrimination on the basis of disability and requires reasonable accommodation for persons with disabilities.
- D. It will notify Lee County of any significant change in the organization of the Panel.

8. Disbursement of Public Funds.

- A. Lee County will disburse up to \$37,500 to the East Lee County Council, Inc. during the term of this agreement, subject to the provisions pertaining to return of funds and suspension and termination of the agreement. (See paragraph 11.) The Panel agrees to spend the public funds only on items set forth in the request for funding & proposed budget set forth in the document attached as Exhibit B. The County will disburse money upon the receipt and approval of a completed payment request report. Disbursements may be made in installments based on the completion of items contemplated in the deliverables. The payment request report must include documents to support the expenditures. If the Panel fails to submit a payment request report, disbursements will be delayed until the receipt of a report. The County reserves the right to approve or disapprove payment requests.

Copies of supporting documentation must be attached to the payment request report. The County may require additional supporting documentation before agreeing to disburse money.

- B. Unsupported/unallowable costs. The County has the option to defer payment to the Panel during the period of a County audit or monitoring due to questionable items. If, as a result of the audit or monitoring, unallowable or unsupported costs are found, no further disbursements will be made until the full amount of overpayment is remitted to Lee County or the County accepts a repayment agreement.

9. Audits, Monitoring, and Records.

- A. Monitoring. The Panel agrees to permit County employees to inspect records, papers, and documents to be assured of satisfactory performance with the terms and conditions of this agreement. The monitoring is a limited scope of review and does not relieve the Panel of its obligation to manage the public monies disbursed by the County in accordance with Lee County Administrative Code 13-3 and sound management practices.

Following this monitoring, the County may deliver to the Panel a written report regarding the status of compliance with the terms and conditions of the agreement. The panel must rectify all noted deficiencies within the

specified period of time indicated in the monitoring report or provide the County with a reasonable and acceptable justification for not correcting the noted shortcomings. The Panel's failure to correct or justify the deficiencies within the time specified by the County may result in the withholding of future disbursements or termination of the agreement.

- B. Audit and Inspections. The Panel will make all records and items included on financial statements available for audit or inspection purposes during normal business hours and as often as County deems necessary. The Clerk of Courts internal audit division and Lee County have the right of timely and unrestricted access to books, documents, papers, and other records of the panel that are pertinent to the agreement in order to make audits, examinations, excerpts, transcripts, and copies of those documents.

10. Risk Management. The Panel will defend, hold harmless, and indemnify the County from and against all liability, loss, claims, damages, costs, attorneys fees, and expenses that the County may sustain, incur, or be required to pay either by reason of the loss of or improper use of money disbursed or to be disbursed hereunder including, but not limited to, fraud, embezzlement, or dishonesty on the part of any person represented or employed by the Panel, or by reason of the intentional or negligent act of the Panel or its agents, representatives, or employees.

11. Suspension/Termination. The County reserves the right to suspend the disbursement of money for failure to comply with this agreement. The County may cancel this agreement by giving 24 hours written notice to the Panel by certified mail following a determination by the Board of County Commissioners that the cancellation is in the best interest of the people of Lee County. Neither party will have further obligations under this agreement as of the date of cancellation unless specified otherwise in the termination notice. The Panel may cancel this agreement by giving 72 hours prior written notice to the County by certified mail. The County's obligation to make further disbursements under this agreement will cease as of the effective date of termination.

12. Reports.

- A. The Panel agrees to prepare a report outlining the progress of the Palm Beach Boulevard planning effort and deliver the report to the County with each request for disbursement of funds.

- B. A closeout report is due 60 days after the termination of the agreement or upon the submission of proposed amendments to the Land Development Code.
- C. If the required reports are not sent to the County or not completed in a manner acceptable to the County, the County may withhold further disbursements until the reports are completed.

13. Duration of agreement. Parties agree that the Panel will deliver proposed amendments to the Land Development Code and the Olga community and SR 31 overlay for consideration by the Lee County Planning Division no later than September, 2007 unless this agreement is terminated beforehand as specified in Paragraph 11.

14. Notice. The parties agree all notices provided under or pursuant to this agreement will be in writing either by hand delivery or first class certified mail, return receipt requested, to the representative identified below and at the address set forth below. The name and address of the County representative is: Paul O'Connor, Director, Planning Division, Department of Community Development, 1500 Monroe Street, P. O. Box 398, Fort Myers, Florida 33902-0398. The name and address of the representative of the East Lee County Council, Inc., responsible for the administration of this agreement is: Douglas J. Vaught, 250 Granada Blvd. Fort Myers, Florida. In the event different representatives or addresses are designated by either party after the execution of this agreement, notice of the new information will be provided in accordance with this section.

15. Applicable Law. This agreement will be construed under the laws of the State of Florida and the venue for any actions arising out of this agreement will lie in Lee County.

In witness thereof, Lee County and the East Lee County Council, Inc., have executed this agreement:

Attest: Clerk of Court

Lee County

By: _____
Deputy Clerk

By: _____
Tammara Hall, Chairwoman
Board of County Commissioners

Date: _____

APPROVED AS TO FORM:

Donna Marie Collins
Assistant County Attorney

East Lee County Council, Inc., A Florida
Not-for-Profit Corporation

By: _____
Douglas J. Vaught, President

Date: _____

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this _____ by
(date)

Douglas J. Vaught, President of the East Lee County Council, Inc., a Florida Not-for-Profit
corporation, on behalf of the corporation. He is personally known to me or has produced
_____ as identification.
(type of identification)

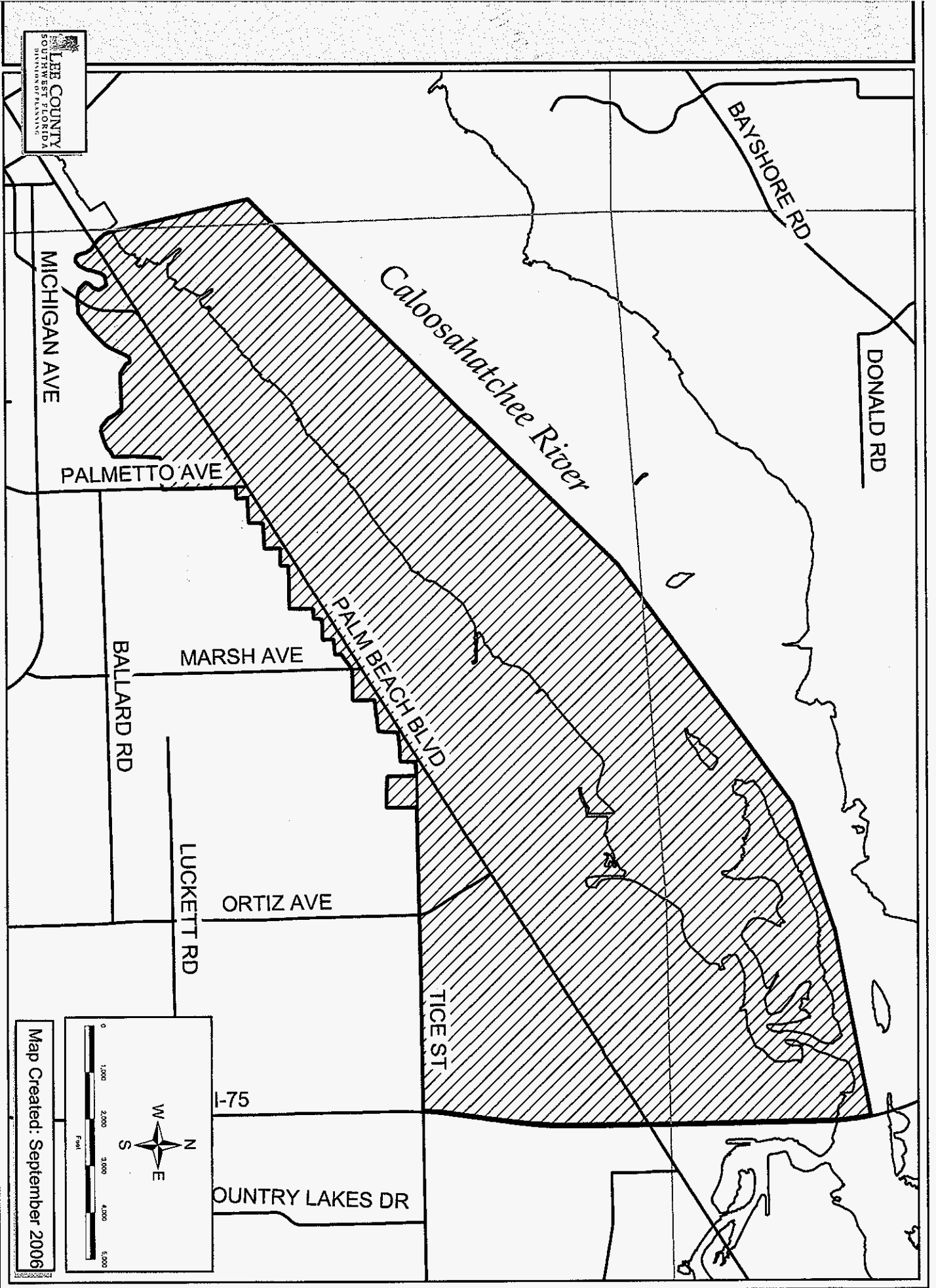
(Signature of person taking acknowledgment)

(Name typed, printed, or stamped)
(Title or Rank)
(Serial Number, if any)

Exhibits:

- A: Map of Geographic Areas subject to the Community Planning effort
- B: Funding Request

EXHIBIT A



Principals
Wayne D. Chalifoux
Donaldson K. Barton, Jr.
Lucius J. Cushman, Jr.
Jon S. Meadows
Stephen L. Precourt
Lawrence L. Smith, Jr.
William T. Stone

September 26, 2006

DRMP Job #06-0096.000

Mr. Jim Mudd, Principal Planner
Lee County Department of Community Development
P.O. Box 398
Fort Myers, FL 33902-0398

**Subject: Revised Palm Beach Boulevard Community Plan – East Lee
County Council Planning Grant**

Dear Mr. Mudd:

This letter revises our fourth request dated September 25, 2006 to submit the required information for application to Lee County for a planning grant to begin implementing the East Lee County Council Phase II Studies for the *Palm Beach Boulevard Community Plan*. The information is organized in accordance with Section 2 of the Lee County Administrative Code 13-3.

Section 2.2 of the code outlines the criteria needed to complete the planning grant application.

Section 2.2.a The proposed name of the community panel is the East Lee County Council. The initial members of this panel are:

- Doug Vaught, President
- John McRae, Vice President
- Janet Tripp, Treasurer
- Paul Martin, Secretary
- Gordon Brant
- Kris Cella
- Jim Green
- Mike Rippe
- Grady Miars

This group held its first meeting on Monday, August 21, 2006, 5:00 p.m. at the Olga Community Center. A budget has not yet been adopted, but this letter may serve as the preliminary budget for the panel.

Section 2.2.b Each of these members has already filed their financial disclosure forms with the Office of the Supervisor of Elections.

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Columbia, South Carolina
DeLand, Florida
Ft. Lauderdale, Florida
Gainesville, Florida
Jacksonville, Florida
Orlando, Florida
Palm Coast, Florida
Panama City Beach, Florida
Pensacola, Florida
Tallahassee, Florida
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Section 2.2.c The areas affected by the two (2) community plans are as follows:

- *Palm Beach Boulevard Plan* generally runs from the City of Fort Myers city limits to Interstate 75

Section 2.2.d The purpose of this planning grant is to begin implementing the *Palm Beach Boulevard Community Plan*

The *Palm Beach Boulevard Plan* implementation phase is to prepare the specific regulations that Lee County needs to adopt into its Land Development Code. These tasks are outlined for the *Palm Beach Boulevard Plan* in the attached list of the proposed comprehensive land amendment proposal submitted in September 2005. The proposal would add the following policies to the Lee Plan:

1. Proposed Policy 23.1.1: New enhanced landscaping along right of way corridors, greater buffering and shading of parking areas, signage, lighting and architectural design standards
2. Proposed Policy 23.1.3: Procedures to enhance code enforcement standards into Chapter 33 of the Land Development Code
3. Proposed Policy 23.2.2: Provide interconnect opportunities with adjacent commercial uses to minimize access points to primary road corridors with residential interconnect in the form of bike, pedestrian and equestrian trails
4. Proposed Policy 23.3.1: Provide greater buffers between commercial and residential properties
5. Proposed Policy 23.3.2: Regulations that encourage mixed use developments that provide integration of commercial uses with residential uses with pedestrian linkages
6. Proposed Policy 23.4.3: Procedures to coordinate with City of Fort Myers and Florida Department of Transportation to conduct prepare a streetscape plan
7. Proposed Policy 23.5.1: Procedures to register citizen groups, civic organization within Palm Beach Boulevard community that desires to receive notification of pending review of Land Development Code and Lee Plan amendments
8. Proposed Policy 23.6.1: Procedures to work with Lee County, State of Florida and the Seminole Gulf Railroad to provide a linear park along the railroad to enhance community recreational opportunities

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DeLand, Florida
Ft. Lauderdale, Florida
Gainesville, Florida
Jacksonville, Florida
Orlando, Florida
Palm Coast, Florida
Panama City Beach, Florida
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9. Proposed Policy 23.6.3: Regulations to integrate parks and open space into surrounding developments along Palm Beach Boulevard
10. Proposed Policy 23.6.4: Regulations for Russell Park to preserve existing linear waterfront park and work to identify maintenance issues associated with the public boat ramp

The requested grant funding of \$49,900 will allow for the completion of the implementation phase of the *Palm Beach Boulevard Community Plan*.

Section 2.2.e The preliminary timetable for the implementation phase is as follows:

- The target date for submitting a complete draft of implementing regulations to Lee County is six months after approval of the planning grant (contingent on community panel approval)
- The final date for submitting these implementing regulations is twelve months after approval.
- After submission of the draft language, the community panel will assist with potential revisions during the county's normal review processes until the LDC amendments are formally adopted.
- All work under this grant is anticipated to be completed within 18 months after approval of the planning grant.

Section 2.2.f The community panel is expected to meet at least monthly until the regulations and plans are submitted, and as needed thereafter. These meetings will be public meetings and will be advertised in accordance with Administrative Code 13-3.

The procedures will be in keeping with those used in preparing the community plan update:

- Drafts of individual regulatory and planning concepts and actual language will be circulated prior to meetings of the community panel to allow time for preliminary review by panel members and others who express an interest
- Detailed discussion at the actual community panel meeting
- Redrafts will follow as needed and will be resubmitted to the community panel for review
- Continuous input will be sought from county staff and the general public

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Section 2.2.g The amount of work to be completed in this project is limited by the maximum size of this planning grant (\$49,900 for the *Palm Beach Boulevard Plan* implementation). The primary consultant will be Dyer, Riddle, Mills and Precourt, Incorporated who has agreed to perform the services outlined herein. In addition, our sub-consultants, David M. Jones, Jr. and Associates, Inc. will provide landscape architecture; Mike Roeder will provide planning and community redevelopment services; and Prather Associates, Inc. will provide code regulations and land use planning all within the planning grant.

These services will be invoiced to the community panel on a monthly basis.

Section 2.2.h This planning effort to date has cost about \$50,000 for Palm Beach Boulevard. The source of these funds has been:

- Lee County Community Planning - \$ 25,000 for Palm Beach Boulevard
- City of Fort Myers - \$ 25,000 (Palm Beach Boulevard)
- Private Contributions - \$5,000 (Bonita Bay Group, Cella and Associates, East Lee County Council)

The percentage of costs that would be provided from County funds has been approximately 45% to date.

Section 2.2.i The *Palm Beach Boulevard Community Plan* was generated through a grass roots effort and provides a demonstration of the ability of those involved to conceptualize a complex public planning project and ensuring that future development remains consistent with the stated vision of the community and encourages approved development to strive towards these goals, while involving extensive public input.

Should you need additional information or further clarification, please do not hesitate to contact me at (239) 344-0050.

Sincerely,
Dyer, Riddle, Mills & Precourt, Inc.

Elly Soto McKuen
Project Manager

Attachments:

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1. Proposed Lee Plan Goal 22 – Palm Beach Boulevard

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